Department of Public Safety and Correctional Services

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BILL: **SENATE BILL 255**

POSITION: **LETTER OF CONCERN**

EXPLANATION: This bill will require an incarcerated pregnant individual be screened for substance use disorder, be referred to behavioral and reproductive health care providers, receive the same medication for substance use disorder they were receiving prior to incarceration, and ensure health insurance and medical records are provided upon release.

- The Department of Public Safety and Correctional Services (DPSCS) Division of Correction is responsible for operating 17 correctional facilities that house offenders sentenced to a period of incarceration for 18 month or longer. The Department also runs the Baltimore City Jail, which houses pretrial detainees and inmates sentenced to incarceration for 18 months and less.

- The Maryland Correctional Institution for Women (MCIW) houses the female sentenced population and the Baltimore City Booking and Intake Center (BCBIC) houses female detainees.

CONCERNS WITH THE BILL IMPLEMENTATION: DPSCS has several concerns with the implementation and effect of the following provisions of SB 255:

- **The bill as drafted applies to more than just State and local correctional facilities**. The bill as drafted (see section (B), line 13 on page 2) is applicable to applies correctional units as defined by §8-201 of the Correctional Services Article. This definition includes those facilities as set forth in § 9–226 of the Human Services Article and other facilities to include those overseen by the Secretary of Juvenile Services. As such, the implications of this legislation will be reached across these agencies as well.

- **Section (C)(2) on page 2 of the bill is overly broad**. Section (C)(2), line 19 will require an incarcerated pregnant individual who has both a positive pregnancy test at intake and a positive score on a substance use disorder screening must be referred a behavioral health care provider; however, behavioral health provider is not clearly defined in the legislation.

- **SB 255 removes a physician's ability to make a clinical determination regarding appropriate medication.** Under section (3), beginning on line 28 at the bottom of page two, seeks to ensure an incarcerated pregnant

individual continue on the same medication for opioid use disorder they were taking prior to incarceration. This decision should be left up to the health care clinician to determine on a case-by-case basis what medication is appropriate for that individual, as complications can arise. This provision arbitrarily binds the clinician into making a decision to use a medication that may not be in the best interest of the patient and the pregnancy.

- **The bill requires medication initiation, but fails to clearly identify the appropriate entity recommending medication initiation.** Section (4) on page three, line 4, requires an incarcerated pregnant individual be started on appropriate medication for opioid use disorder if the treatment is recommended, and if the individual consents to the treatment. Again, the legislation is not clear as to who should be recommending the treatment.

- Allowing an incarcerated pregnant individual to decline or terminate medication treatment as indicated in section (5), page three, line 10 of the bill has unintended consequences. The health of the pregnancy is of the utmost importance, and complications may arise when treatment is declined.

- **SB 255 mandates health insurance enrollment, but in actuality enrollment is voluntary and individuals may elect not to participate**. Section (D)(1) of the bill states that DPSCS shall work with appropriate government agencies to arrange for health care coverage for the individual within 24 hours of release. As discussed in the next section, DPSCS does enroll inmates in Medicaid prior to release, but can only do so if the inmate elects to participate.

- **While DPSCS could provide pregnant incarcerated individuals with a medical record summarizing care during pregnancy, the medical record release process as mandated by the bill would be excessive.** Section (E) on page 4 requires the correctional unit to provide a copy of the individual's entire medical record to the pregnant incarcerated individual upon release. Often times, this consists of volumes of paperwork that can be overly cumbersome to produce.

DPSCS PROVIDES ROBUST CARE FOR PREGNANT INCARCERATED INDIVIDUALS:

- Upon intake, all inmates and detainees receive an initial medical and mental health and substance abuse screening, conducted by a Registered Nurse or higher level health care staff, within 4 hours of entrance into the facility from the community. DPSCS has a 95% compliancy rating for conducting screenings within 4 hours of intake. For female offenders, the screening includes a pregnancy test.
    - Upon determination of pregnancy, a female offender is immediately enrolled in a prenatal program.

- A pregnant female offender is immediately referred to medical for a focused pregnancy evaluation. The evaluation shall determine a history of substance abuse during the pregnancy, and most recent drug use.
- All pregnant females with a history of opiate abuse will be assessed by a physician and the appropriate treatment plan initiated.

- Individuals eligible for methadone detoxification or methadone maintenance are referred to substance abuse specialists and enrolled in appropriate programs in accordance with established procedures. Enrollment occurs within twenty-four (24) hours of initial intake screening.

    - Methadone maintenance for pregnant women is an accepted best practice that has been used safely for years and has been widely researched.[i]

- The practices employed by the infirmary at MCIW for the care of pregnant inmates meet the evidence-based guidelines established by the American College of Obstetrics and Gynecology for care of safe performance of gynecology and obstetrics procedures, as prescribed under this bill.

- DPSCS strives to enroll all inmates in Medicaid prior to their release to ensure continuity of clinical care post-release. It should be noted that Medicaid enrollment is voluntary, so meeting the 24-hour deadline outlined in the bill is improbable. In addition, inmates are connected to linkage of care programming within the community for assistance with housing, medical care, mental health care, community case management, and substance abuse treatment.

- Additionally, when a pregnant inmate is released, she is provided a Continuity of Care form that includes a copy of the current medication list, which should be sufficient for the individual to continue with appropriate community care. A community provider can request additional information by completing a Release of Information form, as is standard within the medical community.

- In closing, DPSCS follows the Community of Care practices for the treatment of all inmates. Clinical practices and standards of care should be developed by certified clinicians and physicians within the medical field.

CONCLUSION: The Department of Public Safety and Correctional Services respectfully requests the Committee consider this information as it deliberates on Senate Bill 255.

[i] Jail-Based Medication-Assisted Treatment Promising Practices, Guidelines, and Resources for the Field, October 2018