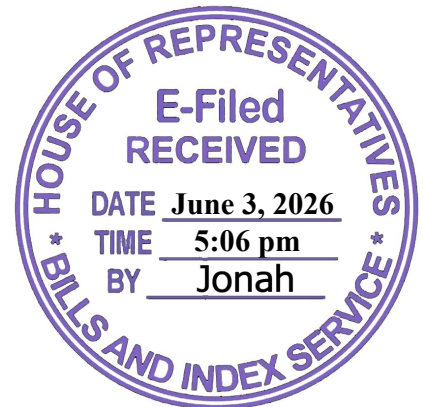


1 Republic of the Philippines
2 **HOUSE OF REPRESENTATIVES**
3 Batasan Hills, Quezon City

4
5
6 **TWENTIETH CONGRESS**
7 First Regular Session

8
9
10 **HOUSE BILL No. 9752**



11
12 -----
13 Introduced by
14 **ACT Teachers Party-List Rep. ANTONIO L. TINIO,**
15 **Gabriela Women's Party Rep. SARAH JANE I. ELAGO,**
16 **and KABATAAN Party-List Rep. RENEE LOUISE M. CO**
17 -----

18
19 **AN ACT**
20 **CREATING PROGRAMS FOR INCARCERATED PARENTS**
21 **AND THEIR CHILDREN**

22
23
24 **EXPLANATORY NOTE**

25
26 Persons deprived of liberty (PDLs) are forced to leave their children during the
27 time that they are in detention or commitment. As a result, most of the children of those
28 in Philippine jails and detention facilities are deprived of much of the basic needs for
29 their physical, mental, moral, and psychological growth and development. Our country
30 lacks mechanisms and facilities for detained and committed parents to still enjoy their
31 parental rights, and for the needs of their children to be attended to. Prison walls and
32 jail bars must never negate the best interests of the child, even as their mother or father
33 is still innocent in the eyes of the law, and even when the latter is already sentenced.

34
35 This need to care for incarcerated parents and their children is made more
36 obvious and dire in the case of mothers, especially those who are expecting or nursing,
37 and solo parents who oftentimes have no relatives to whom the rearing of their children
38 could be entrusted.

39
40 The Philippine government has obligations under several international law
41 instruments on the rights of the child, women's rights, and cruel and inhumane
42 punishment to name a few, to prevent the suffering of parents in jail and their children.
43 Take the cases of Reina Mae Nasino and baby River, and Amanda Echanis and baby
44 Randall Emmanuel. Both mothers are political prisoners arrested amid the raging times

1 of COVID-19 pandemic. Until now, Echanis is still suffering under fabricated charges.
2 Meanwhile, in July 2023, the Manila Regional Trial Court Branch 47 dismissed the case
3 of Nasino and her companions due to lack of evidence. However, her acquittal is years
4 late since baby River passed away in 2020. Brought by the insufficient prenatal and
5 post-natal care and the stress caused to Nasino throughout her pregnancy and childbirth,
6 baby River contracted pneumonia then died at three months old. The court and elements
7 of the Philippine National Police denied Nasino the right to mourn her daughter in
8 peace, granting her just a total of six hours to go to her daughter's wake and making her
9 attend the funeral in handcuffs, closely surrounded by a score of police officers. A case
10 has also been filed in the Ombudsman in relation to the "hijacking" of baby River's
11 remains by police forces.

12
13 Echanis, herself a child of incarcerated parents when both her parents became
14 political prisoners in the 1990s, was recently arrested with her newborn son, Randall
15 Emmanuel. As planted arms and explosives assured a non-bailable—yet trumped-up—
16 charge against her, she is now faced with the choice of nursing her newborn in detention
17 or being separated from him, totally unable to nurse him.

18
19 It should be noted, however, that Echanis herself was allowed to stay with her
20 mother, Linda Lacaba Echanis, and also her father, slain Anakpawis leader and National
21 Democratic Front of the Philippines peace consultant Randall Echanis, when both were
22 arrested in August 1990. Government and custodial authorities consented for
23 humanitarian reasons to Amanda's confinement at Camp Crame in the political
24 prisoner's wing so that Linda could continue breastfeeding Amanda who was 1 year
25 and 10 months old, which was still short of the two-year minimum period set by WHO
26 guidelines for breastfeeding for survival. Both Linda and Amanda stayed in Camp
27 Crame until Linda was released after six months. In effect, this establishes a
28 humanitarian as well as instructive precedence for the protection of babies of
29 incarcerated mothers.

30
31 "Just and humanitarian considerations" should be enough to accord these
32 mothers, and other parents in jail, and their children the rights to a family, and the love
33 and nurturing of a family. However, current institutions do not.

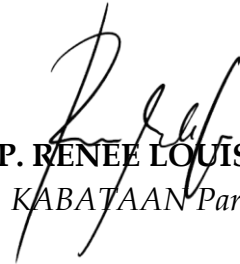
34
35 This proposed bill aims to establish mechanisms that shall assist imprisoned
36 parents, especially mothers and solo parents, in the performance of their parental and
37 child-rearing obligations particularly during the early and formative years of the child.

38
39 This Bill was originally filed in the 18th Congress by Senator Maria Lourdes
40 Nancy S. Binay, as well as Representative Myra Salvador-Tambunting, Representative
41 Manuel Cabochan and the Party-List Representatives of the Makabayang Koalisyon ng
42 mga Mamamayan (Makabayan).

1 Approval of this Bill is earnestly sought.


REP. ANTONIO L. TINIO
ACT Teachers Party-list


REP. SARAH JANE I. ELAGO
Gabriela Women's Party


REP. RENEE LOUISE M. CO
KABATAAN Party-list

2

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18
19 **AN ACT**
20 **CREATING PROGRAMS FOR INCARCERATED PARENTS**
21 **AND THEIR CHILDREN**
22

23
24 *Be it enacted in the Senate and the House of Representatives of the Philippines in*
25 *Congress assembled:*
26

27 **SECTION 1. Title.** – This Act shall be known as “*Parents in Jail Act.*”
28

29 **SEC. 2. Declaration of Policy.** – It is hereby declared the policy of the State that:
30

31 (1) The State shall defend the rights of children to special protection from all
32 forms of neglect and other conditions prejudicial to their development;
33

34 (2) The State recognizes that all persons deprived of their liberty shall be treated
35 humanely and shall enjoy all the rights guaranteed to free persons, subject to the
36 restrictions that are unavoidable in a closed environment;
37

38 (3) The State shall promote stable and solid relationships between children and
39 parents, who are their primary care-givers and support incarcerated parents to develop
40 and maintain their relationship with their children;
41

42 The State shall assure the right of the child to express his or her views freely in
43 all matters affecting them, the views of the child being given due weight in accordance
44 with their age and maturity.

1
2 **SEC. 3. *Apprising Incarcerated Parents of Their Parental Rights.*** – In cases
3 involving incarcerated parents, the court must give an appropriate warning of the special
4 consequences concerning the parental rights of the accused that may result from a plea
5 of guilty or conviction, especially the loss of parental authority.
6

7 **SEC. 4. *Placement and Guardianship Options.*** – After arraignment and upon plea of
8 guilty, the court shall inquire from the accused if the latter has any minor children and
9 in whose custody the minor children are. In the event that the accused has minor
10 children, the court shall *motu proprio* direct a social worker or a representative of the
11 Department of Social Welfare and Development to confer with the accused to discuss
12 various options available to the latter, in relation to the care and custody of their minor
13 children. A compliance report, duly signed by the accused, shall thereafter be submitted
14 to the court, attesting that options have been discussed and the selected option, if any.
15

16 Should the accused be unable to place their minor children under the care of a
17 responsible adult, the minor children shall be placed under the care of the following
18 persons, in the order indicated:
19

- 20 1. surviving grandparent;
- 21 2. oldest brother or sister, over twenty-one (21) years of age, unless unfit or
22 disqualified;
- 23 3. any collateral relative of the accused, over twenty-one (21) years of age,
24 and within the fourth civil degree of consanguinity or affinity of the minor children; and
- 25 4. the Department of Social Welfare and Development.
26

27 **SEC. 5. *Coordinating Body.*** – A coordinating body, composed of representatives from
28 the Department of Justice, the Bureau of Corrections, the Department of Social Welfare
29 and Development, and the Department of Health, shall be established for purposes of
30 implementing the provisions of this Act.
31

32 Such body shall:
33

- 34 a. formulate the necessary rules and regulations for the effective
35 implementation of this Act;
- 36 b. provide for specific procedures for the placement of children of the
37 accused or for infants born to women already incarcerated in state prisons; and
38
- 39 c. establish programs designed to provide counseling, health and other
40 social services to the incarcerated parents and their children. Access of mothers,
41 including those who are expecting and nursing, and children to health care services and
42 medicines, including reproductive health care and medical attention, gynecological and
43 pediatric services shall be assured by the institution where parent and child are detained.
44 For this purpose, all jails and detention facilities shall comply with the mandates of

1 Republic Act 11148 or the “*Kalusugan at Nutrisyon ng Mag-Nanay Act*” and other
2 relevant laws. The use of restraints on pregnant women and women who have just given
3 birth is hereby declared as torture and cruel and degrading punishment.
4

5 **SEC. 6. *Child-Friendly Visitation Programs.*** – The prison facilities shall establish
6 child-friendly visitation opportunities for solo parents and children. A special visitation
7 room for solo parents and children shall be provided for this purpose.
8

9 **SEC. 7. *Independent Monitoring.*** – Frequent access to prisons shall be granted to
10 relevant institutions such as the Commission on Human Rights, non-governmental
11 human rights organizations, and international organizations. Persons conducting
12 monitoring tasks shall be allowed to make periodic and unannounced visits to the
13 premises and speak in private with imprisoned solo parents and their children.
14

15 **SEC. 8. *Appropriations.*** – The amount necessary to carry out the provisions of this
16 Act is hereby authorized to be appropriated in the budget of the Department of Social
17 Welfare and Development and included in the General Appropriations Act of the year
18 following the enactment of this law and every year thereafter.
19

20 **SEC. 9. *Separability Clause.*** – If any portion or provisions of this Act is declared void
21 and unconstitutional, the remaining portions or provisions hereof shall not be affected
22 by such declaration.
23

24 **SEC. 10. *Repealing Clause.*** – All laws, decrees, orders, rules and regulations, other
25 issuances, or parts thereof inconsistent with the provisions of this Act are hereby
26 repealed or modified accordingly.
27

28 **SEC. 11. *Effectivity Clause.*** – This Act shall take effect fifteen (15) days after its
29 publication in the *Official Gazette* or in a newspaper of general circulation.
30
31

32 *Approved,*