

Access denied: One woman's story

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Like many pregnant teens, Arisleida Duarte found herself struggling to figure out child care and parenting—but unlike most, she did it behind bars.

Duarte has given birth to two children while serving time, the first when she was just 18.

“I felt like I was dying, like a pain that would never go away,” Duarte said of being separated from the two children, who were born during separate incarceration stints. “It’s like the whole world is ending.”

Duarte gave birth to her firstborn, Carlos, in 2008 while serving two years at Bedford Hills Correctional facility in Westchester for gang assault. She was accepted into the prison’s nursery, but she and Carlos stayed less than a month before she was removed from the program after a fight with another inmate.

Two years later, she stayed with her second born, Joshua, for three months in a similar program at Rikers Island in New York City amid a protracted legal battle.

Both programs allow pregnant inmates to stay with newborns behind bars for up to 18 months based on state law, but the programs are managed separately by state and city correction departments.

[Denial rates at both programs are fairly high](#), and cases involving women like Duarte who have a history of serious criminal charges illustrate the difficult decisions corrections officials face when balancing the importance of the mother/child bond against the often troubled past of the mother.

Duarte’s criminal history includes a gang assault conviction, an attempted murder charge, and a fight with another inmate when she was denied to the Rikers nursery in 2010.

The attempted murder charge was eventually reduced to an attempted assault charge in 2012. The original charge stemmed from a gang-related knife fight that involved Duarte and at least two other people stabbing another woman in the back, according to court documents.

“I know I’m not no threat to my baby, and I’m a good mom,” said the now 24-year-old mother of three whose criminal record began when she joined a Bronx gang at age 15.



Arisleida Duarte, a former gang member, was incarcerated on two separate occasions while pregnant and was initially denied access to the nursery program each time. Photo: Jie Jenny Zou

Denials based on an inmate's violent offense or previous parenting have drawn scrutiny from courts, which have ruled that state law requires officials make nursery decisions based on a child's best interests.

And two recent studies have found that recidivism rates for female inmates who participate in nursery programs are half that of the general female prison population.

After her application was rejected, Duarte went to court to gain access to the nursery program.

In April 2011, the Queens County Supreme Court ruled in Duarte's favor, calling the city's denial "arbitrary, capricious and an abuse of discretion." A judge also rejected arguments that Duarte was ineligible for the nursery because she owed several days in solitary confinement.

But her win was short-lived. City attorneys appealed the decision, blocking Duarte from the program for nine months. Duarte and baby Joshua stayed in the nursery for three months until his first birthday. He was later sent to live with his father.

An appellate court upheld the ruling in 2012, but the city appealed the case again to the state's highest court where it was dismissed in March 2013—long after Duarte had been released from Rikers. City officials have since begun efforts to address the nursery's denials and low usage, starting an awareness campaign in summer 2014.

"I don't want nobody else to go through the same thing because I know how it hurts," Duarte said of her denials to both nurseries. "Pick and choose. Yes, you. No, you. It's whatever they feel."

Her suit against the city in 2010 wasn't her first. She sued the state in 2008 when she was rejected from the Bedford nursery. According to Duarte's attorney, Valentina Morales, officials reversed their decision and admitted her into the

state nursery within a week of when the case was filed in court.

Taylor Vogt, a spokeswoman with the New York State Department of Corrections and Community Supervision, declined to comment on the nursery program and cited privacy concerns regarding questions on specific former inmates.

Duarte's time at the Bedford nursery was also short-lived. She was removed from the state nursery as punishment when she and another inmate got into a fight in the prison kitchen.

Since her release from prison in late 2012, Duarte has pursued a different kind of fight. She is now seeking custody of both Carlos and Joshua from their biological father—a matter complicated by her tumultuous criminal history and fractured stays at both nurseries. Under state law, parental rights are in jeopardy the longer a parent is physically absent from the child.

“The best thing to happen to a pregnant woman in there is to have their baby in there with them,” Duarte said of her time incarcerated. “I cannot make that time up.”

She received a high school equivalency diploma from Rikers, severed gang ties, and now takes night classes. She plans to work with pregnant women as a medical technician.

“I want to continue college and I just want to get a good job to take good care of my kids and just be a normal person,” said Duarte. “I’m getting there little by little.”