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SENATE

Senate Bill No. 735

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INTRODUCED BY SEN. JINGGOY EJERCITO ESTRADA

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EXPLANATORY NOTE

Female detainees/prisoners in the Philippines represent a growing number, who are with particular needs that warrant particular attention. As of June 2008, the Bureau of Jail Management and Penology (BJMP) alone has recorded a total of 5,212 women inmates. Of these 5,212 women inmates, nearly 5,000 of them have not yet been sentenced. Unfortunately, however, despite the fact that under the law they are still presumed innocent, they are already faced with an even worse punishment of being subjected to different forms of abuses, primarily brought by the inherent imbalance of power between women inmates and security officers/personnel.

This imbalance of power is manifested in the easy use of direct physical force and indirect force given the detainees/prisoners' total dependency on officers for basic necessities and their ability to withhold privileges. Some women are lured into sex for favors such as extra food or personal hygiene products, or to avoid punishment. The abuse, including rape, inappropriate sexual touching, beatings, excessive pat-downs and strip searches, and the use of sexualized language, is a crude example of the power imbalance between prison security personnel and women inmates.

Even more unfortunate is that these abuses remain unreported because of widespread fear of retaliation by the perpetrators. This is aggravated by the lack of a strict and concrete grievance or investigatory procedures, which gives the detention/prison officers and employees impunity to continuously perform such abuses since they are rarely held accountable, administratively or criminally. This Bill, therefore, seeks to protect all women in state custody, who are under detention for investigation and/or trial for an alleged commission of an offense or crime, or have already been sentenced with imprisonment by final judgment, irrespective of the place of their detention or imprisonment. It provides for their rights and prescribes the minimum standard rules for their treatment. Further, it establishes mechanisms for proper redress of complaints of women inmates and makes the heads of the detention/prison institution directly accountable should he fail to act on the complaints.

In view of the foregoing, the passage of this Bill is earnestly sought.

  
JINGGOY EJERCITO ESTRADA  
Senator

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AN ACT  
PROTECTING WOMEN IN STATE CUSTODY, PRESCRIBING THE MINIMUM  
STANDARD RULES FOR THEIR TREATMENT, PENALIZING ACTS IN  
VIOLATIONS THEREOF AND FOR OTHER PURPOSES

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

**SECTION 1. Short Title.** - This Act shall be known as the "**Women in State Custody Act of 2010**".

**SEC. 2. Declaration of Policy** - The State recognizes the rights of every woman under its custody and shall, therefore, endeavor to protect them from the different abuses in which they are often being subjected to while in detention or imprisonment.

The responsibility of government authorities for the custody of prisoners and for the protection of society against crime shall be discharged in keeping with the State's other social objectives and its fundamental responsibilities for promoting the well-being and development of all members of society, specifically of women in state custody, who by their inherent special circumstances, are more susceptible to different forms of abuses. Towards this end, the State shall exert efforts to address all forms of abuse committed against women in state custody by prescribing and adopting the minimum standard rules for their treatment as set forth in this Act and penalizing acts made in violation thereof.

**SEC. 3. Coverage.** - This Act shall apply to all women in state custody, whether under detention for investigation and/or trial for an alleged commission of an offense or crime, or have already been sentenced with imprisonment by final judgment, irrespective of the place of their detention or imprisonment.

It shall cover all detention and prison facilities where there are women inmates, such those operated by the Bureau of Corrections (BuCor), the Bureau of Jail Management and Penology (BJMP), the Local Government Units (LGU), the Philippine National Police (PNP), the Armed Forces of the Philippines (AFP) and the Department of Social Welfare and Development (DSWD).

**SEC. 4. Register.** (1) In every place where women are detained or imprisoned, there shall be kept a bound registration book with numbered pages, exclusively dedicated to women detainees and prisoners in which hereunder information shall be entered in respect of each woman detainee/prisoner received:

- (a) Information concerning her identity;
- (b) The reasons for her commitment and the authority therefor;
- (c) The day and hour of her admission and release.

**SEC. 5. *Separate Detention/Prison Cell and its Facilities.*** - (a) Female detainees/prisoners shall at all times be held separately from male detainees/prisoners. For this purpose, separate cells and facilities for women shall form part of the standard design in the construction and improvement of jails and its facilities. Provided that, in an institution, which presently receives both men and women, there shall be an entirely separate building, in which the whole of the premises shall be allocated exclusively to women detainees/prisoners.

(b) In every women's institutions there shall be special accommodation for all necessary prenatal and post-natal care and treatment, Arrangements shall be made wherever practicable for children to be born in a hospital outside the institution. If a child is born in prison, this fact shall not be mentioned in the birth certificate.

**SEC. 6. *Rights of Women in State Custody*** - In addition to the existing rights provided for by law in favor of persons under detention or in prison, all women in state custody shall have the following rights:

(a) Every woman in state custody shall be treated in a humane manner and with respect for the inherent dignity of the human person and with particular regard to the special circumstances of womanhood;

(b) Detention or imprisonment shall only be carried out strictly in accordance with the provisions of the law and by competent officials or persons authorized for that purpose;

(c) No woman under any form of detention or imprisonment shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment and no circumstance whatever may be invoked as a justification for such acts;

(d) No detained or imprisoned woman shall be subjected to any sexual abuse such as, but not limited to, having carnal knowledge or making any other form of sexual advancements; and

(e) Any woman shall, at the commencement of detention or imprisonment, or promptly thereafter, be provided by the authority responsible for his detention or imprisonment, respectively with information on and an explanation of her rights and how to avail herself of such rights.

**SEC. 7. *Treatment of Women in State Custody.*** - Each of the governmental agencies cited in Section 3 hereof shall at all times strictly implement the following:

(a) Female security personnel shall always be present during the interrogation of women detainees;

(b) At no time shall the male security personnel be allowed entry to Detention/prison facilities of women. Provided, however, that where there is an inevitable situation, which needs the presence of male security personnel in the detention/prison facilities for women, there should be no contact between male

security personnel and female detainees/prisoners without the presence of female security personnel; and

(c) In no case shall, male security personnel or male inmates be allowed to stay in the premises allocated for women during nighttime.

**SEC. 8. Mandatory Visit and Inspection of Women Detention 'Prison Cells and Facilities.** - In order to supervise the strict observance of relevant laws and regulations, places of detention and imprisonment, the Commission on Human Rights (CHR) shall regularly visit and inspect the various women detention/prison cells and facilities, which shall be made without prior announcement to the agency concerned. Provided, however, that independent women organizations may likewise inspect such places, with prior coordination with the CHR.

A detained or imprisoned woman shall have the right to communicate freely and in full confidentiality with the persons who visit and inspect the places of detention or imprisonment in accordance with preceding paragraph of this Section, subject to reasonable conditions to ensure security and good order in such places.

**SEC. 9. Recruitment and Training of Police, Military and Prison Personnel.** - Each respective prison institution shall recruit an adequate number of women police office officers to specialize in cases of violence against women. All detention/prison personnel of the government agencies referred to in Section 3 hereof shall receive mandatory training and information about unlawful discrimination, sexual harassment and standards for the protection of women's rights, and how to respect and enforce them properly, which shall be conducted by the Commission on Human Rights (CHR) or by duly registered non-government organizations in the field of women's rights.

**SEC. 10. Complaints of Alleged Abuse against Women in State Custody** - A detained or imprisoned woman or her counsel shall have the right to make a complaint regarding her treatment or violation of her rights, in particular in cases of sexual abuse, torture or other cruel, inhuman or degrading treatment, to the authorities responsible for the administration of the place of detention/imprisonment or other proper authorities. In those cases where neither the detained or imprisoned person nor his counsel is unable to exercise her rights under this Section, a member of the family of the detained or imprisoned woman or any other person who has knowledge of the case may exercise such rights. Confidentiality concerning the complaint shall be maintained if so requested by the complainant.

Every complaint shall be promptly dealt with and replied to without undue delay. Neither the detained or imprisoned woman nor any complainant under the preceding paragraph of this Section shall suffer prejudice for making a complaint.

**SEC. 11. Duty to Report Alleged Abuse Against Women in State Custody** - Prison officials and employees who have reason to believe that a violation of this Act has occurred or is about to occur shall have the duty to report the matter to their superior authorities and, where necessary, to other appropriate authorities.

Any other person who has ground to believe that a violation of this Act has occurred or is about to occur shall have the right to report the matter to the superiors of the officials involved as well as to other appropriate authorities.

**SEC. 12. Accountability of the Head of the Prison Institution.** - (a) The respective heads of institutions responsible for the custody of women detainees/prisoners shall take effective steps to protect women detainees who report rape, sexual harassment and from other forms of abuses, threats, reprisals or any other form of intimidation.

(b) The immediate respective heads of the detention/prison institutions is prima facie presumed to have knowledge of the abuse committed against the women prisoners if:

- i. a complaint has been made before him or such other authority designated to receive such complaint, or if abuse was openly performed or well-known among her co-inmates or prison personnel; and
- ii. the head of the prison institution has failed to act on the same.

**SEC. 13. Investigation of Alleged Abuse Against Women in State Custody.** - All complaints of rape, sexual abuse, torture or any unlawful advancement or violation of the rights provided in this Act, committed by any person against a woman detainee/prisoner must be investigated promptly and independently by the CHR. A medical examination and an adequate legal services should be provided immediately for any woman in custody who alleges that she has been abused.

Whenever the abuse has resulted to death or unexplainable disappearance of a detained or imprisoned woman occurs during her detention or imprisonment, an inquiry into the cause of death or disappearance shall be held by the CHR, at its own instance or at the instance of a member of the family of such a person or any person who has knowledge of the case. When circumstances so warrant, such an inquiry shall be held on the same procedural basis whenever the death or disappearance occurs shortly after the termination of the detention or imprisonment. The findings of such inquiry or a report thereon shall be made available upon request, unless doing so would jeopardize an ongoing criminal investigation.

**SEC. 14. Penalty Clause.** - Any person who shall be guilty of violation of this Act shall suffer a penalty of six (6) months and one (1) day but not exceeding six (6) years, without prejudice to other criminal and administrative charges for which he may be held liable.

**SEC. 15. Separability Clause.** - If, for any reason, any part or provision of this Act is declared invalid, such declaration shall not affect the other provisions of this Act.

**SEC. 16. Repealing Clause.** - All laws, decrees, executive orders, issuances, rules or regulations or parts thereof, which are inconsistent with the provisions of this Act, are hereby deemed repealed, amended or modified accordingly.

**SEC. 17. Effectivity** - This Act shall take effect sixty (60) days after its publication in the *Official Gazette* and in two national newspapers of general circulation.

Approved,