

Dear Senator Smith and Members of the Judicial Proceedings Committee,

My name is Ava Levine, and I work at the Maryland Justice Project. **I am testifying in support of Senate Bill 21 (SB0021), Criminal Procedure - Sentencing - Primary Caretaker.**

As other people have mentioned in their testimony, I want to highlight the severe impact of family separation due to incarceration on children. DPSCS does not collect data on the primary caretaker status of their inmates, or how many children these people have. However, as of my most recent PIA request in January, 239 women incarcerated in DPSCS correctional facilities were convicted of a nonviolent offense. Given that approximately 60 percent of women in prisons and 80 percent of women in jails are estimated to be mothers, this bill would clearly impact many of the women incarcerated for non-violent offenses in Maryland.¹ This data of course also does not include incarcerated fathers, or incarcerated caretakers who are responsible for vulnerable adults or who do not have a biological relation to their dependent.

Evidence has repeatedly demonstrated the dangerous effects of incarceration on children. Having an incarcerated parent is classified as an Adverse Childhood Experience (ACE) by the CDC. Accordingly, children of incarcerated parents have been shown to suffer from physical and mental health consequences, including but not limited to asthma, high cholesterol, HIV/AIDS, depression, substance abuse disorder, and PTSD.² Beyond health consequences, evidence has also demonstrated that having an incarcerated parent affects the social and economic lives of children. Children with incarcerated parents have been shown to have higher rates of becoming low income, dropping out, becoming incarcerated themselves, and homelessness.³

As I'm sure many members of this committee know, the Primary Caretakers Bill was initially introduced in 2018. Legislators suggested there is no need for this bill because judges already can consider a defendant's caretaker status. The key word there is **can**. While judges **can** consider a defendant's status, there is no legal requirement they do so. Caretakers must simply rely on the mercy and generosity of the judge hearing their case. Given the amount of discretion, there is no guarantee a judge will consider the caretaker status of a defendant. A law is needed to ensure this. If judges were considering this information in sentencing, we would not see as many non-violent offenders locked up and separated from their kids as we do now.

I have spoken with many legislators who have expressed concern dangerous adults could be kept with their dependent under the law. I want to emphasize that this bill only applies to non-violent offenders, and to ensure the safety of dependents, the crimes of the defendant cannot include the use of physical force and/or a deadly weapon against another person, burglary, extortion, arson, kidnapping, explosives, or any other crime that could physically harm another person.

Finally, I want to emphasize the economic benefits of this bill. The fiscal note for this bill suggests there will not be a change in costs to the state. I disagree. It costs approximately \$44,000 to incarcerate a person for a year in Maryland, whereas community-based sentencing programs implemented in other states have been shown to cost under \$20,000 for 18–24-month durations.⁴ By keeping families together, it may also reduce state spending on programs (such as foster care) that are needed because of family separation due to incarceration.

For the above reasons, I am encouraging the committee to vote **in support of SB0021, Criminal Procedure - Sentencing - Primary Caretaker**. Thank you for your consideration.

Sincerely,

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¹ [https://www.prisonpolicy.org/blog/2021/05/05/mothers-day-2021/#:~:text=Over%20half%20\(58%25\)%20of,they%20can't%20afford%20bail.](https://www.prisonpolicy.org/blog/2021/05/05/mothers-day-2021/#:~:text=Over%20half%20(58%25)%20of,they%20can't%20afford%20bail.)

² <https://pubmed.ncbi.nlm.nih.gov/23509174/>

³ http://users.soc.umn.edu/~uggen/Uggen_McElrath_JCLC_14.pdf

⁴ https://humanimpact.org/wp-content/uploads/2018/02/HIP_LAcaretakers_2018.pdf