

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Batasan Hills, Quezon City

TWENTIETH CONGRESS
First Regular Session

HOUSE BILL NO. 5195



Introduced by Honorable Representatives
SARAH JANE I. ELAGO (Gabriela Women's Party),
ANTONIO L. TINIO (ACT Teachers Party-list), and
RENEE LOUISE M. CO (Kabataan Party-list)

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

EXPLANATORY NOTE

This bill seeks to define certain rights of women deprived of liberty, taking into account their distinctive needs as women and mothers.

Under the Constitution, it is the policy of the State to value the dignity of every human person. Persons deprived of liberty do not lose their dignity upon their incarceration, and thus they retain their right to humane treatment and respect for their dignity as human persons.

Among the persons deprived of liberty, women are the most vulnerable. They are prone to physical and sexual abuses and other human rights violations. Risks to their health are also higher, taking into account their distinctive needs as women and mothers. Indeed, Republic Act No. 9710 or the Magna Carta for Women includes women in detention under especially difficult circumstances and provides them with specific services and interventions. It is also for this reason that the United Nations General Assembly adopted the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules), which gives guidance to policy makers and prison staff on how to address the specific needs of women deprived of liberty.

While provisions of the Bangkok Rules were already integrated in the Revised Memorandum on Reintegration of Rehabilitation Programs and Prison Rules and Regulations for a Gender-Sensitive Prison Management of the Bureau of Corrections issued in 2015, these guidelines are

not issued by a legislative authority and thus, do not entail enforceable protection under the law. Furthermore, these guidelines apply only to the personnel of the Bureau of Corrections and not to personnel under the jurisdiction of the Bureau of Jail Management and Penology.

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



REP. SARAH JANE I. ELAGO

Gabriela Women's Party



REP. ANTONIO L. TINIO

ACT Teachers Party-list



REP. RENEE LOUISE M. CO

Kabataan Party-list

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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".

SECTION. 2. State 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.

SECTION 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) clean and safe drinking water;
 - (4) 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.

SECTION 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.

SECTION 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.

SECTION 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 the correctional facility if it is advantageous to both the mother and the child, as recommended by the medical officer of the correctional facility or 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.

SECTION 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.

SECTION 8. Right to Education and Information. – It shall be the right of a person 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.

SECTION 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.

SECTION 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, such as scans, 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 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.

SECTION 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 institutions which presently receives both men and women deprived of liberty, there shall be a section or part allocated exclusively for women deprived of liberty.

SECTION 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.

SECTION 13. Hiring and Training of Additional Women Prison Personnel. – To ensure the effective implementation and to carry out the full intent of this Act, the jails under the jurisdiction of the Bureau of Jail Management and Penology and the provincial governments, and the 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 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.

SECTION 14. Appropriations. – The amount necessary for the implementation of this Act insofar as it refers to the municipal, city, and district jails and to correctional facilities shall be charged to the current appropriations for the Bureau of Jail Management and Penology and Bureau of Corrections respectively. Thereafter, such sum 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.

SECTION 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.

SECTION 16. Repealing Clause. – All laws, executive orders, and other issuances inconsistent with the provisions of this Act are hereby repealed or amended accordingly.

SECTION 17. Separability Clause. – If, for any reason, any part or provision of this Act is declared invalid or unconstitutional, any part or provision not affected thereby shall remain in full force and effect.

SECTION 18. Effectivity. – This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in two (2) newspapers of general circulation.

Approved,