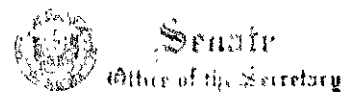
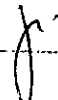


SIXTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
Second Regular Session)



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SENATE
S. No. **2735**

RECEIVED BY: 

Introduced by Senator Miriam Defensor Santiago

AN ACT
PENALIZING THE NEGLECT OF A CHILD BY PARENTS
OR PERSONS LEGALLY RESPONSIBLE FOR SUCH CHILD'S CARE

EXPLANATORY NOTE

Child neglect is one of society's more serious problems. It is a prevalent public health, justice, social services, and education problem, which not only compromises the immediate health of our nation's children, but also threatens their growth and intellectual development, their long-term physical and mental health, their propensity for anti-social behavior, their future parenting practices, and their economic productivity as eventual wage earners.

Neglect of older children is easier to recognize through the apparent physical manifestations of such neglect. There arises a problem, however, in the case of newborns or infants who were exposed to their mother's drug use *in utero* and, despite a positive toxicology report at birth, are discharged home with the same irresponsible parent without support, supervision or intervention from the State or authorities. This, despite the fact that illegal drug use during pregnancy creates a high degree of risk that newborns will exhibit neurobehavioral and circulatory health complications, including neurological defects, learning disabilities, low cognition, physical and developmental delay, and low birth weight.

This bill seeks to make it possible for courts to order that neglected children, including infants born who test positive for drug toxicology at birth, be removed from the

custody of neglectful parents or persons legally responsible for their care. By allowing intervention before the child is sent home, in the case of infants, this legislation seeks to remedy the injustice which often sends infants to face further neglect, maltreatment and abuse at the hands of their own parent.

Thus, immediate passage of this bill is earnestly sought.¹


MIRIAM DEFENSOR SANTIAGO
7P

¹ This bill was originally filed during the Thirteenth Congress, Third Regular Session.

- 1 (1) Supplying the child with adequate food, clothing, shelter, education,
2 medical or surgical care, though financially able to do so or offered
3 financial or other reasonable means to do so; or
- 4 (2) Providing the child with proper supervision or guardianship, by
5 unreasonably inflicting or allowing to be inflicted harm, or a substantial
6 risk thereof, including the infliction of excessive corporal
7 punishment; or by misusing drugs; or by misusing alcoholic
8 beverages to the extent that he or she loses self-control of his or her
9 actions; or by any other acts of a similarly serious nature requiring the
10 aid of the court; Provided, however, that where the respondent is
11 voluntarily and regularly participating in a rehabilitative program,
12 evidence that the respondent has repeatedly misused a drugs or
13 alcoholic beverages to the extent that he or she loses self-control of his
14 or her actions shall not establish that the child is a neglected child in
15 the absence of evidence establishing that the child's physical, mental or
16 emotional condition has been impaired or is in imminent danger of
17 becoming impaired as set forth in this paragraph;

18 Proof of the impairment of child's physical, mental or emotional
19 condition as a result of the unwillingness or inability of the
20 respondent to exercise a minimum degree of care toward a child may
21 include competent opinion or expert testimony and may include
22 proof that such impairment lessened during a period when the child
23 was in the care, custody or supervision of a person or agency other
24 than the parent or persons legally responsible for the child's care.

- 25 (3) Who, as a newborn infant, tests positive for a controlled substance not
26 prescribed by a physician, in his or her bloodstream or urine, is born

1 dependent on such drugs or demonstrates drug withdrawal symptoms, or
2 has been diagnosed as having a condition which is attributable to *in*
3 *utero* exposure to illegal drugs;

4 (B) Who has been abandoned by his or her parents or other person legally
5 responsible for his or her care.

6 (C) Proof of the "impairment of emotional health" or "impairment of mental or
7 emotional condition" as a result of the unwillingness or inability of the
8 respondent to exercise a minimum degree of care toward a child may include
9 competent opinion or expert testimony and may include proof that such
10 impairment lessened during a period when the child was in the care, custody
11 or supervision of a person or agency other than the respondent;

12 SECTION 4. *Temporary Removal by Court Order.* – In determining whether
13 temporary removal of the child is necessary to avoid imminent risk to the child's life or
14 health, the court having jurisdiction over the case shall consider and determine in its
15 order whether continuation in the child's home would be contrary to the best interests
16 of the child and where appropriate, whether reasonable efforts were made prior to the
17 date of the hearing to prevent or eliminate the need for removal of the child from the
18 home and where appropriate, whether reasonable efforts were made after removal of
19 the child to make it possible for the child to safely return home.

20 If the court makes a finding of abuse or neglect, it shall determine, based upon
21 the facts adduced during the fact-finding hearing and any other additional facts presented
22 to it, whether a provisional order is required to protect the child's interests pending a final
23 order of disposition. The court shall state the grounds for its determination.

24 In addition, a child found to be abused or neglected may be removed and
25 remanded to a place approved for such purpose by the local social services department or

1 be placed in the custody of a suitable person, pending a final order of disposition, if the
2 court finds that there is a substantial probability that the final order of disposition will
3 be an order of placement: Provided, however, that in a case involving a newborn infant
4 testing positive for a controlled substance not prescribed by a physician, in his or her
5 bloodstream or urine, born dependent on such drugs, demonstrating drug withdrawal
6 symptoms, or having been diagnosed as having a condition which is attributable to *in*
7 *utero* exposure to illegal drugs, such status of the child shall establish a rebuttable
8 presumption that the release of the infant to the parent presents an imminent danger to
9 the child's life or health.

10 SECTION 5. *Presumption that a Child is in Imminent Danger; Presumption of*
11 *Neglect.* – In a case involving a newborn infant testing positive for a controlled substance
12 not prescribed by a physician, in his or her bloodstream or urine, born dependent on such
13 drugs, demonstrating drug withdrawal symptoms, or having been diagnosed as having a
14 condition which is attributable to *in utero* exposure to illegal drugs, such status of the
15 child shall establish a rebuttable presumption that the release of the infant to the parent
16 presents an imminent danger to the child's life or health.

17 The status of a child as set forth in the preceding paragraph shall likewise be
18 *prima facie* proof of neglect such child's parents or persons legally responsible for his or
19 her care.

20 SECTION 6. *Exception to Rules on Confidential or Privileged Communications.*
21 – The provisions of the Rules of Court and other laws to the contrary notwithstanding,
22 neither the privilege attaching to confidential communications between husband and
23 wife, nor the physician-patient and related privileges, shall be a ground for excluding
24 evidence which otherwise would be admissible.

1 SECTION 7. *Separability Clause.* – If any provision, or part hereof, is held
2 invalid or unconstitutional, the remainder of the law or the provision not otherwise
3 affected shall remain valid and subsisting.

4 SECTION 8. *Repealing Clause.* – Any law, presidential decree or issuance,
5 executive order, letter of instruction, administrative order, rule or regulation contrary to
6 or inconsistent with the provisions of this act is hereby repealed, modified or amended
7 accordingly.

8 SECTION 9. *Effectivity Clause.* – This Act shall take effect fifteen (15) days after
9 its publication in at least two (2) newspapers of general circulation.

10 Approved,