

Support SB 772

Child in Need of Assistance – Neglect – Marijuana Use

Testimony of Rebecca Stahl, Esq.

Thursday, March 10, 2022

Senate Judicial Proceedings Committee

Dear Senator Smith and Members of the Senate Judicial Proceedings Committee:

I am the Executive Director of the University of Baltimore Sayra and Neil Meyerhoff Center for Families, Children and the Courts (CFCC). CFCC's mission is to create, foster, and support a national movement to integrate communities, families, and the justice system in order to improve the lives of families and the health of the community. I represented more than 1000 children in child welfare cases in Arizona and California. I have written articles on trauma and the child welfare system and co-authored a book, *Representing Children in Dependency and Family Court: Beyond the Law*, focused on the psychological issues lawyers for children should understand. I was also a Fulbright Scholar in New Zealand studying the role of lawyers for children. **I urge you to issue a favorable report on SB772.**

SB772 would clarify that marijuana use alone is insufficient for a finding of neglect and that a nexus must exist between the harm alleged and a parent's marijuana use. The law currently requires any alleged neglect cause harm, but children across the country and here in Maryland are frequently removed or prevented from reunifying with their families if their parents test positive for marijuana, even without the marijuana use causing any harm to the children.¹ Many children are prevented from reunifying with their parents who test positive for marijuana when the initial finding of neglect and removal was unrelated to marijuana use, the parent never used around their child, and there is no evidence the parent's marijuana use is harmful to the child. Most often, those parents are low-income and Black.² Marijuana use can be a gateway for bias, an easy entry point to discriminate against low-income and marginalized parents. Maryland reflects a nationwide trend³: Black children are disproportionately represented in foster care,⁴ and bias permeates the child welfare system at every level.⁵ This parallels how criminal laws have been enforced during the war on drugs, which has led to mass incarceration and the destruction of Black and Brown communities.

The child welfare system's goal is to protect children from all harm. Removal from one's parents is traumatic and often leads to a multitude of problems for children in foster care.⁶ They are more likely than their peers to be have educational problems, to be poor, to be unhoused, to have juvenile justice involvement, to have substance use disorders, or to become parents as teenager. They have a higher likelihood of being diagnosed as having mental health disorders, but those diagnoses ignore the impact of toxic stress, leading to the overdiagnosis of disorders for children in the foster care system. Thus, they are often put on many more psychotropic medications than non-foster youth.⁷

SB772 makes explicit that there must be a connection between marijuana use and harm to children. Because I believe that this is a necessary step in rectifying the effects of a misguided war on drugs that has caused irreparable harm to families of color, **I urge you to support SB772.**

¹ Miriam Mack & Elizabeth Tuttle Newman, Parents Threatened with Losing Children Over Cannabis Use, Sep. 9, 2019, <https://theappeal.org/parents-threatened-with-losing-kids-over-cannabis-use/>

² See Generally, Movement for Family Power, *Whatever They Do, I'm Her Comfort, I'm Her Protector: How the Foster System Has Become Ground Zero for The US Drug War*, June 2020, available at <https://www.movementforfamilypower.org/ground-zero>.

³ <https://cwoutcomes.acf.hhs.gov/cwodatasite/pdf/maryland.html>

⁴ Child Welfare Info. Gateway, U.S. Dep't of Health & Human Servs., *Racial Disproportionality and Disparity in Child Welfare*, ISSUE BRIEF, Nov. 2016, at 1, 6.

⁵ Sheila D. Ards, Samuel L. Myers Jr., Patricia Ray, Hyeon-Eui Kim, Kevin Monroe, & Irma Arteaga, *Racialized Perceptions and Child Neglect*, 34 CHILD. & YOUTH SERVS. REV. 1480 (2012) (research explores racialized perceptions of child protective service workers and finds that respondents who see a neglectful situation with a Black baby are more likely to say that the depiction meets the definition of neglect and is reportable than when the same neglect situation involves a white baby); Katherine Elliott & Anthony Urquiza, *Ethnicity, Culture, and Child Maltreatment*, 62 J. SOC. ISSUES 787, 795 (2006).

⁶ American Bar Association, *Trauma Caused by Separation of Children from Parents: A Tool to Help Lawyers*, <https://www.americanbar.org/groups/litigation/committees/childrens-rights/trauma-caused-by-separation-of-children-from-parents/>

⁷ Amanda Merck, *We Need to Recognize Toxic Stress as a Health Condition with Clinical Implications*, <https://salud-america.org/we-need-to-recognize-toxic-stress-as-a-health-condition-with-clinical-implications/>