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POSITION ON PROPOSED LEGISLATION

BILL: SB 0021 - Criminal Procedure - Sentencing - Primary Caretakers Bill

POSITION: SUPPORT

DATE: January 19, 2022

The Maryland Office of the Public Defender respectfully requests that the Committee issue a favorable report on Senate Bill 0021.

This bill would allow primary caretakers of minor children or vulnerable adults to file a motion to the court requesting the court consider a defendant's status as primary care taker at sentencing. This bill would also allow judges to order alternative sentencing so that the primary caretakers can continue caring for their dependent while receiving rehabilitative services as a means of serving out the consequences of their conviction. The Office of the Public Defender (OPD) has a stake in this proposed legislation because when primary caretakers are incarcerated, they are often charged with neglect and their children are found to be Children In Need of Assistance. The trauma and negative impact of these effects on the family and community at large far outweigh any benefit of incarceration. Therefore, OPD urges support of this bill for the following reasons:

Where non-violent offenses are concerned, incarceration hurts the community more than it helps, particularly where non-violent offenses are concerned. It is especially devastating for incarcerated people's families and particularly for their children. This bill can reduce the negative impact of incarceration on families, allow for increased access to rehabilitative services that positively impact the community, and prevent the separation of primary caretakers and their children. "Communities with high rates of incarceration, often have high rates of unemployment, low income, high rates of public assistance dependence, low education attainment, and lower life expectancy."¹ All things that lead to more crime instead of less.

Additionally, the impact of incarcerating parents—especially parents who are primary caretakers—is harmful to children. Parent incarceration is a major disruption to families. Separating children from their parents is traumatic and may cause long-term psychological and

¹ The Governor's Office for Children. Children and Families Affected by Incarceration.

<https://goc.maryland.gov/incarceration/>

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emotional problems. “The bond between children and their parents is extremely strong and disrupting it can be even more damaging to a child– even when their parents are imperfect.”²

This bill protects children from the trauma of foster care and parent separation. Many children whose primary caretakers become incarcerated end up in foster care. The harmful effects of foster care on children are well documented. Children in foster care often experience psychological problems, immense trauma as well as grief and confusion that manifest throughout their lives. It has also been established that children in foster care experience higher occurrences of drug use, school dropout, incarceration, teen pregnancies and homelessness than children not in foster care. Even if a child is removed for a short amount of time, the effects could be long-lasting. The Primary Caretakers Bill will encourage judges to account for these harmful effects and reduce the occurrence of children being taken from their parents and homes. Protecting children from the negative, long lasting effects of foster care and parent child separation by allowing for alternative means for people to serve out their sentences while continuing to care for their children is in the best interest of children.

Finally, this bill will have a beneficial effect have on the economy. In Maryland significant money is spent on out of home placements for children and incarceration of adults. By comparison, the alternative sentencing rehabilitative services are much less expensive for child welfare agencies, thus saving money for the state. In fiscal year 2018, Maryland child welfare agencies spent 59% of federal funds on out of home placements for children, totaling \$163,491,711.³ This federal spending was 11% higher than the national average. In contrast, in 2018, Maryland spent only 29% of its federal funding on preventative services which would encompass services that would be available to parents through this bill. By decreasing the number of children entering foster care unnecessarily, this bill would save the state of Maryland money. Similarly, it is more cost efficient to provide alternatives to incarceration. It costs roughly \$44,000 a year (which is about \$120 per day) to incarcerate someone.⁴ Community based rehabilitation services are less expensive because they do not require housing. Thus, it is more cost effective to allow a person who is charged with caring for their child to remain in the community, work and care for their child than to be incarcerated.

For these reasons, the Maryland Office of the Public Defender urges a favorable report on Senate Bill 0021.

Submitted by: Government Relations Division of the Maryland Office of the Public Defender.

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² Trivedi, S. (2019). The Harm of Child Removal. N.Y.U. Review of Law and Social Change, Vol. 43, Pg. 523.

³ Child Trends. (2021). Child Welfare Agency Spending in Maryland SFY 2018. https://www.childtrends.org/wp-content/uploads/2021/01/Maryland_SFY2018-CWFS_03.02.2021.pdf

⁴ The Governor’s Office for Children. Children and Families Affected by Incarceration. <https://goc.maryland.gov/incarceration/>