

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

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SENATE
S. B. No. **2665**

Introduced by Senator Miriam Defensor Santiago

EXPLANATORY NOTE

Child neglect is a serious public health, justice, social services, and education problem, not only compromising the immediate health of our nation's children, but also threatening their growth and intellectual development, their long-term physical and mental health outcomes, their propensity for pro-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.


MIRIAM DEFENSOR SANTIAGO

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OFFICE OF THE CLERK
7 FEB 2007
MIRIAM DEFENSOR SANTIAGO

SENATE
S. B. No. 2665

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

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

SECTION 1. *Short Title.* – This Act shall be known as “Anti-Neglected Children’s Act of 2007.”

SECTION 2. *Declaration of Policy.* – It is the policy of the State to promote the general welfare of the people. Pursuant to this policy, this Act seeks to prevent child neglect by allowing the State to interfere not only in cases of actual child neglect but also in instances where, from the surrounding circumstances, child neglect can be presumed to exist.

SECTION 3. *Definition of Neglected Child.* – For the purposes of this act, the term “neglected child” means a child less than eighteen (18) years of age

(A) Whose physical, mental or emotional condition has been impaired or is in imminent danger of becoming impaired as a result of the failure of his or her parent or other person legally responsible for his or her care to exercise a minimum degree of care in

(1) Supplying the child with adequate food, clothing, shelter, education, medical or surgical care, though financially able to do so or offered financial or other reasonable means to do so; or

- (2) Providing the child with proper supervision or guardianship, by unreasonably inflicting or allowing to be inflicted harm, or a substantial risk thereof, including the infliction of excessive corporal punishment; or by misusing a drug or drugs; or by misusing alcoholic beverages to the extent that he or she loses self-control of his or her actions; or by any other acts of a similarly serious nature requiring the aid of the court; Provided, however, that where the respondent is voluntarily and regularly participating in a rehabilitative program, evidence that the respondent has repeatedly misused a drug or drugs or alcoholic beverages to the extent that he or she loses self-control of his or her actions shall not establish that the child is a neglected child in the absence of evidence establishing that the child's physical, mental or emotional condition has been impaired or is in imminent danger of becoming impaired as set forth in this paragraph;

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

- (3) Who, as a newborn infant, tests positive for a controlled substance not prescribed by a physician, in his or her bloodstream or urine, is born dependent on such drugs or demonstrates drug withdrawal symptoms, or has been diagnosed as having a condition which is attributable to *in utero* exposure to illegal drugs;
- (B) Who has been abandoned by his or her parents or other person legally responsible for his or her care.
- (C) Proof of the "impairment of emotional health" or "impairment of mental or emotional condition" as a result of the unwillingness or inability of the

respondent to exercise a minimum degree of care toward a child may include competent opinion or expert testimony and may include proof that such impairment lessened during a period when the child was in the care, custody or supervision of a person or agency other than the respondent;

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

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

In addition, a child found to be abused or neglected may be removed and remanded to a place approved for such purpose by the local social services department or be placed in the custody of a suitable person, pending a final order of disposition, if the court finds that there is a substantial probability that the final order of disposition will be an order of placement: Provided, however, that in a case involving a newborn infant testing positive for a controlled substance not prescribed by a physician, in his or her bloodstream or urine, born dependent on such drugs, demonstrating drug withdrawal symptoms, or having been diagnosed as having a condition which is attributable to *in utero* exposure to illegal drugs, such status of the child shall establish a rebuttable presumption that the release of the infant to the parent presents an imminent danger to the child's life or health.

SECTION 5. *Presumption that a Child is in Imminent Danger; Presumption of Neglect.*

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

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

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

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

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

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

Approved,

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