

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

SENATE
OFFICE OF THE SECRETARY

5 AUG 23 P2:47

SENATE
S.B. No. **2087**

RECEIVED BY: _____

Introduced by Senator Miriam Defensor Santiago

EXPLANATORY NOTE

The deprivation of liberty impinges on men and women differently. In many instances, a defendant who is the custodial parent of a minor child may not be fully apprised of the consequences resulting from her conviction. Because women tend to be the primary caregiver for her children, imprisonment affects both the mother and her children profoundly. It is indisputable that a mother's role in the development of very young children is especially important, hence, separation from the mother may have long-term effects on the children and on society. Research suggests the absence of the parental bond may contribute to the delinquency of the children of incarcerated mothers.

In order for our prison policies to conform to our fundamental law and international obligations, policy makers must take cognizance of the rights of persons under detention, the unique relationship of a mother and her child, and the need for special consideration for children living in exceptionally difficult conditions.

Our own Constitution in Article II Section 12 states that:

"The State recognizes the sanctity of family life and shall protect and strengthen the family as a basic autonomous social institution."

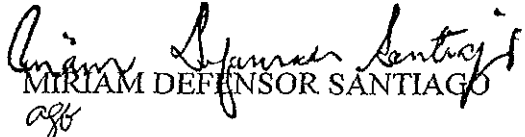
Article 25 of the Universal Declaration of Human Rights Article proclaims that:

"Motherhood and childhood are entitled to special care and assistance."

The International Covenant on Civil and Political Rights (ICCPR), also ratified by the Philippines, places special emphasis on the protection of mothers and their children:

"Pregnant women who are deprived of their liberty should receive humane treatment and respect for their inherent dignity at all times, and in particular during the birth and while caring for their newborn children; States parties should report on facilities to ensure this and on medical and health care for such mothers and their babies." (Human Rights Committee, General Comment 28 on Article 3 of the ICCPR).

This bill will make it mandatory for the appropriate government agencies to establish programs that support imprisoned parents in the performance of their parental and child-rearing responsibilities. Such programs will take due consideration of the rights of all those directly affected – mothers, fathers and children. It will also guarantee assistance, when needed, to dependents and, in particular, minor members of the families of detained or imprisoned persons.


MIRIAM DEFENSOR SANTIAGO
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AN ACT
CREATING PROGRAMS FOR INCARCERATED MOTHERS AND THEIR CHILDREN

Be it enacted by the Senate and the House of Representatives of the Philippines in Congress assembled:

SECTION 1. *Short Title.* – This act shall be known as “Mothers in Jail Act.”

SECTION 2. *Declaration of Policy.* –

(a) The State recognizes that all persons deprived of their liberty shall be treated with humanity and shall enjoy all the rights guaranteed to free persons, subject to the restrictions that are unavoidable in a closed environment.

(b) The State shall promote stable and solid relationships between children and their primary care-giver and support incarcerated parents to develop and maintain their relationship with their children.

(c) In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be the primary consideration.

(d) The State shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.

SECTION 3. *Apprising Custodial Parents of Their Parental Rights.* – In cases involving custodial parents, the court must give an appropriate warning of the special consequences for a defendant’s parental rights that may result from a plea of guilty or a conviction.

SECTION 4. *Placement and Guardianship Options.* – The court shall provide the defendant with a reasonable amount of time to appropriately attend to the needs of his or her minor children for safe and appropriate care prior to accepting a guilty plea. The court in coordination with the Department of Social Welfare and Development shall explain the various options available to the defendants.

SECTION 5. *Coordinating Body.* – A coordinating body comprised of representatives from the Department of Justice, the Bureau of Corrections, the Department of Social Welfare and Development and the Department of Health shall be established. Such body shall –

(a) Formulate the necessary rules and regulations for the effective implementation of this Act.

(b) Provide for specific procedures for the placement of children of defendants or for infants born to women already incarcerated in state prisons.

(c) Establish programs designed to provide counseling, health and other social services to the incarcerated parents and their children. Mothers' and children's (those under one-year old and still staying with their mother) access to health care services and medicines, including reproductive health care and medical attention, gynecological and pediatric services, shall be assured by the institution where parent and child are detained.

SECTION 6. *Child-Friendly Visitation Programs.* – The prison facilities shall establish child-friendly visitation opportunities for mothers and children. A special visitation room for mothers and their children shall be provided for this purpose.

SECTION 7. *Independent Monitoring.* – Frequent access to prisons shall be granted to relevant institutions such as the Human Rights Commission, human rights non-government organizations, and international organizations. The Coordinating Body shall assign persons to conduct independent monitoring of the various prison facilities. Such persons conducting monitoring tasks shall be allowed to make periodic and unannounced visits to the premises and speak in private with imprisoned mothers and their children.

SECTION 8. *Appropriations.* – The amount necessary to carry out the provisions of this Act is hereby authorized to be appropriated in the General Appropriations Act of the year following the enactment of this law and every year thereafter.

SECTION 9. *Separability Clause.* – If any provision of this Act is held invalid or unconstitutional, the remainder of the Act or the provision not otherwise affected shall remain valid and subsisting.

SECTION 10. *Repealing Clause.* – Any law, presidential decree or issuance, executive order, letter of instruction, administrative rule or regulation contrary to or inconsistent with the provisions of this Act is hereby repealed, modified or amended accordingly.

SECTION 11. *Effectivity Clause.* – This Act shall take effect fifteen (15) days after its publication in at least two newspapers of general circulation.

Approved,