

# **Corrections (Mothers with Babies) Amendment Bill**

Member's Bill

## **Explanatory note**

This Bill amends the Corrections Act 2004 to provide every child under 24 months of age whose mother is imprisoned is entitled to be accommodated in the prison in which his or her mother is imprisoned, provided certain conditions are met, for the purpose of being cared for and breastfed by his or her mother.

It further amends the Corrections Act 2004 to provide that prisons in which female prisoners are imprisoned be required to have appropriate facilities for the accommodation of children aged under 24 months, that the children of imprisoned mothers who are accommodated in prison and being breastfed are given sufficient opportunity to be breastfed, and to ensure that imprisoned mothers of children accommodated in prison enter into parenting agreements, including a reciprocal obligation to receive parenting education.

In 2002 the World Health Organisation adopted the World Health Assembly's resolution to "protect, promote and support exclusive breastfeeding for six months, and to provide safe and appropriate complementary foods, with continued breastfeeding for up to two years and beyond".

Under the current regulatory regime established by Regulation 170 of the Corrections Regulations 2005, children of women who are imprisoned in New Zealand are normally removed from their mothers at an age as early as 6 months. The effect of this practice is to deny such children the opportunity to be breastfed until the age of 2 years, as recommended by the World Health Assembly's resolution.

For many such children, they are removed from their mothers to the environment of violence, sexual abuse, emotional abuse and/or substance abuse and dependency that has led to the behaviour resulting in their mothers being imprisoned. For such children, the stable and regulated environment that can be provided by being accommodated with their mothers in a prison is likely to be substantially more conducive to their healthy development than the unstable and dysfunctional family environment to which they are currently removed.

International experience indicates that it is frequently considered to be in the best interests of both the child's health and development and the rehabilitation of the mother for the child to be accommodated with the mother in prison for a period of up 2 years or more.

In Australia the equivalent period varies between 6 years (Victoria) and one year (Tasmania). Other examples are Malaysia and Canada (4 years), Singapore, Hong Kong, Thailand (3 years), Indonesia, Vietnam (2 years), Korea, Republic of Ireland (18 months) and Japan (one year).

New Zealand currently lags well behind all of these countries in acknowledging the best interest of young children of imprisoned mothers. The 2-year period a child can be accommodated in a prison with his or her imprisoned mother proposed in this Bill is based on the World Health Organisation's adoption of the World Health Assembly's resolution regarding the appropriate period for continuation breastfeeding.

The Bill recognises that many mothers who are imprisoned have limited, if any, parenting skills, and requires mothers wishing to have their young children accommodated with them in prison to enter into a parenting agreement, including an obligation to care for their child and a reciprocal obligation to both be provided with and participate in parenting education.

### **Clause by clause analysis**

*Clause 1* gives the Bill its Title.

*Clause 2* is a commencement provision. It provides that the Bill will come into force 90 days after the date it receives the Royal assent.

*Clause 3* states that this Act amends the Corrections Act 2004.

*Clause 4* states the Bill's purpose.

*Clause 5* inserts new sections 81A and 81B in Part 2 of the Corrections Act 2004 to provide for children of female prisoners aged under 24 months to be accommodated with their mothers in prisons, and be cared for and breastfed by their mothers, provided certain conditions are met.

*Clause 6* consequentially amends section 203 of the Corrections Act 2004 relating to the making of Regulations regulating the period during which children of female prisoners may be allowed to remain with their mothers in prison.

*Clause 7* makes consequential amendments to the Corrections Regulations 2005.

*Sue Bradford*

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**Contents**

**The Parliament of New Zealand enacts as follows:**

- 1 Title**  
This Act is the Corrections (Mothers with Babies) Amendment Act 2006.
- 2 Commencement**  
This Act comes into force 90 days after the date on which it receives the Royal assent.
- 3 Principal Act amended**  
This Act amends the Corrections Act 2004.
- 4 Purpose**  
The purpose of this Act is to amend the Corrections Act 2004 to provide that children of female prisoners be accommodated with their mothers in prisons until they meet the age of 24 months for the purpose of breastfeeding and bonding; provided that this is in the best interests of the child, and that certain other conditions are met.
- 5 New sections 81A and 81B inserted**  
The following sections are inserted after section 81:  
  
**“81A Approval for placement of baby with mother**  
“(1) A female prisoner who gives birth to a baby, or on reception to a prison has a baby less than 24 months old, may keep the baby with her until the day after the date on which the baby turns 24 months if—  
“(a) she requests the chief executive's approval to keep the baby; and

- “(b) the chief executive approves the request.
- “(2) The chief executive must approve a request under subsection (1) if—
  - “(a) the chief executive considers that placing the baby with the mother—
    - “(i) is in the best interests of the baby; and
    - “(ii) is not inconsistent with any court order relating to the baby; and
  - “(b) the mother enters into a parenting agreement under section 81B with the chief executive in relation to the baby's placement.
- “(3) If the chief executive identifies any care and protection issues in relation to the baby's placement, the chief executive must consult the chief executive of the department responsible for administering the Children, Young Persons, and Their Families Act 1989 before making a decision under subsection (2).
- “(4) The chief executive may end the placement of the baby with the mother if the manager considers that—
  - “(a) either subsection (2)(a)(i) or (ii) is not being met; or
  - “(b) the mother's responsibilities under the parenting agreement are not being met.
- “(5) The chief executive must ensure that every prison in which female prisoners are imprisoned provides appropriate facilities for the accommodation of children under the age of 24 months.
- “(6) The chief executive must ensure that every child who is accommodated in a prison and is being breastfed is provided with sufficient opportunities to be breastfed.

**“81B Parenting agreements and parenting education**

A parenting agreement to which section 81A(2)(b) relates must—

- “(a) include notice that the mother is responsible for the care of her baby while the baby is in prison; and
- “(b) identify an alternative caregiver who will care for the baby when the placement ends, or in an emergency; and
- “(c) include an agreement that the chief executive will provide parenting education to the mother and that the mother will participate in that parenting education.”

**6 Regulations relating to treatment of prisoners**

Section 203 is amended by repealing paragraph (c) and substituting the following paragraph:

“(c) prescribing conditions relating to the care of babies of female prisoners who are allowed to remain with their mothers in prison:”

**7 Consequential amendments and revocations**

The Corrections Regulations 2005 are consequentially amended by—

- (1) revoking regulations 170, 172, and 173; and
- (2) omitting “6 months” wherever it appears in regulations 171, 175, and 178 and substituting “24 months”.