
BILL NO: Senate Bill 843
TITLE: Perinatal Care – Drug and Alcohol Testing and Screening – Consent
COMMITTEE: Finance
HEARING DATE: March 15, 2022
POSITION: **FAVORABLE**

The Women’s Law Center of Maryland is a non-profit legal services and advocacy organization dedicated to ensuring the physical safety, economic security, and bodily autonomy of women in Maryland. Our advocacy is in support of gender justice as a whole, because all women are entitled to access to justice, equality, and autonomy. We recognize that all the issues we fight for are interconnected. Women cannot have bodily autonomy unless they have physical safety. They cannot have physical safety without economic security. And they cannot have economic security without bodily autonomy.

SB 843 would ensure that pregnant women are informed and aware and give consent to any drug or alcohol testing before it is performed on them. We understand that many hospitals have policies to test pregnant women as a matter of course without affirmatively confirming the woman knows she is being tested. Drug testing, without specific informed consent, is used as an excuse to intrude into people’s lives with grave consequences, including criminal proceedings and family separation¹. The NAPW (National Association for Pregnant Women) also reports these tests can be inaccurate². This is patriarchal behavior and does not respect a woman’s right to bodily autonomy. It disproportionately effects Black and Brown women.

Major medical and public health associations, including the American Medical Association, the American College of Obstetricians and Gynecologists, the American Academy of Pediatrics, and the American Society of Addiction Medicine oppose prosecution of pregnant women based on drug use³.

No one should be tested for something without their knowledge. It negatively impacts the doctor-patient relationship. If pregnant women were aware they might be tested, it may have a chilling effect on pregnant people seeking prenatal care. Prenatal care is vitally important for the health of both the woman and the fetus.

For these reasons, the Women’s Law Center urges a favorable report on Senate Bill 843.

The Women’s Law Center of Maryland is a private, non-profit, legal services organization that serves as a leading voice for justice and fairness for women. It advocates for the rights of women through legal assistance to individuals and strategic initiatives to achieve systemic change, working to ensure physical safety, economic security, and bodily autonomy for women in Maryland.

¹ Moeller et al., Urine Drug Screening: Practical Guide for Clinicians, 45 Mayo Clinic Proceedings 66, 66 (2008) (“misinterpretation of drug tests can have serious consequences, such as unjust termination from a job, risk of prison sentence, . . . and possibly inappropriate medical treatment in emergencies.”); Nina Martin, Take a Valium, Lose Your Kid, Go to Jail, <https://www.propublica.org/article/when-the-womb-is-a-crime-scene>; Erin Cloud, Rebecca Oyama & Lauren Teichner, Family Defense in the Age of Black Lives Matter, 20 CUNY L. Rev. (2016), available at: <https://academicworks.cuny.edu/clr/vol20/iss1/14>.

² www.advocatesforpregnantwomen.org, last viewed March 8, 2022.

³ Medical and Public Health Group Statements Opposing Prosecution and Punishment of Pregnant Women, National Advocates for Pregnant Women (June 2018), available at <http://advocatesforpregnantwomen.org/Medical%20and%20Public%20Health%20Group%20Statements%20revised%20June%202018.pdf>.