



**Testimony for the House Health and Government Operations
Committee
March 11, 2020**

**HB 1518 – Opioid-Exposed Newborns and Parents Addicted to
Opioids – Mobile Application – Pilot Program
(I'm Alive Today App)**

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OPPOSE

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The ACLU of Maryland opposes HB 1518, which would require the Social Services Administration, in consultation with local departments of social services, to create a pilot program in Allegany, Garrett, and Washington counties to communicate through a mobile application with opioid-addicted parents of opioid-exposed newborns and children. It would also require health care practitioners involved in the delivery or care of a substance-exposed newborn to provide reports to the local department.

A health care practitioner would still be required to report to the local department if the mother was using a controlled substance proscribed by her provider. There are no standards or protocol to determine what steps the Administration may take if parents fail to communicate their substance use to a provider. This may subject parents to separation from their children, or facing civil or criminal charges for neglecting or endangering a child.

The purported goal of this bill to protect children by ensuring their mothers can care for them is laudable. However, there is a critical balance between preserving constitutional rights and maternal autonomy, and protecting infant health.

The constitutional guarantee of procreative privacy protects women from efforts to burden or penalize their decision to carry a pregnancy to term. The consequences under this bill of being reported to another agency puts a mother into the government database for having done nothing unlawful, and deters women struggling with substance use disorder or abiding by their provider's orders, from continuing their pregnancy.¹

¹ *Planned Parenthood of Se. Pennsylvania v. Casey*, 505 U.S. 833, 859 (1992).



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The bill also violates women’s right to equal protection because there is no comparable punishment on men who use drugs, and it subjects women’s liberty to scrutiny by government agencies.²

Policies addressing new mothers and substance use, including prescription medications such as opioid treatment, must consider the medical, social, and economic factors that influence such use, as well as access to effective treatment. This bill takes none of these factors into account. Such policies may lead to denying women access to appropriate pain medication, and increasing punitive and counterproductive child welfare interventions that undermine children and families. The law already requires providers to report, and departments to investigate, reports of child abuse and neglect, so this bill is unnecessary to help the health of newborns. Instead, by reporting new mothers who use controlled substances, it will likely deter women from seeking care, taking medications, candidly discussing drug use with their doctors, and entering drug treatment. Mandatory reporting also perpetuates stigmatization and likely will further discourage women from seeking treatment or other services that would benefit their child.

While the problem of opioid-exposed newborns is a serious one, HB 1518 is not the answer. It will lead to worse outcomes for infants and mothers, and compromise the constitutional rights of women.

For the foregoing reasons, we urge an unfavorable report on HB 1518.

² *Nevada Dept. of Human Resources v. Hibbs*, 538 U.S. 721, 730 (2003).