

Testimony of Shanta Trivedi, Clinical Teaching Fellow, University of Baltimore Bronfein Family Law Clinic

H.B. 1342 — Family Law – Removal of Child From Home – Meetings

I am a Clinical Teaching Fellow at the University of Baltimore School of Law’s Bronfein Family Law Clinic. I have previously represented low-income parents in abuse and neglect proceedings in New York, as the Office of the Public Defender does here in Maryland. I have also done extensive research and writing in this area including editorials and a law review article entitled *The Harm of Child Removal*.ⁱ I support the passage of H.B. 1342 because the data proves it is necessary.

My research and that of many scholars demonstrates that there is bias at every stage of the child welfare system. Studies show that, nationally, white families are more likely to be offered in-home services while Black children are more likely to be removed.ⁱⁱ Maryland is no exception to the national rule. According to the Annie E. Casey Foundation, in Maryland in 2017, 55% of the children in foster care were African-American while only 29% were white.ⁱⁱⁱ In the same year, 42% of the children in Maryland’s general population were white and only 31% were Black, compared to only 31% in the general population.^{iv} Thus, the data demonstrates that Black children are more likely to be taken from their families and placed into foster care. Additionally, poverty is often conflated with neglect and can exacerbate racial disparities in child removals.^v

In discussing children separated at the border, the American Association of Pediatrics issued a statement that separation from one’s parents “can cause irreparable harm, disrupting a child’s brain architecture and affecting his or her short- and long-term health. This type of prolonged exposure to serious stress—known as toxic stress—can carry lifelong consequences for children.”^{vi} Further, foster children are more likely to have criminal justice system involvement, more likely to be teenage parents, require emergency healthcare, have substance abuse issues, and be less likely to graduate high school.^{vii} The resulting impact on Black communities and children’s cultural identities is immeasurable. And while racial and cultural factors should be considered when placing children with the right foster families, it is more important to eliminate racial disparities in the antecedent removal process, such that children are not wrongfully removed in the first place.

Nassau County, New York provides a heartening example. There, officials implemented blind removal meetings such as those proposed in H.B. 1342, and the results were staggering. After five years, the removal of Black children went down 29%.^{viii}

In our clinic, we teach our students that implicit bias is not something to ignore, it is something that we should be talking about and addressing in a thoughtful, intentional way. Pretending that humans are not innately biased ignores reality and science. Data clearly demonstrates the bias in Maryland’s child welfare system when it comes to removing children from their homes. H.B. 1342 is that intentional step to address it.

ⁱ Shanta Trivedi, *The Harm of Child Removal*, 43 N.Y.U. Rev. L. & Soc. Change 523, 526 (2019).

ⁱⁱ White families more likely to receive services - Stephanie Smith Ledesma, *The Vanishing of the African-American Family: "Reasonable Efforts" and Its Connection to the Disproportionality of the Child Welfare System*, 9 CHARLESTON L. REV. 29, 36 (2014) 36 (citing Susan L. Brooks & Dorothy E. Roberts, *Social Justice and Family Court Reform*, 40 FAM. CT. REV. 453, 454 (2002) (quoting CHILDREN'S BUREAU, U.S. DEP'T HEALTH & HUMAN SERVS., NATIONAL STUDY OF PROTECTIVE, PREVENTIVE, AND REUNIFICATION SERVICES DELIVERED TO CHILDREN AND THEIR FAMILIES (1994))) (finding disparities "even when [the minority children] have the same problems and characteristics as white children").

ⁱⁱⁱ <https://datacenter.kidscount.org/data/tables/6246-children-in-foster-care-by-race-and-hispanic-origin#detailed/2/22/false/871,870,573,869,36,868,867,133,38,35/2638,2601,2600,2598,2603,2597,2602,1353/12992,12993>

^{iv} <https://datacenter.kidscount.org/data/tables/103-child-population-by-race#detailed/2/22/false/37,871,870,573,869,36,868,867,133,38/68,69,67,12,70,66,71,72/423,424>

^v Tanya Asim Cooper, *Racial Bias in American Foster Care: The National Debate*, 97 MARQ. L. REV. 215, 228 (2013) ("That poverty has been confused and conflated with child neglect and even parental turpitude is not new.")

^{vi} See, e.g., Press Release, Colleen Kraft, Am. Acad. of Pediatrics, AAP Statement Opposing Separation of Children and Parents at the Border (May 8, 2018) [hereinafter Kraft], <https://www.aap.org/en-us/about-the-aap/aap-press-room/Pages/StatementOpposingSeparationofChildrenandParents.aspx> [https://perma.cc/25QX-B2ZA]; see also William Wan, *What Separation from Parents Does to Children: 'The Effect Is Catastrophic.'* WASH. POST (June 18, 2018), https://www.washingtonpost.com/national/health-science/what-separation-from-parents-does-to-children-the-effect-is-catastrophic/2018/06/18/c00c30ec-732c-11e8-805c-4b67019fcfe4_story.html?noredirect=on&utm_term=.28fb9b1e08f8 [https://perma.cc/7N85-CLEP].

^{vii} See, e.g., Joseph J. Doyle Jr., *Child Protection and Child Outcomes: Measuring the Effects of Foster Care*, 97 AM. ECON. REV. 1583, 1583 (2007) ("Those placed in foster care are far more likely than other children to commit crimes, drop out of school, join welfare, experience substance abuse problems, or enter the homeless population."); See Catherine Roller White, Kirk O'Brien, James White, Peter J. Pecora, & Chereese M. Phillips, *Alcohol and Drug Use Among Alumni of Foster Care: Decreasing Dependency Through Improvement of Foster Care Experiences*, 35 J. BEHAV. HEALTH SERVS. & RES. 419, 420 (2008).

^{viii} Jessica Pryce, Wonhyung Lee, Elizabeth Crowe, Daejun Park, Mary McCarthy & Greg Owens (2019) A case study in public child welfare: county-level practices that address racial disparity in foster care placement, *Journal of Public Child Welfare*, 13:1, 35-59, DOI: [10.1080/15548732.2018.1467354](https://doi.org/10.1080/15548732.2018.1467354)