



PREPARE
PREpare for PARole and REentry

Anne Bocchini Kirsch
Director of Advocacy, PREPARE
anne@prepare-parole.org
(410) 994-6136

HB1411 - Correctional Facilities - Correctional Nursery Program - Establishment - Informational

The CARES Act began releasing low risk Federal incarcerated individuals on home detention in 2020 in response to the COVID pandemic. The 3 year data is spectacular, and is contained in the June 2023 policy brief.¹ Of particular interest is the new charge recidivism rate of 0.17%. From a CARES Act population of 13,204 people, which is nearly as many people as the entire Maryland prison population, only 22 people committed new offenses, most of which were minor. (see page 4) This incredible success cut the financial cost of incarceration in half (see page 6) while contributing less crime to the community than an equal cohort of randomly selected individuals. It also allowed these low risk incarcerated individuals to return to their home, where they could obtain employment, pay taxes, reunify with family, and contribute socially and financially, offsetting the cost of their monitoring even more with secondary contributions.

The CARES Act data is relevant because the women considered in HB1411, who have less than 12 months remaining on their sentence, barring serious behavioral infractions, would all be on pre-release status and work release eligible. Pre-release status is the lowest security status, available only to those with less than 36 months to serve, and work release becomes available at 18 months. These women would have been incarcerated for 40 weeks or less, considering that they are immediately postpartum. That means the crime they have been convicted of would almost universally be a non-violent crime that carries a short sentence. They are a comparable population to the one successfully reintegrated through the CARES Act, and the lower-cost, higher-benefit solution of home detention should be implemented instead.

Instead of utilizing this now-proven GPS technology, HB1411 instead seeks to incarcerate the infant with their mothers, presumably at MCI-W since that is the only women's facility in Maryland, where there is no available physical space to house this program while keeping it separate from the multi-level prison population including individuals with severe mental illness, active addiction, and sentences ranging from 1 year and 1 day to life without the possibility of parole. The most likely physical option

¹ CARES Act Home Confinement Policy Brief, June 2023,
https://www.booker.senate.gov/imo/media/doc/cares_act_home_confinement_policy_brief1.pdf

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PO Box 9738 Towson, MD 21284

would be to put mother and child in segregation conditions in the infirmary where people with serious illnesses, new intakes, and hospice care are located. The alternative would be protective custody, which is housed with disciplinary segregation. The rooms there are so small that the floor space would be filled entirely with a bassinet (which would be right next to the toilet). There simply aren't any other available rooms.

Segregation is a terrible option for a woman who is immediately postpartum and even worse for the newborn infant. Many of these rooms are isolated, and there is no way to immediately receive help or advice. The short staffing crisis makes this worse. There is no refrigeration, no way to heat a bottle, and nowhere to safely bathe the infant. The woman and child would likely be in the room for 23 hours per day with no access to programming or socialization, perhaps prohibited from ordering commissary food if housed in the infirmary, perhaps handcuffed even to go to the shower if housed in protective custody. And DPSCS would be right in taking protective measures since they would be unfairly charged with the care and protection of an infant in a prison with over 500 women. Imagine the fallout if there were an incident involving the infant in custody.

In my experience as a parole advocate and reentry coach, I recognize the importance of family reunification in successful reentry, but in my experience as someone who was incarcerated at MCI-W, I know that facility is not appropriate to house mother and infant. While I take note of the research that shows lower recidivism among women utilizing prison nurseries in other states, it is important to recognize that these are separated facilities in prisons that were designed to house them and also that there are many interventions that can lower recidivism and given the current infrastructure we have in Maryland, this is not the right one for us. In the past there may have been an argument for a risk/benefit analysis, however today technological advances have outstripped the need for prison nurseries. Using the CARES Act as a model, Maryland can save money by using GPS technology, help incarcerated mothers rebuild their lives at home, and promote family unification. It is my hope that HB1411 can be amended to remove the use of a single physical location and replace it with GPS monitoring, however if that is not possible, I urge an unfavorable report.