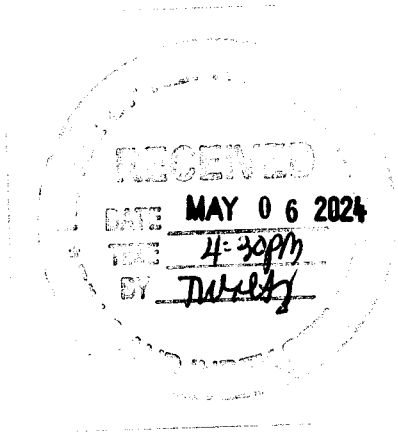
Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila



NINETEENTH CONGRESS
Second Regular Session

HOUSE BILL NO. 10351

Introduced by **Representative Jaime R. Fresnedi**

EXPLANATORY NOTE

This bill seeks to define the rights of women deprived of liberty and to underscore our societal responsibility to protect and uphold their inherent rights. The provisions outlined in this bill are essential safeguards to ensure the dignity and well-being of women deprived of liberty, reaffirming our commitment to the principles enshrined in the International Covenant on Civil and Political Rights in which Philippines (ICPR) is a party to.

Aside from our commitments to the ICPR, Republic Act No. 9710 (RA 9710) or the Magna Carta of Women (MCW) is a comprehensive women's human rights law that seeks to eliminate discrimination against women, which also serves as one of the foundations of this law. This is through the recognition, protection, fulfillment, and promotion of the rights of women, especially those belonging to the marginalized sectors of society and regardless whether they are women deprived of liberty or not.

The tragic case of Reina Mae Nasino, a 23-year-old prisoner who gave birth to baby River on July 01, 2020 in jail is a case in point. Baby River was separated from her mother on August 13 and was taken out of jail facilities. She died two months later, on October 9, of acute respiratory distress syndrome. This happened despite having Republic Act 10028 (RA 10028) or the Expanded Breastfeeding Law which provides for "an environment where basic physical, emotional, and psychological needs of mothers and infants are fulfilled through the practice of rooming-in and breastfeeding." Regardless whether you are in jail or not, this is a right provided to all women.

Poor baby River's untimely death at 3 months old shook our conscience and exposed the vulnerabilities faced by women in correctional facilities. Baby River's life was cut short due to the refusal of the correctional facility to accommodate her inside the prison with her mother — a stark reminder of the urgent need for reform in our system.

Reina Mae Nasino's experience epitomizes the systemic injustices endured by countless women behind bars. Her story is a harrowing reminder of the urgent need for comprehensive reform in our correctional facilities. We cannot allow the negligence and indifference that led to Baby River's death to go unaddressed.

Turning a blind eye to the plight of the women in the country and allowing bureaucratic inertia to delay the implementation of vital reforms increases the statistics of women suffering from indignity and injustice behind bars. To echo our unwavering dedication to justice and human dignity, this bill seeks to ensure that no woman is left behind, regardless of her circumstances. Through this legislation, we will champion the rights of women and fulfill our duty to create a more equitable and compassionate society.

In view of the foregoing, the immediate approval of this bill is earnestly sought.

JAIME R. FRESNEDI
Representative
Lone District, Muntinlupa City

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

NINETEENTH CONGRESS
Second Regular Session

HOUSE BILL NO. 10351

Introduced by **Rep. Jaime R. Fresnedi**

AN ACT
DEFINING THE RIGHTS OF WOMEN DEPRIVED OF LIBERTY IN JAILS AND CORRECTIONAL FACILITIES AND PROVIDING FUNDS FOR THEIR ENFORCEMENT

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 the *"Dignity for Women Deprived of Liberty Act".*

SEC. 2. *Declaration of Policy.* — It is hereby declared the policy of the State to safeguard the basic rights of every person deprived of liberty, taking into account the distinctive needs of women, and to promote their health, security, dignity, and general welfare.

SEC. 3. *Definitions.* - As used in this Act, the term:

(a) "Woman deprived of liberty" refers to a woman detainee, inmate, or prisoner, or other women under confinement or custody in any other manner. However, in order to prevent labeling, branding, or shaming by the use of these or other derogatory words, this new and neutral term shall be used in accordance with Article 10 of the International Covenant on Civil and Political Rights (ICCPR);

(b) "Jails and correctional facilities" shall cover every municipal, city, and district jails under the jurisdiction of the Bureau of Jail Management and Penology (BJMP); the various provincial jails under their respective provincial governments; and the correctional facilities under the jurisdiction of the Bureau of Corrections, which are charged with the custody or reformation of women deprived of liberty incarcerated therein;

(c) "Jail and correctional facility employee" means any person employed by a jail or correctional facility, which includes, but is not limited to, the uniformed personnel of the Bureau of Jail Management and Penology as enumerated in Section 12 of Republic Act No. 9263 and the uniformed personnel of the Bureau of Corrections as enumerated in Section 19 of Republic Act No. 10575;

(d) "Healthcare products" includes the following:

(1) feminine hygiene products such as sanitary napkins, panty liners, and tampons;

(2) toiletries such as towels, shampoo, soap, and undergarments;

(3) any other health care product that the jail or correctional facility deems appropriate, as identified or recommended by a gynecologist or a health care professional;

(e) "Infant children" refers to children of women deprived of liberty of the age of zero to twelve (0-12) months old;

(f) "Mental health" refers to a state of well-being in which the individual realizes one's own abilities and potentials, scopes adequately with the normal stresses of life, displays resilience in the face of extreme life events, works productively and fruitfully, and is able to make a positive contribution to the community as defined in Section 4 of Republic Act No. 11036;

(g) "Mental Health Service" refers to psychosocial, psychiatric or neurologic activities and programs along the whole range of the mental health support services including promotion, prevention, treatment, and aftercare, which are provided by mental health facilities and mental health professionals as stated in Section 4 of Republic Act No. 11036;

(h) "State of undress" means not dressed or not fully dressed.

SEC. 4. *Right to Health Care.* —

(a) Right to Preventive Health Care. – It shall be the right of every woman deprived of liberty to be provided with proper preventive health care. This includes:
    1. regular preventive medical examination, especially with a gynecologist or obstetrician,
    2. access to mental health services;
    3. regular sunning (sun exposure) and exercise, and;
    4. provision of dietary supplements for pregnant, lactating, elderly and menstruating women. The supplements shall be provided at no cost and shall be determined by a gynecologist, or by an obstetrician for pregnant women.

(b) Right to Health Care Products. – It shall be the right of a woman deprived of liberty to be provided health care products. Thus, a jail or correctional facility shall make available health care products to each woman deprived of liberty at no cost to the woman without need for a medical referral. A jail or correctional facility may not require that a woman deprived of liberty be diagnosed with an illness in order to access health care products.

(c) Right to Medical Examination and Treatment. – It shall be the right of a woman deprived of liberty to be examined or treated for an illness. In case a woman deprived of liberty requests that she be examined or treated by a woman physician or nurse, a woman physician or nurse shall be made available, to the extent possible, except for situations requiring urgent medical intervention. If a male physician or nurse undertakes

the examination contrary to the wishes of the woman deprived of liberty, a woman staff member shall be present during the examination.

SEC. 5. *Right of Pregnant Women Against Restraint.* – It shall be the right of a pregnant woman deprived of liberty not to be restrained, in any manner, during medical examinations, transport to hospital to give birth, during labor, and immediately after birth: *Provided,* That said woman deprived of liberty has no history of committing physical harm against fellow persons deprived in liberty, and jail or correctional facility employees.

SEC. 6. *Right to Stay with their Infant Children in Infirmaries Inside Correctional Facilities.* – It shall be the right of a woman deprived of liberty to stay with her infant child in infirmaries located inside correctional facilities until the infant child shall have attained the age of one (1) year old. The woman deprived of liberty shall undergo postpartum care to ensure physical and mental health and wellness. After the child has attained one (1) year of age, the child may stay with the mother deprived of liberty inside correctional facility if it is advantageous to both the mother and the child, as recommended by the medical officer of the correctional facility or a by a competent health professional and a social worker. Otherwise, the child shall be placed under the care of relatives or in an orphanage if no relative would come to take care of the child.

In case the child of a woman deprived of liberty be placed under the care of relatives or in an orphanage, the Social Welfare Officer shall see to it that the child shall have continuous communication with and periodical visits to the mother deprived of liberty.

SEC. 7. *Right Against Punishment by Close Confinement or Disciplinary Segregation.* – It shall be the right of a woman deprived of liberty who is pregnant, has an infant child, or is a breastfeeding mother not to be punished by close confinement or disciplinary segregation.

SEC. 8. *Right to Education and Information.* — It shall be the right of a woman deprived of liberty to have access to information and education programs that include literacy and numeracy, reproductive health and preventive healthcare measures, and livelihood training.

SEC. 9. *Right to Legal Assistance in Filing Complaints.* – It shall be the right of a woman deprived of liberty to be provided free legal assistance in filing administrative and/or criminal complaints against any jail or correctional facility employee or fellow person deprived of liberty who have committed rape, sexual harassment or physical and mental abuses against them. During the process, the complaining woman deprived of liberty shall be protected from any kind of mental and physical torture, threats, ill treatments and other possible harm from any party and shall be provided immediate medical assistance and counselling programs.

All administrative complaints must be acted upon with dispatch, prompt and impartial investigation and findings must be submitted to the respective Superintendent in charge of the jail or correctional facility within forty-eight (48) hours from receipt of the complaint or any incident report. Thereafter, the Superintendent shall, within twenty-four (24) hours, make the appropriate administrative action against the guilty jail or correctional facility personnel.

SEC. 10. *Restrictions on Male Employees of Jails and Correctional Facilities.* –

(a) A male jail or correctional facility employee may not conduct a pat-down search or body cavity search on a woman deprived of liberty unless the woman presents an immediate risk of harm to herself or others and a female jail or correctional facility

employee is not available to do the search. No woman deprived of liberty shall be required to strip completely during the search.

Alternative screening methods shall be developed to replace strip searches and invasive body searches in order to avoid the harmful psychological and possible physical impact of invasive body searches.

(b) A male jail or correctional facility employee shall announce his presence upon entering a cell or housing unit for women deprived of liberty.

(c) A male jail or correctional facility employee may not enter an area of the jail or correctional facility in which a woman deprived of liberty may be in a state of undress or an area where a woman deprived of liberty in a state of undress may be viewed, including, but not limited to, restrooms, shower areas, and medical treatment areas. If a female jail or correctional facility employee is not available or if a female jail or correctional facility employee requires assistance, a male jail or correctional facility employee may enter such area only in the event of a medical emergency or if a woman deprived of liberty presents an immediate risk of harm to herself or others.

SEC. 11. *Separate Prison Cell and Facilities.* – Women deprived of liberty shall, at all times, be held separately from men deprived of liberty. For this purpose, separate cells and facilities for women shall form part of the standard design in the construction and improvement of jails and correctional facilities: *Provided,* That in situations which presently receives both men and women deprived of liberty, there shall be a section or part allocated exclusively for women deprived of liberty.

SEC. 12. *Control and Supervision of Jails and Correction Facilities with Women Deprived of Liberty.* – In institutions having both men and women deprived of liberty, the section or part set aside for women deprived of liberty shall be under the authority of a woman prison officer who shall have control and supervision of such section.

SEC. 13. *Hiring and Training of Additional Women Prison Personnel.* – To ensure the effective implementation and to carry out the full intent of this Act, jails under the jurisdiction of the Bureau of Jail Management and Penology and provincial governments, and correctional facilities under the jurisdiction of the Bureau of Corrections, are hereby mandated to maintain the women custodial personnel-to- women deprived of liberty ratio of 1:7 and women to reformation personnel-to-women deprived of liberty ratio of 1:24.
All staff assigned to work with women deprived of liberty shall receive training relating to the gender-specific needs and human rights of women deprived of liberty.

SEC. 14. *Appropriations.* – The amounts necessary for the implementation of this Act insofar as it refers to the municipal, city, district jails and correctional facilities shall be charged to the current appropriations for the Bureau of Jail Management and Penology and Bureau of Corrections. Thereafter, such sums as may be necessary for the continued implementation of this Act shall be included in the annual General Appropriations Act.

The provincial governments shall be responsible for appropriating the necessary amount needed for the implementation of this Act with regard to provincial jails.

SEC. 15. *Implementing Rules and Regulations.* – Within ninety (90) days after the approval of this Act, the Secretary of Justice and the Secretary of Interior and Local

Government shall promulgate the necessary rules and regulations for the effective implementation of this Act.

SEC. 16. *Separability Clause.* – If any provision or part thereof is declared unconstitutional, the remainder of this act or any provision not affected thereby shall remain in full force and effect.

SEC. 17. *Repealing Clause.* – All laws, acts, decrees, executive orders, issuances, and rules and regulations or parts thereof which are contrary to and inconsistent with this Act are hereby repealed, amended or modified accordingly.

SEC. 18. *Effectivity.* – This Act shall take effect immediately following its publication in the Official Gazette or in at least two (2) newspapers of general circulation.

Approved,