

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City



FIFTEENTH CONGRESS
Third Regular Session

House Bill No. 6719

Introduced by Representatives
DIOSDADO MACAPAGAL ARROYO and GLORIA MACAPAGAL ARROYO

AN ACT
CREATING PROGRAMS FOR INCARCERATED MOTHERS AND THEIR
CHILDREN

EXPLANATORY NOTE

The deprivation of liberty has very different effects on men and women. A defendant who is the custodial parent of a minor child may not be fully aware of the dire consequences of being convicted and being separated from the child. Since women are considered the primary caregiver of children, imprisonment affects both mother and child profoundly. Since a mother's role in the overall development of the child is unquestionable, hence, separation may have long-term negative effects and may contribute to the delinquency of children.

In order for our prison policies to subscribe to our fundamental law and international obligations, policy makers must: (1) take cognizance of the rights of detained persons; (2) the unique relationship of a mother and child; and (3) the need for special care and consideration of children living in exceptionally difficult conditions.

It is expressly stated in Article 11, Section 12, of our Constitution that "*The State recognizes the sanctity of family life and shall protect and strengthen the family as a basic autonomous social institution.*" Aside from adhering to this specific provision of our fundamental law, we also have a duty to comply with international obligations where the Philippines is a party to. Therefore, we should respect what is being espoused in Article 25 of the Universal Declaration of

Human Rights which states that *"Motherhood and childhood are entitled to special care and assistance"* and The International Convention on Civil and Political Rights (ICCPR) which places special emphasis on the protection of mothers and their children and states that *"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...Party States should report on facilities to ensure this and on medical and healthcare for such mothers and their babies."* (Human Rights Committee, General Comment 28 on Article 3 of the ICCPR).

In consideration of these commitments, this bill proposes to make mandatory for appropriate government agencies to establish programs which assist imprisoned parents in the performance of their parental and child-rearing responsibilities. These programs will give due consideration on the rights of all those directly affected – mothers, fathers and their children. It will also guarantee assistance, when needed, to dependents in particular, minor members of families of detained or imprisoned persons.

In view of the foregoing, it is the fervent hope of the authors that this bill will be expeditiously passed into law.



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*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 the “Mothers in Jail
Act of 2012.”

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 Commission on Human Rights, 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 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 10. *Repealing Clause.* – Any law, presidential decree or issuance, executive order, letter of instruction, administrative order, rule or regulation contrary to or is inconsistent with the provision 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 (2) newspapers of general circulation.

Approved,