



HB1335 Perinatal Care – Drug and Alcohol Testing and Screening - Consent
Presented to Hon. Shane Pendergrass and Members of the House Health & Government
Operations Committee

March 11, 2022 1:00 p.m.

POSITION: SUPPORT

The People's Commission to Decriminalize Maryland **urges the House Health and Government Operations Committee a favorable report on HB1335**, Perinatal Care – Drug and Alcohol Testing and Screening, sponsored by Delegate Nicole Williams.

Decriminalization means the elimination of policies and practices that expose marginalized communities to increased justice involvement not because of a legitimate public safety concern, but primarily because of behaviors and conduct that arise from their status or identity. Decriminalization also includes the implementation of policies and practices that do not rely on the police, courts, and corrections to respond to this category of behaviors and conduct.

For communities of color who have constantly been challenged in experiencing positive pregnancy outcomes due to systemic racism and ethnic disparities, the threats of discrimination, incarceration, loss of parental rights, or loss of personal autonomy are powerful deterrents to seeking timely healthcare. No pregnancy-related medical event or condition should be criminalized, including pregnant people with substance use disorders, under medication-assisted treatment, or engaged in behavioral therapies. However, because of medical practices that do not center the pregnant patient and implicit bias of pregnant individuals from marginalized populations, nonconsensual substance use testing can be perceived by patients as a possible gateway to criminalization.

Advocates in Maryland have been tasked in seeking ways to encourage more pregnant people to seek timely prenatal and perinatal healthcare to increase the rates of positive pregnancy outcomes. What has come to our attention is fear among pregnant people of unwarranted system-involvement. From 2013 to 2017, unintentional drug overdose was the leading cause of pregnancy-associated deaths in Maryland.¹ Pregnant people with substance use issues fear discrimination, punishment, and/or being forcibly separated from their children by Child Protective Services or other local governmental agencies. These fears deter them from seeking healthcare, yet high quality prenatal care mitigates the majority of the risks associated with substance use during pregnancy.

Our laws and systems need to encourage pregnant people to get the healthcare they need and deserve. Patients need to be informed of what tests or screenings are being run, and if so, why such actions should be included as part of the expected medical care being sought. HB1335 is

¹ In Maryland in 2019, the Annual Report of the Maternal Mortality Review Committee showed that 38% of pregnancy-associated deaths resulted from substance use and unintentional overdose.



sensible legislation which is patient-centered, allowing the pregnant person to be informed and maintain the right to decision-making and bodily autonomy. For these reasons, the People's Commission to Decriminalize Maryland **urges a favorable report on HB1335**. Thank you for your time and consideration.

Member organizations of the People's Commission to Decriminalize Maryland include:

Baltimore Action Legal Team | Baltimore Harm Reduction Coalition | Baltimore Safe Haven | Baltimore Youth Arts | Cause Engagement Associates | Communities United | Center for Children's Law and Policy | Community Law in Action | Disability Rights Maryland | FreeState Justice | Health Care for the Homeless | Homeless Persons Representation Project | Job Opportunities Task Force | Justice Policy Institute | Maryland Justice Project | National Alliance on Mental Illness - Maryland | Open Society Institute - Baltimore | Out for Justice | Power Inside | Public Justice Center | Rebuild, Overcome, and Rise (ROAR) Center at University of Maryland | Baltimore (UMB) School of Law - University of Baltimore | Sex Workers Outreach Project - Baltimore | University of Maryland School of Law | Women's Law Center of Maryland | Youth as Resources | Youth Empowered Society

The People's Commission exists to reduce the disparate impact of the justice system on youth and adults who have been historically targeted and marginalized by local and state criminal and juvenile laws based on their race, gender, disability or socio-economic status. Through a statewide collaboration with organizations and affected individuals, the People's Commission explores and identifies specific ways that criminal laws disproportionately harm historically marginalized groups. Beyond identifying the issues, the groups worked together to envision the ways the law can be changed, rewritten, or eliminated altogether to reduce disparate impacts, reduce the prison industrial complex, improve public health, community accountability, and overall human flourishing.