

SB0021_JPR_Fav_Arielle_Juberg.pdf

Uploaded by: Arielle Juberg

Position: FAV

SB0021, Criminal Procedure - Sentencing - Primary Caretaker
Testimony in **Support**

To: Chair Smith and members of the Senate Judicial Proceedings Committee
From: Arielle Juberg, Baltimore MD 21234

My name is Arielle Juberg. I am a resident of Baltimore County in District 8. I belong to Showing Up for Racial Justice (SURJ) in Baltimore. SURJ is also working in collaboration with the Maryland Justice Project. I am testifying in **support** of SB0021, Criminal Procedure - Sentencing - Primary Caretaker.

SB0021 allows a defendant who is the primary caretaker of a child or vulnerable adult to file a motion requesting the caretaker role be considered during sentencing.

SB0021 is important to me because I believe children thrive when surrounded by a stable group of caretakers. When a parent or guardian is removed from a child's life, the instability can be traumatic. In my life, a sudden death meant I grew up without one of my parents. In my childhood, I was self-conscious about how I was different from other kids. I would lie about my parent's whereabouts rather than admit that they were deceased. I regularly feared that my living parent would die. Through my own experience, I have a small glimpse into the confusion and pain of parent/child separation. My loss couldn't be prevented, but the separation caused by incarceration can be prevented with SB0021.

Being separated from a caretaker who is in jail or prison is recognized by the CDC as an Adverse Childhood Experiences (ACEs). Children who experience ACEs are more likely to have mental health challenges, substance use, and chronic health problems. Specifically, having a parent who is incarcerated is associated with poor academic outcomes, antisocial behaviors, and school suspension and expulsion. On any given day, 90,000 Maryland children have a parent under some form of correctional supervision. Persons of color are disproportionately impacted by our criminal justice system, meaning that children of color are especially at risk of experiencing the negative effects of parental incarceration.

While the impacts of incarceration on children are daunting, *these negative experiences can be prevented*. Community-based sentencing alternatives, such as SB0021, help children and caretakers. Sentencing alternatives allow a primary caretaker to be a stable, uninterrupted presence in a child's life. Justice-involved caretakers who stay with their children experience better outcomes as well. In Washington, women who participated in the Parent Sentencing Alternative program had a recidivism rate of 8%, whereas women who were incarcerated and separated from their children had a recidivism rate of 29%.

It is for these reasons that I am encouraging you to **support** SB0021. We have a unique opportunity to protect children and prevent Adverse Childhood Experiences here in Maryland. Thank you for your time, consideration, and service.

Ava Levine Written Testimony.pdf

Uploaded by: Ava Levine

Position: FAV

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,

Ava Levine
3333 N Charles St
Apt 804
Baltimore, MD 21218
Maryland Justice Project

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

WDC Testimony SB20-2022_FINAL.pdf

Uploaded by: Beth Tomasello

Position: FAV



MONTGOMERY COUNTY, MARYLAND
WOMEN'S DEMOCRATIC CLUB

P.O. Box 34047, Bethesda, MD 20827

www.womensdemocraticclub.org

**Senate Bill 20 Criminal Procedure – Out of Court Statements
Judicial Proceedings Committee – February 1, 2022
FAVORABLE**

Thank you for this opportunity to submit written testimony concerning an important priority of the **Montgomery County Women's Democratic Club (WDC)** for the 2022 legislative session. WDC is one of the largest and most active Democratic Clubs in our County with hundreds of politically active women and men, including many elected officials.

WDC urges the passage of SB20, which adds additional “tender heart” hearsay exceptions to the exceptions currently codified in Section 11-304 of the Criminal Procedure Article of the Maryland Code, Annotated. The expansion of Section 11-304 proposed in SB20 would allow the out-of-court statements of children younger than 13 who are victims of neglect or who are the victims of, or who have witnessed, certain violent crimes.

Section 11-304 recognizes that compelling a child to testify in open court and face an accuser they very likely fear can re-traumatize a child already traumatized from alleged abuse or neglect. WDC endorses the principle behind the original hearsay exception for child victims of crime and supports its expansion to cover additional experienced or witnessed events that would be traumatic or re-traumatic for a child to recount in open court. While any exception to the evidentiary exclusion of hearsay must have some assurance of reliability to balance the curtailments of a defendant's right to confront witnesses, in our view that reliability is assured by the requirement that the statement have been made to an unbiased adult in a trusted relationship to the child. WDC would oppose this legislation if it allowed the admissibility of statements made to anyone in law enforcement who would have an interest in using them in a criminal prosecution.

In summary, Maryland has already accepted the principle that children should not have to testify in open court on traumatic events, and that the reliability of their statements can be assumed if made to a trusted adult outside of law enforcement. WDC supports expanding that exception to apply to violent events a child has witnessed or of which the child is the victim.

We ask for your support for SB20 and strongly urge a favorable Committee report.

Respectfully,

Leslie Milano
President

sb21.pdf

Uploaded by: Brian Seel

Position: FAV

Dear Members of the Judicial Proceedings Committee,

This testimony is being submitted by Showing Up for Racial Justice Baltimore, a group of individuals working to move white folks as part of a multi-racial movement for equity and racial justice in Baltimore City and Baltimore County. We are also working in collaboration with the Maryland Justice Project. I am a resident of District 46. **I am testifying in support of Senate Bill 21 (SB0021), Criminal Procedure - Sentencing - Primary Caretaker**



Senate Bill 21 allows a defendant who is the primary caretaker of a child or vulnerable adult to file a motion requesting the caretaker role be considered during sentencing. As an alternative to incarceration, the court may instead order drug and alcohol treatment, family and individual counseling, job training, home confinement, or several other programs. SB0021 would apply to defendants who committed nonviolent crimes and are primarily responsible for a minor child or vulnerable adult.

Separating a caretaker from a child or vulnerable adult doesn't serve families. In some cases, it is literally punishing the child for the sins of the father. As a result, not allowing consideration of the ripple effects of incarcerating a parent or caretaker ignores the best interest of communities and, ultimately, prioritizes what is vengeful over what is just.

Incarcerating primary caretakers causes long-lasting damage to Maryland's children, families, and communities. Being separated from a caretaker who is in jail or prison is recognized by the CDC as an Adverse Childhood Experiences (ACEs). Children who experience ACEs are more likely to have mental health challenges, substance use, and chronic health problems. Specifically, having a parent who is incarcerated is associated with poor academic outcomes, antisocial behaviors, and school suspension and expulsion. On any given day, 90,000 Maryland children have a parent under some form of correctional supervision. Persons of color are disproportionately impacted by our criminal justice system, meaning that children of color are especially at risk of experiencing the negative effects of parental incarceration.

While the impacts of incarceration on children are daunting, *these negative experiences can be prevented*. Community-based sentencing alternatives (such as SB0021) help children and caretakers. Sentencing alternatives allow a primary caretaker to be a stable, uninterrupted presence in a child's life. Justice-involved caretakers who stay with their children experience better outcomes as well. In Washington, women who participated in the Parent Sentencing Alternative program had a recidivism rate of 8%, whereas women who were incarcerated and separated from their children had a recidivism rate of 29%.

Finally, SB0021 proposes a more cost-efficient approach to sentencing. This bill saves money by potentially avoiding incarceration (a policy that costs \$44,000 per person per year in Maryland). By keeping families together, it may also reduce state spending on programs (such as foster care) that are activated by family instability.

It is for these reasons that I am encouraging you to vote **in support of SB0021, Criminal Procedure - Sentencing - Primary Caretaker**. Thank you for your time, service, and consideration.

Sincerely,

Brian Seel
223 S Wolfe St
Showing Up for Racial Justice Baltimore

SB0021_Sufrin.pdf

Uploaded by: Carolyn Sufrin

Position: FAV

Dear Senator Smith and Members of the Judicial Proceedings Committee,

This testimony is being submitted by Dr. Carolyn Sufrin, associate professor at Johns Hopkins School of Medicine and director of the research group Advocacy and Research on Reproductive Wellness of Incarcerated People, an organization that works to improve reproductive health and wellbeing for women who are in the criminal justice system. I am also working in collaboration with the Maryland Justice Project. I work at Johns Hopkins Bayview Hospital, in District #46. The views expressed here are my own and not that of my employer). **I am testifying in support of Senate Bill 21 (SB0021), Criminal Procedure - Sentencing - Primary Caretaker.**

I am an obstetrician-gynecologist and a researcher who has been working with incarcerated women for 15 years. In that time, I have witnessed first-hand the negative impact that incarcerating parents has on them, their children, and their communities. Senate Bill0021 aims to mitigate those effects by allowing people convicted of non-violent offenses to file a motion post-conviction requesting that their primary caretaker status to a dependent (including children and vulnerable adults) be considered in sentencing. Accordingly, judges are then required to consider whether a suitable community-based alternative to incarceration exists. The judge has discretion as to what this alternative may be. Examples include but are not limited to job training, substance abuse treatment, and home confinement. 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.

In Maryland, 90,000 children have a parent under some type of correctional supervision. Women tend to be the primary caretakers in these situations. The Bureau of Justice Statistics has reported that nearly two-thirds of incarcerated women are mothers and primary caretakers to young children. In Maryland in 2021, approximately half of women incarcerated in DPSCS correctional facilities were convicted of a nonviolent offense, with many of them related to what we public health professionals and medical providers consider the social determinants of health—factors such as poverty, lack of access to stable housing and adequate medical, mental health, and substance abuse care. With hundreds of women incarcerated in MCIW, we can expect that SB21 will affect many families dealing with separation due to incarceration. Additionally, we also know that this is a racial justice issue. While Maryland's state population is approximately 30% Black, the state's prison population is approximately 70% Black, demonstrating a disparity in whom we separate from their families.

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/ADS, depression, substance abuse disorder, and PTSD. 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.

By allowing primary caretakers the opportunity to file a motion requiring their caretaker status, we can help reduce the impacts of family separation due to incarceration. Justice-involved caretakers who stay with their children experience better outcomes as well. Studies show that women who have their children with them while completing residential drug treatment programs are far more likely to complete the program. Furthermore, in Washington, women who participated in the Parent Sentencing Alternative program had a recidivism rate of 8%, whereas women who were incarcerated and separated from their children had a recidivism rate of 29%.

Finally, SB0021 proposes a more cost-efficient approach to sentencing. 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 far less. 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.

As a physician, researcher, and public health professional who has worked with incarcerated and previously incarcerated women, I have witnessed countless women be unnecessarily separated from their children. Because of sporadic periods of incarceration. One patient I cared for was jailed for shoplifting diapers and soap for her baby. Most of the women I have cared for or conducted research with in jail still struggle to maintain stable ties to their children and their children are suffering. These mothers are not threats to society, and they and their children don't need jail time, they need structural supports in the community so that they can safely parent and thrive.

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,



Carolyn Sufrin, MD, PhD
4940 Eastern Ave
Johns Hopkins Bayview Hospital
4940 Eastern Ave
Baltimore, MD 21224

Johns Hopkins School of Medicine
Advocacy and Research on Reproductive Wellness of Incarcerated People

January 28, 2022

SB 21 - Alternative Sentencing for Primary Caretak

Uploaded by: Daryl Yoder

Position: FAV

Dear Members of the Judicial Proceedings Committee,

This testimony is being submitted by Showing Up for Racial Justice Baltimore, a group of individuals working to move white folks as part of a multi-racial movement for equity and racial justice in Baltimore City and Baltimore County. We are also working in collaboration with the Maryland Justice Project. I am a resident of District 12 and also volunteer with Out For Justice, an organization that advocates and provides services for those formerly and currently incarcerated. **I am testifying in support of Senate Bill 21 (SB0021), Criminal Procedure - Sentencing - Primary Caretaker**



Senate Bill 21 allows a defendant who is the primary caretaker of a child or vulnerable adult to file a motion requesting the caretaker role be considered during sentencing. As an alternative to incarceration, the court may instead order drug and alcohol treatment, family and individual counseling, job training, home confinement, or several other programs. SB0021 would apply to defendants who committed nonviolent crimes and are primarily responsible for a minor child or vulnerable adult.

Separating a caretaker from a child or vulnerable adult doesn't serve families. In some cases, it is literally punishing the child for the sins of the father. As a result, not allowing consideration of the ripple effects of incarcerating a parent or caretaker ignores the best interest of communities and, ultimately, prioritizes what is vengeful over what is just.

Incarcerating primary caretakers causes long-lasting damage to Maryland's children, families, and communities. Being separated from a caretaker who is in jail or prison is recognized by the CDC as an Adverse Childhood Experiences (ACEs). Children who experience ACEs are more likely to have mental health challenges, substance use, and chronic health problems. Specifically, having a parent who is incarcerated is associated with poor academic outcomes, antisocial behaviors, and school suspension and expulsion. On any given day, 90,000 Maryland children have a parent under some form of correctional supervision. Persons of color are disproportionately impacted by our criminal justice system, meaning that children of color are especially at risk of experiencing the negative effects of parental incarceration.

While the impacts of incarceration on children are daunting, *these negative experiences can be prevented*. Community-based sentencing alternatives (such as SB0021) help children and caretakers. Sentencing alternatives allow a primary caretaker to be a stable, uninterrupted presence in a child's life. Justice-involved caretakers who stay with their children experience better outcomes as well. In Washington, women who participated in the Parent Sentencing Alternative program had a recidivism rate of 8%, whereas women who were incarcerated and separated from their children had a recidivism rate of 29%.

Finally, SB0021 proposes a more cost-efficient approach to sentencing. This bill saves money by potentially avoiding incarceration (a policy that costs \$44,000 per person per year in Maryland). By keeping families together, it may also reduce state spending on programs (such as foster care) that are activated by family instability.

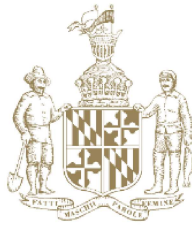
It is for these reasons that I am encouraging you to vote **in support of SB0021, Criminal Procedure - Sentencing - Primary Caretaker**. Thank you for your time, service, and consideration.

Sincerely,
Daryl Yoder
309 Glenmore Ave
Catonsville, MD 21228
Showing Up for Racial Justice Baltimore

SB0021_jpc_fav.pdf

Uploaded by: Elizabeth Vigna

Position: FAV



THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

**Testimony of Senator Jill P. Carter
In Favor of SB0021 - Criminal Procedure - Sentencing - Primary
Caretaker
Before the Judiciary Committee
On February 1, 2022.**

**Chair Smith, Vice Chair Waldstreicher, and Members of the
Committee:**

Senate Bill 21 is a bill designed to help keep families intact by providing that primary caretakers of dependents, within 10 days of conviction for a nonviolent crime, may file a motion requesting that the court consider their status as a primary caretaker in sentencing.

When a motion is filed, the court must consider whether a suitable alternative to incarceration exists given the person's status as a primary caretaker, among other things. Such an alternative would allow the caretaker to remain with their dependent and in their community while participating in a rehabilitative service. If the court determines a suitable alternative does not exist, it must provide written explanation.

Last year, in 2021, approximately 500 women were incarcerated in state correctional facilities, most of whom were imprisoned for non-violent crimes and the majority of whom are mothers. The consequences of incarcerating mothers are devastating to their children and other vulnerable dependents who rely on their daily presence. Studies have proven that children of incarcerated parents suffer higher rates of physical and mental health problems, including asthma, high cholesterol and depression, and higher rates of social challenges, including behavioral issues and homelessness.

Senate Bill 21 embodies the belief that nonviolent offenders should be provided a chance to continue taking care of their dependents while serving out their sentences for committing nonviolent crimes.

I understand that some may question the necessity of this bill, considering that the family status of a defendant may already be considered during trial. While it is true that the court may be notified and aware of the personal circumstances of a defendant prior to conviction, there is no requirement that the court consider this information in sentencing.

Under the current Sentencing Guidelines Manual produced by the Maryland State Commission on Criminal Sentencing Policy, while judges are encouraged to consider alternatives to incarceration, nowhere in the manual does it suggest judges should consider the defendant's family status. Similarly, while an offender may file a motion to reconsider after conviction and therefore accuse the court of an error or claim that there is new evidence, Senate Bill 21 explicitly asks the court to consider the defendant's primary caretaker status at sentencing.

It is essential that we keep families together and prevent parental incarceration from damaging the health of any more children when suitable alternatives exist. For these reasons, I urge the committee to give a favorable report on Senate Bill 21. Thank you.

Respectfully,

A handwritten signature in blue ink that reads "Jill P. Carter". The signature is written in a cursive, flowing style.

Jill P. Carter

SB 21 - Alternative Sentencing for Primary Caretak

Uploaded by: Erica Palmisano

Position: FAV

Dear Members of the Judicial Proceedings Committee,

This testimony is being submitted by Showing Up for Racial Justice Baltimore, a group of individuals working to move white folks as part of a multi-racial movement for equity and racial justice in Baltimore City and Baltimore County. We are also working in collaboration with the Maryland Justice Project. I am a resident of 12. **I am testifying in support of Senate Bill 21 (SB0021), Criminal Procedure - Sentencing - Primary Caretaker.**



Senate Bill 21 allows a defendant who is the primary caretaker of a child or vulnerable adult to file a motion requesting the caretaker role be considered during sentencing. As an alternative to incarceration, the court may instead order drug and alcohol treatment, family and individual counseling, job training, home confinement, or several other programs. SB0021 would apply to defendants who committed nonviolent crimes and are primarily responsible for a minor child or vulnerable adult.

Separating a caretaker from a child or vulnerable adult doesn't serve families. In some cases, it is literally punishing the child for the sins of the father. As a result, not allowing consideration of the ripple effects of incarcerating a parent or caretaker ignores the best interest of communities and, ultimately, prioritizes what is vengeful over what is just.

Incarcerating primary caretakers causes long-lasting damage to Maryland's children, families, and communities. Being separated from a caretaker who is in jail or prison is recognized by the CDC as an Adverse Childhood Experiences (ACEs). Children who experience ACEs are more likely to have mental health challenges, substance use, and chronic health problems. Specifically, having a parent who is incarcerated is associated with poor academic outcomes, antisocial behaviors, and school suspension and expulsion. On any given day, 90,000 Maryland children have a parent under some form of correctional supervision. Persons of color are disproportionately impacted by our criminal justice system, meaning that children of color are especially at risk of experiencing the negative effects of parental incarceration.

While the impacts of incarceration on children are daunting, *these negative experiences can be prevented.* Community-based sentencing alternatives (such as SB0021) help children and caretakers. Sentencing alternatives allow a primary caretaker to be a stable, uninterrupted presence in a child's life. Justice-involved caretakers who stay with their children experience better outcomes as well. In Washington, women who participated in the Parent Sentencing Alternative program had a recidivism rate of 8%, whereas women who were incarcerated and separated from their children had a recidivism rate of 29%.

Finally, SB0021 proposes a more cost-efficient approach to sentencing. This bill saves money by potentially avoiding incarceration (a policy that costs \$44,000 per person per year in Maryland). By keeping families together, it may also reduce state spending on programs (such as foster care) that are activated by family instability.

It is for these reasons that I am encouraging you to vote **in support of SB0021, Criminal Procedure - Sentencing - Primary Caretaker.** Thank you for your time, service, and consideration.

Sincerely,

Erica Palmsiano
5580 Vantage Point Rd, Apt 5, Columbia, MD 21044
Showing Up for Racial Justice Baltimore

SB21 Testimony - ACLU-MD - Senate Judiciary (Jan 2

Uploaded by: Frank Patinella

Position: FAV



Testimony for the Senate Judiciary Proceedings Committee

February 1, 2022

SB 21 - Criminal Procedure - Sentencing - Primary Caretaker

FAVORABLE

FRANK PATINELLA
SENIOR EDUCATION
ADVOCATE

AMERICAN CIVIL
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OFFICERS AND DIRECTORS
HOMAYRA ZIAD
PRESIDENT

DANA VICKERS SHELLEY
EXECUTIVE DIRECTOR

ANDREW FREEMAN
GENERAL COUNSEL

The ACLU of Maryland supports SB 21 - Criminal Procedure - Sentencing - Primary Caretaker, which would allow people convicted of non-violent offenses to file a motion post-conviction to request that their primary caretaker status to a dependent be considered in sentencing. The judge would determine whether or not an alternative community-based placement or program — such as a substance abuse treatment facility, mental health program, or home confinement — is suitable for the caretaker who has been convicted. The primary goal of the bill is to lessen the significant harm that is done to children and vulnerable adults when they are separated from their primary caretakers.

Maryland can improve economic and community and public health outcomes — especially for Black and Brown communities — by taking steps to reduce mass incarceration and invest in community-based alternatives where it makes sense. This bill prioritizes public safety as it would only apply to caretakers convicted of nonviolent offenses, which are crimes that do not involve the use or threat of physical force or a deadly weapon against another person, and is not burglary, extortion, arson, or kidnapping. Further, SB 21 has longer term public safety implications as the overall outcomes for both incarcerated individuals and their children would improve.

At any given time, an estimated 90,000 children in Maryland have a parent under some form of correctional supervision¹. More than half of women incarcerated and approximately half of incarcerated men reported that they have at least one child². Children who are separated from their caregiver are more likely to have negative health outcomes including higher rates of infant mortality, child mortality and perterm births³. These children also experience

¹ Governor's Office of Children, Children and Families Affected By Incarceration. <https://goc.maryland.gov/incarceration/>. Accessed 25, Jan. 2022.

² Maruschak, Laura M., Bronson, Jennifer, Ph.D., and Alper, Mariel, Ph.D. "Parents in Prison and Their Minor Children," U.S. Department of Justice, Bureau of Justice Statistics. March 2021. <https://bjs.ojp.gov/content/pub/pdf/pptmcspi16st.pdf>. Accessed 25, Jan. 2022.

³ Martin, Eric. "Hidden Consequences: The Impact of Incarceration on Dependent Children," NIJ Journal 278. March 2017. <https://nij.ojp.gov/topics/articles/hidden-consequences-impact-incarceration-dependent-children>

higher rates of incarceration themselves, academic failure, school suspensions and dropping out, drug use, poverty, homelessness, and personal health and mental health issues. Parental incarceration is also correlated with family instability, higher rates of child welfare involvement, and PTSD^{4,5}.

SB 21 can help mitigate these deleterious outcomes by allowing more primary caregivers to participate in community-based sentencing alternatives instead of incarceration. This would allow children and dependent adults to benefit from staying connected to their primary caretaker.

SB 21 also makes economic sense. Maryland spends approximately \$46,000 on average annually for each incarcerated individual⁶. While the cost of community-based programs vary depending on the type of service and the length of time the service is used, these alternatives are much less costly than incarceration. Further, expanding the use of alternative community-based programs can lead to longer term cost savings as they have been proven to reduce recidivism and help people access housing and employment.

Maryland can play a significant role in keeping families together and improving the lives of those who are incarcerated for nonviolent offenses, and for the children and adults who depend on them. This committee has an opportunity to take a significant step forward to address mass incarceration while expanding a system of community-based services for nonviolent offenders, which are more effective for families and more economical for the state. We urge you to give a favorable report to SB 21. Thank you.

⁴ Lee, Rosalyn D., PhD, MPH, MA, Fang, Xiangming, PhD, and Luo, Feijun, PhD. "The Impact of Parental Incarceration on the Physical and Mental Health of Young Adults," *American Academy of Pediatrics*. April 2013. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3608482/>

⁵ Berger, Lawrence M., et al. "Families at the Intersection of the Criminal Justice and Child Protective Services Systems," *The American Academy of Political and Social Science*. April 2016. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6044461/>

⁶ "Building on the Unger Experience: A cost-benefit analysis of releasing aging prisoners," *Open Society Institute*. January 2019. <http://goccp.maryland.gov/wp-content/uploads/Unger-Cost-Benefit3.pdf>

MD Catholic Conference_FAV_SB 21.pdf

Uploaded by: Garrett O'Day

Position: FAV



ARCHDIOCESE OF BALTIMORE † ARCHDIOCESE OF WASHINGTON † DIOCESE OF WILMINGTON

February 1, 2022

**SB 21
Criminal Procedure – Sentencing – Primary Caretaker**

Senate Judicial Proceedings Committee

Position: Support

The Maryland Catholic Conference offers this testimony in SUPPORT of Senate Bill 21. The Catholic Conference represents the public-policy interests of the three (arch)dioceses serving Maryland, including the Archdioceses of Baltimore and Washington and the Diocese of Wilmington, which together encompass over one million Marylanders.

Senate Bill 21 would allow a defendant convicted of a nonviolent crime the ability to petition their sentencing court to consider their status as a “primary caretaker”. A primary caretaker is a person who has responsibility for a minor child or vulnerable adult, providing for things such as their housing, health, financial support, or education. The bill allows a court, in consideration of the primary caretaker status, to seek diversionary sentences that do not involve imprisonment, including but not limited to substance abuse treatment, domestic violence education and prevention, vocational training, educational services, anger management, financial literacy, family counselling or parenting classes.

As an advocate for restorative justice, the Maryland Catholic Conference supports opportunities to give people the chance to amend their lives through an alternatives to imprisonment. Particularly where the subject offense is a nonviolent offense, there is often little threat to public safety and the benefits of keeping families intact far outweigh the need for more punitive measures.

There are many cases where counseling, substance abuse rehabilitation, anger management, or a service requirement might be more a more constructive sentence. However, that consideration is compounded when the person being sentenced has minor children or vulnerable adults counting on them for their care. As the United States Conference of Catholic Bishops states, “People must be held accountable for their actions but justice and restoration must be the object of punishment which must have a constructive and reformatory purpose” (*Restorative Justice: Healing and Transformation of Persons, Families and Communities, USCCB, 2015*).

Alternative sentences considering primary caretaker status gives the judiciary one more option for resolving a case with the well-being of the children and families in mind when sentencing for nonviolent crimes. It is for these reasons that we urge a favorable report on Senate Bill 21.

SB 21 - Alternative Sentencing for Primary Caretak

Uploaded by: Jonathan Smeton

Position: FAV

Dear Members of the Judicial Proceedings Committee,

This testimony is being submitted by Showing Up for Racial Justice Baltimore, a group of individuals working to move white folks as part of a multi-racial movement for equity and racial justice in Baltimore City and Baltimore County. We are also working in collaboration with the Maryland Justice Project. I am a resident of **District 40. I am testifying in support of Senate Bill 21 (SB0021), Criminal Procedure - Sentencing - Primary Caretaker**



Senate Bill 21 allows a defendant who is the primary caretaker of a child or vulnerable adult to file a motion requesting the caretaker role be considered during sentencing. As an alternative to incarceration, the court may instead order drug and alcohol treatment, family and individual counseling, job training, home confinement, or several other programs. SB0021 would apply to defendants who committed nonviolent crimes and are primarily responsible for a minor child or vulnerable adult.

One of my best friend's fathers was arrested while he was a minor. Having to limit time spent with your dad to a small room with security looking down your back neither helped their relationship, but rather disconnected them in ways that couldn't have helped his dad readjust to life after getting his freedom back. Neither did it help my friend in trusting the security of the relationships in his life.

Separating a caretaker from a child or vulnerable adult doesn't serve families. In some cases, it is literally punishing the child for the sins of the father. As a result, not allowing consideration of the ripple effects of incarcerating a parent or caretaker ignores the best interest of communities and, ultimately, prioritizes what is vengeful over what is just.

Incarcerating primary caretakers causes long-lasting damage to Maryland's children, families, and communities. Being separated from a caretaker who is in jail or prison is recognized by the CDC as an Adverse Childhood Experiences (ACEs). Children who experience ACEs are more likely to have mental health challenges, substance use, and chronic health problems. Specifically, having a parent who is incarcerated is associated with poor academic outcomes, antisocial behaviors, and school suspension and expulsion. On any given day, 90,000 Maryland children have a parent under some form of correctional supervision. Persons of color are disproportionately impacted by our criminal justice system, meaning that children of color are especially at risk of experiencing the negative effects of parental incarceration.

While the impacts of incarceration on children are daunting, *these negative experiences can be prevented*. Community-based sentencing alternatives (such as SB0021) help children and caretakers. Sentencing alternatives allow a primary caretaker to be a stable, uninterrupted presence in a child's life. Justice-involved caretakers who stay with their children experience better outcomes as well. In Washington, women who participated in the Parent Sentencing Alternative program had a recidivism rate of 8%, whereas women who were incarcerated and separated from their children had a recidivism rate of 29%.

Finally, SB0021 proposes a more cost-efficient approach to sentencing. This bill saves money by potentially avoiding incarceration (a policy that costs \$44,000 per person per year in Maryland). By keeping families together, it may also reduce state spending on programs (such as foster care) that are activated by family instability.

It is for these reasons that I am encouraging you to vote **in support of SB0021, Criminal Procedure - Sentencing - Primary Caretaker**. Thank you for your time, service, and consideration.

Sincerely,
Jonathan Smeton
Baltimore, MD 21211
Showing Up for Racial Justice Baltimore

SB 21 - Alternative Sentencing for Primary Caretak

Uploaded by: Lindsay Keipper

Position: FAV

Dear Members of the Judicial Proceedings Committee,

This testimony is being submitted by Showing Up for Racial Justice Baltimore, a group of individuals working to move white folks as part of a multi-racial movement for equity and racial justice in Baltimore City and Baltimore County. We are also working in collaboration with the Maryland Justice Project. I am a resident of District 46, and **I am testifying in support of Senate Bill 21 (SB0021), Criminal Procedure Sentencing - Primary Caretaker.**



Senate Bill 21 allows a defendant who is the primary caretaker of a child or vulnerable adult to file a motion requesting the caretaker role be considered during sentencing. As an alternative to incarceration, the court may instead order drug and alcohol treatment, family and individual counseling, job training, home confinement, or several other programs. SB0021 would apply to defendants who are convicted of nonviolent crimes and are primarily responsible for a minor child or vulnerable adult.

Separating a caretaker from a child or vulnerable adult doesn't serve families. In some cases, it is literally punishing the child for the sins of the parent. As a result, not allowing consideration of the ripple effects of incarcerating a parent or caretaker ignores the best interest of communities and, ultimately, prioritizes what is vengeful over what is just.

Incarcerating primary caretakers causes long-lasting damage to Maryland's children, families, and communities. Being separated from a caretaker who is in jail or prison is recognized by the CDC as an Adverse Childhood Experience (ACE); children who experience ACEs more likely to have mental health challenges, substance use, and chronic health problems. Specifically, having a parent who is incarcerated is associated with poor academic outcomes, antisocial behaviors, and school suspension and expulsion. On any given day, 90,000 Maryland children have a parent under some form of correctional supervision. Persons of color are disproportionately impacted by our criminal justice system, meaning that children of color are especially at risk of experiencing the negative effects of parental incarceration.

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It is for these reasons that I am encouraging you to vote **in support of SB0021, Criminal Procedure - Sentencing - Primary Caretaker.** Thank you for your time, service, and consideration.

Sincerely,

Lindsay Keipper, 2425 Fleet St.
Showing Up for Racial Justice Baltimore

SB 21 - MauraDwyer_Alternative Sentencing for Prim

Uploaded by: Maura Dwyer

Position: FAV

Dear Members of the Judicial Proceedings Committee,

This testimony is being submitted by Showing Up for Racial Justice Baltimore, a group of individuals working to move white folks as part of a multi-racial movement for equity and racial justice in Baltimore City and Baltimore County. We are also working in collaboration with the Maryland Justice Project. I am a resident of District 45. **I am testifying in support of Senate Bill 21 (SB0021), Criminal Procedure - Sentencing - Primary Caretaker**



Senate Bill 21 allows a defendant who is the primary caretaker of a child or vulnerable adult to file a motion requesting the caretaker role be considered during sentencing. As an alternative to incarceration, the court may instead order drug and alcohol treatment, family and individual counseling, job training, home confinement, or several other programs. SB0021 would apply to defendants who committed nonviolent crimes and are primarily responsible for a minor child or vulnerable adult.

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It is for these reasons that I am encouraging you to vote **in support of SB0021, Criminal Procedure - Sentencing - Primary Caretaker**. Thank you for your time, service, and consideration.

Sincerely,

Maura Dwyer
1639 N Calvert St
Showing Up for Racial Justice Baltimore

SB 21 - Alternative Sentencing for Primary Caretak

Uploaded by: Melissa Badeker

Position: FAV

Dear Members of the Judicial Proceedings Committee,

This testimony is being submitted by Showing Up for Racial Justice Baltimore, a group of individuals working to move white folks as part of a multi-racial movement for equity and racial justice in Baltimore City and Baltimore County. We are also working in collaboration with the Maryland Justice Project. I am a resident of District 8 and volunteer for Out For Justice, **I am testifying in support of Senate Bill 21 (SB0021), Criminal Procedure - Sentencing - Primary Caretaker**



Senate Bill 21 allows a defendant who is the primary caretaker of a child or vulnerable adult to file a motion requesting the caretaker role be considered during sentencing. As an alternative to incarceration, the court may instead order drug and alcohol treatment, family and individual counseling, job training, home confinement, or several other programs. SB0021 would apply to defendants who committed nonviolent crimes and are primarily responsible for a minor child or vulnerable adult.

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Finally, SB0021 proposes a more cost-efficient approach to sentencing. This bill saves money by potentially avoiding incarceration (a policy that costs \$44,000 per person per year in Maryland). By keeping families together, it may also reduce state spending on programs (such as foster care) that are activated by family instability.

As a volunteer for Out For Justice, an organization that is comprised of currently and formerly incarcerated individuals that advocates for criminal justice reform, I have witnessed first-hand how children are affected when a caretaker is removed from their life. It has a cyclical effect because they are less likely to have consistent housing, food, going to school, etc. In many cases, these children end up spending so much time and emotional energy caring for siblings, that they end up dropping out of school or getting in trouble in the streets.

It is for these reasons that I am encouraging you to vote **in support of SB0021, Criminal Procedure - Sentencing - Primary Caretaker**. Thank you for your time, service, and consideration.

Sincerely,

Melissa Badeker

3020 Linwood Avenue, Parkville MD 21234

Showing Up for Racial Justice Baltimore and Out For Justice

SB 21 - Criminal Procedure - Sentencing - Primary

Uploaded by: Michelle Siri

Position: FAV

BILL NO.: Senate Bill 21
TITLE: Criminal Procedure – Sentencing – Primary Caretaker
COMMITTEE: Judicial Proceeding
DATE: February 1, 2022
POSITION: **SUPPORT**

Senate Bill 21 would require judges to take into consideration whether a person convicted of a non-violent offense is a primary caretaker of a dependent, and if so, whether that person can be placed into a community-based alternative to incarceration that would prevent the separation of the caretaker and their dependent. Because the Women's Law Center (WLC) believes that keeping families together whenever possible is in the best interest of children, families, and our society at large, we are in favor of SB21.

Across the country, there has been a disturbing gender disparity in recent prison population trends. While recent reforms nationally have reduced the total number of people in state prisons since 2009, almost all the decrease has been among men. Women are being incarcerated at a significantly higher rate than men, with the number of women in Maryland prisons having increased by over 400% over the past 40 years¹. At the same time, it is estimated that up to 90,000 children in Maryland have a parent that is either in prison, jail, or under parole/probation. Well over half of incarcerated women in Maryland are mothers, and more than half were primary caretakers prior to incarceration. Those women are more likely than men to have been incarcerated for a drug or property offense, or other non-violent crimes. When they are then sent to prison and separated from their children, both suffer.

Children with incarcerated parents have been shown to have higher rates of physical and mental health problems, as well as social behavior and educational challenges, including depression, anxiety, and PTSD. Children with incarcerated mothers are more likely to end up in poverty, as 80% of incarcerated mothers are single mothers. Traveling to prison can be logistically challenging for children, and even more traumatizing and confusing for children, with frightening security scans and visitation rules that forbid parents from touching their children. Additionally, Maryland policy typically results in newborn babies being separated from their incarcerated mothers directly after birth, leaving both unable to engage in critical bonding.

Ultimately, allowing non-violent offenders who are primary caretakers the ability to remain within their communities will help the hidden victims of crime, namely the children left behind. As such, the WLC urges a favorable report on SB 21.

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.

MOPD Primary Caretaker testimony .pdf

Uploaded by: Natasha Khalfani

Position: FAV



PAUL DeWOLFE
PUBLIC DEFENDER

KEITH LOTRIDGE
DEPUTY PUBLIC DEFENDER

MELISSA ROTHSTEIN
DIRECTOR OF POLICY AND DEVELOPMENT

KRYSTAL WILLIAMS
DIRECTOR OF GOVERNMENT RELATIONS DIVISION

ELIZABETH HILLIARD
ASSISTANT DIRECTOR OF GOVERNMENT RELATIONS DIVISION

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/>

Maryland Office of the Public Defender, Government Relations Division, 45 Calvert St, Suite 108, Annapolis MD 21401

For further information please contact Krystal Williams, krystal.williams@maryland.gov 443-908-0241;

Elizabeth Hilliard, Elizabeth.hilliard@maryland.gov 443-507-8414.

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.

Authored by: Natasha Khalfani, Esq. Assistant Public Defender, (301) 627-3300 Ext. 105, Natasha.Khalfani@maryland.gov

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/>

SB 21 - Alternative Sentencing for Primary Caretak

Uploaded by: Nathan Rehr

Position: FAV

Dear Members of the Judicial Proceedings Committee,

This testimony is being submitted by Showing Up for Racial Justice Baltimore, a group of individuals working to move white folks as part of a multi-racial movement for equity and racial justice in Baltimore City and Baltimore County. We are also working in collaboration with the Maryland Justice Project. I am a resident of MD District 45. I am an active member of my community association and a health professional who is interested in eliminating the health disparities that occur with racial discrimination in our society. **I am testifying in support of Senate Bill 21 (SB0021), Criminal Procedure - Sentencing - Primary Caretaker**



Senate Bill 21 allows a defendant who is the primary caretaker of a child or vulnerable adult to file a motion requesting the caretaker role be considered during sentencing. As an alternative to incarceration, the court may instead order drug and alcohol treatment, family and individual counseling, job training, home confinement, or several other programs. SB0021 would apply to defendants who committed nonviolent crimes and are primarily responsible for a minor child or vulnerable adult.

Separating a caretaker from a child or vulnerable adult doesn't serve families. In some cases, it is literally punishing the child for the sins of the father. As a result, not allowing consideration of the ripple effects of incarcerating a parent or caretaker ignores the best interest of communities and, ultimately, prioritizes what is vengeful over what is just.

Incarcerating primary caretakers causes long-lasting damage to Maryland's children, families, and communities. Being separated from a caretaker who is in jail or prison is recognized by the CDC as an Adverse Childhood Experiences (ACEs). Children who experience ACEs are more likely to have mental health challenges, substance use, and chronic health problems. Specifically, having a parent who is incarcerated is associated with poor academic outcomes, antisocial behaviors, and school suspension and expulsion. On any given day, 90,000 Maryland children have a parent under some form of correctional supervision. Persons of color are disproportionately impacted by our criminal justice system, meaning that children of color are especially at risk of experiencing the negative effects of parental incarceration.

While the impacts of incarceration on children are daunting, *these negative experiences can be prevented*. Community-based sentencing alternatives (such as SB0021) help children and caretakers. Sentencing alternatives allow a primary caretaker to be a stable, uninterrupted presence in a child's life. Justice-involved caretakers who stay with their children experience better outcomes as well. In Washington, women who participated in the Parent Sentencing Alternative program had a recidivism rate of 8%, whereas women who were incarcerated and separated from their children had a recidivism rate of 29%.

Finally, SB0021 proposes a more cost-efficient approach to sentencing. This bill saves money by potentially avoiding incarceration (a policy that costs \$44,000 per person per year in Maryland). By keeping families together, it may also reduce state spending on programs (such as foster care) that are activated by family instability.

It is for these reasons that I am encouraging you to vote **in support of SB0021, Criminal Procedure - Sentencing - Primary Caretaker**. Thank you for your time, service, and consideration.

Sincerely,

Nathan Rehr
450 E. Federal Street Baltimore, MD 21202
Showing Up for Racial Justice Baltimore

O.Moyd Testimony on SB 0021 - Primary Caretaker.pdf

Uploaded by: Olinda Moyd, Esquire

Position: FAV

Bill No: SB 0021

Title: Criminal Procedure – Sentencing – Primary Caretaker

Committee: Judicial Proceedings

Hearing Date: February 1, 2022

Position: FAVOR

Submitted by: Olinda Moyd, Esq.

I support this bill which allows individuals convicted of certain offenses to file a motion requesting the court to consider their status as the primary caretaker of a minor child or vulnerable adult in determining the sentence to be imposed. This is especially critical during the pandemic that has devastated poor communities and especially communities of color.

The pandemic has revealed many disparities in our criminal legal system and in our healthcare system. Many vulnerable adults are cared for by family members who cannot afford to place them in expensive nursing facilities or pay for home care aids. Often, family members, friends and love ones enter into these arrangements based on love and obligation to take care of our own. These arrangements are no less worthy of recognition and support than any state-endorsed formal caretaking arrangement. People who care for aging and vulnerable adults establish routines for dispensing medicine, providing assistance with mobility and often serve as a security blanket for those who are vulnerable. Interruption in these routines can be devastating, not only to the person convicted of an offense, but also to the person in their care.

This legislation would allow more primary caretakers to participate in community-based sentencing alternatives instead of incarceration. Alternatives to incarceration are less costly and provide benefits to the community. Courts must have a range of options in its tool-belt in order to efficiently address an offense by offering solutions tailored to fit the individual, the crime, protect the public and serve the community. Alternatives save tax payers money. This bill will also allow parents and caregivers to stay connected with their children and lead to better outcomes for their children.

Women tend to be primary caregivers for children and vulnerable adults, but this proposed solution must be available for any primary caretaker who finds themselves in this situation. Community alternatives also reduce state spending for foster care and children of incarcerated parents.

I support this legislation requiring Maryland courts to consider primary caregiver status at the time of sentencing.

Thank you

Olinda Moyd
moydlaw@yahoo.com
(301) 704-7784

SB 21 - Alternative Sentencing for Primary Caretak

Uploaded by: Rebecca Shillenn

Position: FAV

Dear Members of the Judicial Proceedings Committee,

This testimony is being submitted by Showing Up for Racial Justice Baltimore, a group of individuals working to move white folks as part of a multi-racial movement for equity and racial justice in Baltimore City and Baltimore County. We are also working in collaboration with the Maryland Justice Project. I am a resident of District 45, and a parent and primary caregiver myself. **I am testifying in support of Senate Bill 21 (SB0021), Criminal Procedure - Sentencing - Primary Caretaker**



Senate Bill 21 allows a defendant who is the primary caretaker of a child or vulnerable adult to file a motion requesting the caretaker role be considered during sentencing. As an alternative to incarceration, the court may instead order drug and alcohol treatment, family and individual counseling, job training, home confinement, or several other programs. SB0021 would apply to defendants who committed nonviolent crimes and are primarily responsible for a minor child or vulnerable adult.

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While the impacts of incarceration on children are daunting, *these negative experiences can be prevented*. Community-based sentencing alternatives (such as SB0021) help children and caretakers. Sentencing alternatives allow a primary caretaker to be a stable, uninterrupted presence in a child's life. Justice-involved caretakers who stay with their children experience better outcomes as well. In Washington, women who participated in the Parent Sentencing Alternative program had a recidivism rate of 8%, whereas women who were incarcerated and separated from their children had a recidivism rate of 29%.

Finally, SB0021 proposes a more cost-efficient approach to sentencing. This bill saves money by potentially avoiding incarceration (a policy that costs \$44,000 per person per year in Maryland). By keeping families together, it may also reduce state spending on programs (such as foster care) that are activated by family instability.

As a parent, I know that stability is one of the most important things a child can have in their life. There is no reason to punish a child, and jeopardize their health and stability over a parents' nonviolent and minor crimes. Please give them the best chance to grow up healthy and happy.

It is for these reasons that I am encouraging you to vote **in support of SB0021, Criminal Procedure - Sentencing - Primary Caretaker**. Thank you for your time, service, and consideration.

Sincerely,

Rebecca Shillenn
5401 Elsrode Avenue, Baltimore MD 21214
Showing Up for Racial Justice Baltimore

2022 PPM SB 21 Senate Side.pdf

Uploaded by: Robyn Elliott

Position: FAV



330 N. Howard Street
Baltimore, MD 21201
(410) 576-1400
www.plannedparenthood.org/maryland

Planned Parenthood of Maryland

Committee: Judicial Proceedings Committee
Bill Number: Senate Bill 21
Title: Criminal Procedure - Sentencing - Primary Caretaker
Hearing: February 1, 2022
Position: Support

Planned Parenthood of Maryland supports *Senate Bill 21 - Criminal Procedure - Sentencing - Primary Caretaker*.

As the leading reproductive health care provider in the state, Planned Parenthood of Maryland (PPM) strives toward reproductive justice for its patients and the communities served by PPM. Reproductive justice is the right to choose when or whether to have children, and the right to raise those children in a safe and healthy environment.

Children with incarcerated mothers have higher rates of incarceration themselves; parental incarceration is also associated with more antisocial behaviors, mental health issues, drug use, school suspension and expulsion, and economic challenges.

This legislation allows for community-based sentencing alternatives, which reduces recidivism among parents, leads to better health outcomes for the children, and costs less than incarceration.

We ask for a favorable vote on this legislation. If we can provide any additional information, please contact Robyn Elliott at (443) 926-3443 or relliott@policypartners.net.

SB 21 - Alternative Sentencing for Primary Caretak

Uploaded by: Sam Chan

Position: FAV

Dear Members of the Judicial Proceedings Committee,

This testimony is being submitted by Showing Up for Racial Justice Baltimore, a group of individuals working to move white folks as part of a multi-racial movement for equity and racial justice in Baltimore City and Baltimore County. We are also working in collaboration with the Maryland Justice Project. I am a resident of **District 43. I am testifying in support of Senate Bill 21 (SB0021), Criminal Procedure - Sentencing - Primary Caretaker**



Senate Bill 21 allows a defendant who is the primary caretaker of a child or vulnerable adult to file a motion requesting the caretaker role be considered during sentencing. As an alternative to incarceration, the court may instead order drug and alcohol treatment, family and individual counseling, job training, home confinement, or several other programs. SB0021 would apply to defendants who committed nonviolent crimes and are primarily responsible for a minor child or vulnerable adult.

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It is for these reasons that I am encouraging you to vote **in support of SB0021, Criminal Procedure - Sentencing - Primary Caretaker**. Thank you for your time, service, and consideration.

Sincerely,

Sam Chan

38 E. 26th St, Baltimore MD 21218

Showing Up for Racial Justice Baltimore

SB 21 - Alternative Sentencing for Primary Caretak

Uploaded by: Tina Bloom

Position: FAV

Dear Members of the Judicial Proceedings Committee,

This testimony is being submitted by Showing Up for Racial Justice Baltimore, a group of individuals working to move white folks as part of a multi-racial movement for equity and racial justice in Baltimore City and Baltimore County. We are also working in collaboration with the Maryland Justice Project. I am a resident of District 43, and a PhD researcher and violence prevention scientist with a specialty focus in maternal-child health outcomes. Research demonstrates that children with an incarcerated caregiver are one of the most vulnerable and at-risk populations, and accordingly, policymakers across the country (e.g., California, Minnesota, Washington) are putting into place responsive criminal justice reforms for nonviolent offenders who are primary caregivers to mitigate the serious impacts on families. **Therefore, I am testifying in support of Senate Bill 21 (SB0021), Criminal Procedure - Sentencing - Primary Caretaker**



Senate Bill 21 allows a defendant who is the primary caretaker of a child or vulnerable adult to file a motion requesting the caretaker role be considered during sentencing. As an alternative to incarceration, the court may instead order drug and alcohol treatment, family and individual counseling, job training, home confinement, or several other programs. SB0021 would apply to defendants who committed nonviolent crimes and are primarily responsible for a minor child or vulnerable adult.

Separating a caretaker from a child or vulnerable adult doesn't serve families – it further destabilizes them and punishes the child for the sins or mistakes of the parent. Allowing a case-by-case consideration of the ripple effects of incarcerating a parent or caretaker allows reforms that consider the best interest of families and communities and, ultimately, the opportunity to prioritize what is just, effective, and sensible for a better society and to disrupt the generational cycles of poverty, mental health issues, substance use, and struggle.

Incarcerating primary caretakers causes long-lasting damage to Maryland's children, families, and communities. Being separated from a caretaker who is in jail or prison is widely recognized by health researchers like myself as an Adverse Childhood Experience (ACE). It has been well-documented that people who experience ACEs are more likely to have mental health challenges, substance use, and chronic health problems as adults – that is the generational cycle. Specifically having a parent who is incarcerated is associated with poor academic outcomes, antisocial behaviors, and school suspension and expulsion. On any given day, 90,000 Maryland children have a parent under some form of correctional supervision. Persons of color are disproportionately impacted by our criminal justice system, meaning that innocent children of color are especially at risk of experiencing the negative effects of parental incarceration.

While the impacts of incarceration on children are daunting, *these negative experiences can be prevented.* Community-based sentencing alternatives (such as SB0021) help children and caretakers. Sentencing alternatives allow a primary caretaker to be a stable, uninterrupted presence in a child's life. Justice-involved caretakers who stay with their children are themselves stabilized and experience better outcomes as well. In Washington, women who participated in the Parent Sentencing Alternative program had a recidivism rate of 8%, whereas women who were incarcerated and separated from their children had a recidivism rate of 29%.

Finally, SB0021 proposes a more cost-efficient approach to sentencing. This bill saves money by potentially avoiding incarceration (a policy that costs \$44,000 per person per year in Maryland); the additional cost benefits to taxpayers by keeping children out of the child welfare system (and other health and systems costs down the line) are also likely significant.

It is for these reasons that I am encouraging you to vote **in support of SB0021, Criminal Procedure - Sentencing - Primary Caretaker.** Thank you for your time, service, and consideration.

Sincerely,

Tina Bloom, PhD, MPH, RN
District 43 Constituent
Showing Up for Racial Justice Baltimore

sb21.pdf

Uploaded by: Sara Elalamy

Position: UNF

MARYLAND JUDICIAL CONFERENCE
GOVERNMENT RELATIONS AND PUBLIC AFFAIRS

Hon. Joseph M. Getty
Chief Judge

187 Harry S. Truman Parkway
Annapolis, MD 21401

MEMORANDUM

TO: Senate Judicial Proceedings Committee
FROM: Legislative Committee
Suzanne D. Pelz, Esq.
410-260-1523
RE: Senate Bill 21
Criminal Procedure – Sentencing Primary Caretaker
DATE: January 12, 2022
(2/1)
POSITION: Oppose

The Maryland Judiciary opposes Senate Bill 21. Senate Bill 21 adds to Criminal Law §6-236 by authorizing a defendant convicted of a nonviolent crime to file a motion requesting the court consider the defendant’s status as a primary caretaker of a child, or vulnerable adult per Criminal Law §3-604, when determining sentencing.

Although judges already consider each defendant’s individual facts and circumstances at sentencing, establishing procedures for additional motions, hearings, and modifications layers on additional requirements at sentencing that impinge on judicial discretion and violate separation of powers. Courts routinely consider the personal circumstances of each defendant when engaged in sentencing. The requirements that the bill seeks to place upon courts regarding sentencing are unduly burdensome. The exclusion of fathers (and of same-sex partners where one has given birth but the other is the primary caregiver) at page 2, lines 9 through 12 is problematic. The bill also creates the potential for mischief in terms of parents jostling to be primary caretakers, to the detriment of children.

In addition, the Judiciary is concerned that the bill would prevent the ability of courts to conduct same-day sentencing for nonviolent crimes because, at Criminal Procedure § 6-236(b)(2)(iii), the bill gives defendants 10 days after a conviction to file a motion requesting the court to consider their status as a primary caretaker, and courts must then make written findings. This 10-day waiting period and written finding requirement would prevent same-day sentencings which may result in defendants remaining incarcerated longer than intended by the courts.

This bill also does not outline the timeframe or rationale for a person who has assumed the responsibility for a minor child or vulnerable adult’s housing, health, financial support, education, family ties, or safety.

Finally, in addition on page 4, lines 4 through 9, the bill provides that the court may “sanction the person for each detected violation of a condition of the sentence imposed, including requiring the person to serve a term of imprisonment within the range for the crime of which the person was originally convicted, notwithstanding the determination made under this section that the person is a primary caretaker.” This provision is in conflict with the spirit of the Justice Reinvestment Act (Chapter 515) which was passed in 2016.

cc. Hon. Jill Carter
Judicial Council
Legislative Committee
Kelley O’Connor

SB 0021_HoCo State's Attorney_Unfav_Sentencing_Pri

Uploaded by: Yolanda Vazquez

Position: UNF



SENATE BILL 0021

Criminal Procedure – Sentencing- Primary Caretaker

RICH GIBSON, HOWARD COUNTY STATE'S ATTORNEY

POSITION: UNFAVORABLE

January 28, 2022

My name is Rich Gibson, I am the State's Attorney for Howard County and the President of the Maryland State's Attorneys' Association. Part of my obligations as State's Attorney is to advocate for laws that enhance the safety and well-being of our community; that is the reason I am writing today to **OPPOSE** Senate Bill 0021.

In Maryland, a sentencing judge is vested with virtually boundless discretion in devising an appropriate sentence. Our current justice system allows judges to examine cases holistically; exploring all variables presented by both the State and Defense in fashioning the appropriate sentence for a defendant's conduct. At present, defense counsel has an obligation to their convicted clients to present all facts that might mitigate and lead to a reduction in the sentence the judge renders. This includes but is not limited to the family history of the defendant, rehabilitative and remedial efforts made by the defendant, the relationships of the defendant to the community, work history of the defendant, the medical and mental health history of the defendant, educational background, prior criminal record or lack thereof, and the nature and severity of the crime the defendant committed. Senate Bill 0021 attempts to create an increased weight to the fact that a defendant accused of a crime is the primary caregiver for others.

Prioritizing this one variable over others and requiring a judge to “jump through” additional ministerial hurdles, (e.g., requiring that the sentencing judge draft written findings before imposing a sentence of imprisonment) is an attack on discretion of the court. Maximum penalties and sentencing guidelines exist for a reason. They create a reasonable range and relative consistency in sentences mete out as a punishment for a particular crime. Senate Bill 0021 attempts to force judges to artificially weigh one factor, that the person who chose to commit the crime has caregiving responsibilities for another individual, over all other factors. **This is particularly interesting because the person who has been convicted of the crime did not let the fact that had a duty as a primary caregiver impede them from engaging in the criminal conduct resulting in their conviction.** Which begs the question: why should a judge give enhanced weight to a factor that was clearly not important enough to the defendant to dissuade them from engaging in the criminal conduct in the first place? Judges are carefully selected and able to sift through all the relevant variables in fashioning an appropriate sentence and the legislature should resist request to mandate that judges prioritize one variable over others.

I ask that the legislature give Senate Bill 0021 an unfavorable report.