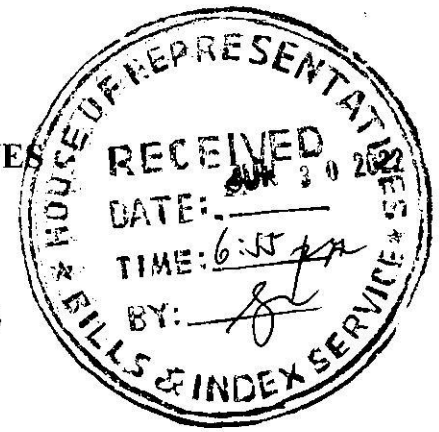
Republic of the Philippines
HOUSE OF REPRESENTATIVES
Batasan Hills, Quezon City



EIGHTEENTH CONGRESS
Second Regular Session

HOUSE BILL No. 570

Introduced by
ACT Teachers Party-List Rep. FRANCE L. CASTRO,
GABRIELA Women's Party Rep. ARLENE D. BROSAS,
and **KABATAAN Party-List Rep. RAOUL DANNIEL A. MANUEL**

AN ACT
CREATING PROGRAMS FOR INCARCERATED PARENTS AND THEIR CHILDREN

EXPLANATORY NOTE

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

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

The Philippine government has obligations under several international law instruments on the rights of the child, women's rights, and cruel and inhumane punishment to name a few, to prevent the suffering of parents in jail and their children. Take the cases of Reina Mae Nasino and baby River, and Amanda Echanis and baby

Randall Emmanuel. Both mothers are political prisoners arrested and now suffering under fabricated charges. Brought by the insufficient prenatal and post-natal care and the stress caused to Nasino throughout her pregnancy and childbirth, baby River contracted pneumonia then died at three months old. The court and elements of the Philippine National Police denied Nasino the right to mourn her daughter in peace, granting her just a total of six hours to go to her daughter's wake and making her attend the funeral in handcuffs, closely surrounded by a score of police officers. A case has also been filed in the Ombudsman in relation to the "hijacking" of baby River's remains by police forces. All these, at a time when the COVID-19 is raging.

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

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

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

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

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

Approval of this bill is earnestly sought.

Rep. FRANCE L. CASTRO
ACT Teachers Party-List

Rep. ARLENE D. BROSAS
GABRIELA Women's Party

Rep. RAOUL DANNIEL A. MANUEL
KABATAAN Party-List

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AN ACT
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Be it enacted in the Senate and the House of Representatives of the Philippines in Congress assembled:

SECTION 1. ***Title.*** – This Act shall be known as ***"Parents in Jail Act of 2022."***

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

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

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

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

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

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

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

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

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

SEC. 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, for purposes of implementing the provisions of this Act.

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 the accused or for infants born to women already incarcerated in state prisons; and

c. establish programs designed to provide counseling, health and other social services to the incarcerated parents and their children. Access of mothers, including those who are expecting and nursing, and children 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. For this purpose, all jails and detention facilities shall comply with the mandates of Republic Act 11148 or the *"Kalusugan at Nutrisyon ng Mag-Nanay Act"* and other relevant laws. The use of restraints on pregnant women and women who have just given birth is hereby declared as torture and cruel and degrading punishment.

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

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

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

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

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

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

Approved,