

Sixteenth Congress
Republic of the Philippines
First Regular Session



Introduced by Honorable Samuel D. Pagdilao

HOUSE BILL NO. 4541

EXPLANATORY NOTE

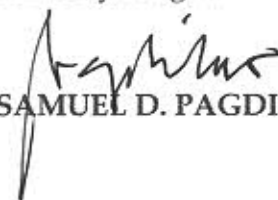
Section 12, Article II of the 1987 Constitution provides:

“The State recognizes the sanctity of family life and shall protect and strengthen the family as a basic autonomous social institution. **It shall equally protect the life of the mother and the life of the unborn from conception.** The natural and primary right and duty of parents in the rearing of the youth for civic efficiency and the development of moral character shall receive the support of the Government.”

It is public knowledge that our detention and prison facilities are among the worst in the region. Due to the deplorable conditions of our detention facilities and prisons, pregnant women in those facilities are more likely to have high-risk pregnancies, considering that they are likely to have less access to reproductive health care. It is submitted that pregnant detainees and prisoners should not be denied decent living conditions and regular access to reproductive health care.

In view of the constitutional mandate on the protection of the life of the mother and the unborn child from conception, the undersigned proposes this bill that shall establish minimum standards for the protection and medical care of pregnant detainees and prisoners and prevent the handcuffing or shackling of pregnant women in detention facilities and prisons except in certain instances.

Immediate approval of this bill is earnestly sought.


SAMUEL D. PAGDILAO

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**AN ACT PROVIDING FOR PROTECTION OF PREGNANT DETAINEES
AND PRISONERS**

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

Section 1. Title. – This Act shall be known as “*Protection of Pregnant Detainees and Prisoners Act of 2014*”

Section 2. Declaration of Policy. – It is hereby declared the policy of the State to protect the lives of pregnant women and their unborn children in any detention facilities and prisons. Towards this end, the State shall provide measures that will enforce a uniform standard of care for the protection of pregnant women in prisons and detention facilities.

Section 3. Mandatory Protection for Pregnant Detainees/Prisoners – Upon admission to a detention facility or prison, pending trial or after final conviction:

- a) A pregnant detainee or prisoner shall be screened and assessed for pregnancy by any competent public health authority; provided, however, that the detainee or prisoner shall be informed of any necessary medical tests connected with the pregnancy screening prior to the administration of such tests.
- b) A pregnant detainee or prisoner shall receive counseling and written material, in a form the detainee or prisoner can understand, on pregnancy options and the detention facility and prison’s policies and practices regarding care and labor for pregnant detainee or prisoner.
- c) A pregnant and postnatal inmate shall be provided regular prenatal and postnatal medical care at the detention facility or

prison in which she is housed, including, but not limited to, the following:

- i. Periodic health monitoring and evaluation during pregnancy;
 - ii. The opportunity for minimum ambulatory movement or exercise each day;
 - iii. A diet containing the nutrients necessary to maintain a healthy pregnancy, including prenatal vitamins and supplements;
 - iv. Written information regarding prenatal nutrition, maintaining a healthy pregnancy and childbirth; and
 - v. Appropriate clothing, undergarments and sanitary materials. ☐
- d) During the second and third trimesters of pregnancy or during post-delivery recuperation, as determined by any competent public health authority, the pregnant detainee or prisoner, as the case may be, shall be transported to and from visits to a government hospital and court proceedings in a vehicle with seatbelts and may only be restrained using handcuffs in front. ☐
- e) A pregnant detainee or prisoner shall receive labor and delivery care in any government hospital or any accredited hospital at the choice of the detainee or prisoner provided that in the latter case, the detainee or prisoner shall shoulder the cost of the services, and shall not be removed to another penal institution for the purpose of giving birth.
- f) A detainee or prisoner who is in any stage of labor or delivery, as determined by any competent public health authority, or in his absence, any licensed health care professional, shall not be placed in restraints at any time, including during transportation. The correction officer present in the room during the pregnant detainee or prisoner's physical examinations, labor or childbirth, shall be female. Whenever possible, the correction officer shall be positioned in a location in the room that will ensure, to the extent possible, patient privacy.
- g) In cases where an inmate is restrained, the restraints shall be the least restrictive available and the most reasonable under the circumstances. Leg or waist restraints shall not be used on a

pregnant or post-delivery detainee or prisoner. In the event the correction officer determines that extraordinary circumstances exist and restraints are used, the correction officer shall fully document, in writing, the reasons that the officer determined such extraordinary circumstances existed, the kind of restraints used and the reasons those restraints were considered the least restrictive available and the most reasonable under the circumstances. If the attending physician or nurse treating the pregnant detainee or prisoner requests that restraints be removed for medical reasons, the correction officer shall immediately remove all restraints. In all cases, nothing in this section shall prohibit the use of hospital restraints requested by a treating physician for the medical safety of a patient.

Section 4. *Post Pregnancy Care and Release* – During post-delivery recuperation, the detainee or prisoner shall remain in the hospital until the attending physician certifies that she may be safely discharged and transferred back to the correctional facility. The detainee or prisoner in post-delivery recuperation shall not be placed in restraints, except under extraordinary circumstances in accordance with Section 3(g) of this Act.

For the purposes of this section, “extraordinary circumstances” shall mean a situation in which a correction officer determines that the specific detainee or inmate presents an immediate and serious threat to herself or others or in which the detainee or prisoner presents an immediate and credible risk of escape that cannot be curtailed by other reasonable means.

Prior to release, correctional facility medical staff shall provide a pregnant inmate with counseling and discharge planning in order to ensure continuity of pregnancy-related care.

Section 5. *Detention Facilities and Prisons* – Detention facilities and prisons housing female inmates shall ensure that at least 1 member of the said facility and prison’s staff is trained in pregnancy-related care, which shall include knowledge of prenatal nutrition, high-risk pregnancy, addiction and substance abuse during pregnancy and childbirth education.□ Further, the said detention facility or prison shall provide decent living space for the said pregnant detainee or prisoner.

Section *Rules and Regulations*. – The Department of Health together with the Department of Interior and Local Government, and in consultation with the Bureau of Jail Management and Penology shall promulgate the rules and regulations for the implementation of this Act.

Section 13. *Separability Clause.* - If any provision or part hereof is held invalid or unconstitutional, the remainder of this Act or the provisions not otherwise affected shall remain valid and subsisting.

Section 14. *Repealing Clause.* - All laws, decrees, orders, rules and regulations or parts thereof inconsistent with this Act are hereby repealed or modified accordingly.

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