

Maryland SB 772 - Jax James NORML.pdf

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Working to Reform Marijuana Laws

Maryland (2022): SB 772, Testimony in support of parental protections for the lawful consumption of cannabis

My name is Jax James and I serve as the State Policy Manager for the National Organization for the Reform of Marijuana Laws (NORML). I would like to thank the Senate Judicial Proceedings Committee for considering SB 772. NORML is supportive of legislative efforts to protect cannabis/marijuana consumers from unjust discrimination.

SB 772 seeks to provide parental protections for those who lawfully consume cannabis. The bill provides that the use of marijuana by a parent or guardian does not qualify as neglect, except under additional specific circumstances.

Current state law allows registered qualifying patients to use medical cannabis for their respective health conditions. Cannabis, regardless of whether it is consumed for recreational or medical purposes, should not be considered as grounds for child neglect. Studies have [found](#) that cannabis exposure, even among young people, is not independently associated with significant, long-term changes in brain morphology. There is no clinical evidence to suggest that cannabis use impacts one's ability to take care of a child, therefore its use should in no case be considered grounds for child neglect.

Parents—and subsequently their children—should not be unjustly punished for their lawful consumption of cannabis, especially considering how socially accepted the lawful consumption of alcohol or prescribed medications by parents is, both substances that also cause impairment. If the consumption of cannabis does not cause a parent to harm or neglect their child, then no penalization should occur.

NORML urges Maryland lawmakers to thoughtfully consider and pass SB 772 to ensure that parents are not wrongfully discriminated against for their consumption of a legal plant.



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Position: FAV



THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

**Testimony of Senator Jill P. Carter
In Favor of SB 772
–Child in Need of Assistance - Neglect - Marijuana Use–
Before the Judicial Proceedings Committee
On March 10, 2022**

Chairman Smith, Vice Chair Waldstreicher, and Esteemed Members of the Committee:

As Maryland begins the process of decriminalizing marijuana, it is essential that the laws regarding parent use of marijuana in the child welfare system align with decriminalization. Senate Bill 772 bill alters the definition of “neglect” in statutory provisions that govern child in need of assistance (CINA) proceedings. The bill specifies that, except under certain circumstances, neglect does not include the use of marijuana by any parent or individual who has permanent or temporary care or custody or responsibility for supervision of the child.

In 2017, 651 children nationwide were placed in foster care because of parental drug use. Among that number were children whose parents only used marijuana. While typically not the only issue when children are brought before the court in CINA cases, marijuana is generally used as additional evidence against a parent challenging their ability to care for their child.

However, far too often, for many parents, marijuana can be the sole barrier to them regaining custody of their children. Even for parents who have been determined by the court to have successfully addressed issues of parenting, mental health, housing, etc., a positive

toxicology for marijuana could be the sole basis for preventing reunification.

It is important to separate cannabis use from allegations of abuse. The two are not synonymous. There is no science or evidence to support family separation based upon parental marijuana use alone. Marijuana use alone does not predict parental deficiency.

The use of marijuana as evidence of neglect only contributes to the racial discrimination already widely perpetuated in the child welfare system. While the data is not available for Maryland, “It is understood nationally that like so many issues involving child welfare, people are often treated differently due to their race when it comes to parents who use marijuana.”

In an article published by The Imprint, it was reported that well off parents have publicly testified to the calming effects of marijuana, openly participating in groups like, “Moms for Marijuana;” while black and Latinx parents are often held to a different standard, finding themselves accused of being unfit to raise their children if they use marijuana even occasionally.

States like Texas, New York and Massachusetts have already passed laws that affirmatively state that a parent may not be found to neglect their children on the sole basis of marijuana use. Maryland needs to do the same.

The law should reflect that the use of marijuana by itself is not evidence that a parent is unable or unwilling to care for their child. While case law already exists that states there must be a nexus between drug use and the risk of harm, the way parents who use marijuana are treated in the child welfare system vary across jurisdictions.

Having a statute that explicitly states that marijuana use alone does not mean a parent is neglectful will better align the child welfare law with what we know to be true about marijuana use: that it alone is not a nexus to abuse or neglect. This change in the law would also serve to align child welfare with the decriminalization and social acceptance

of marijuana in the state and nation at large. And will also work to reduce the racial disparities that are inherent in child welfare.

For these reasons I am asking that this committee give a favorable report to Senate Bill 772

Sincerely,

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

Jill P. Carter, Esq.

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March 10, 2022

The Honorable William C. Smith, Jr.
Chair, Senate Judicial Proceedings Committee
2 East, Miller Senate Office Building
Annapolis, MD 21401

RE: Senate Bill 772 – Child in Need of Assistance – Neglect – Marijuana Use – Letter of Support

Dear Chair Smith and Committee Members:

The Maryland Medical Cannabis Commission (the Commission) is submitting this letter of support for Senate Bill (SB) 772 – Child in Need of Assistance – Neglect – Marijuana Use.

SB 772 will prohibit marijuana use by a parent or guardian from impacting child custody or visitation rights unless as a result of the use of marijuana: 1) the child’s health or welfare is harmed or placed at substantial risk of harm; or 2) the child has suffered mental injury or been placed at a substantial risk of mental injury. The bill’s legal protections will extend to both medical cannabis patients and those who use cannabis for personal adult use.

Currently, there is no uniformity and consistency in how courts consider cannabis use in child custody and visitation cases. Absent clear statutory direction it is left up to the substantial discretion of the judge. Depending on the Court and judge, a parent or guardian may lose custody or visitation for cannabis use. Although Maryland law is not explicit with respect to how cannabis use may impact child custody and visitation, State statute offers broad protection for medical cannabis patients by stating that a medical cannabis patient “may not be subject to arrest, prosecution...or any civil or administrative penalty...or may not be denied any right or privilege” for the use of medical cannabis. This broad protection could reasonably be interpreted to apply to child custody and visitation rights. (See Health-General Article §13-3313(a))

There is no evidence that cannabis use itself impacts an individual’s ability to care for children. Yet unlike alcohol, tobacco, and prescribed controlled dangerous substance use – which carry significant risks and harms - the use of cannabis carries a lingering heightened stigma grounded in racial prejudice as the result of the misguided War on Drugs. Child custody and visitation rights are just one of a myriad of areas in which cannabis users have faced undue prejudice and damage. Similar

discrimination against those who use cannabis exists in employment, housing, education, and other major life areas. There are approximately 150,000 medical cannabis patients in Maryland and personal adult-use cannabis legalization is likely in the near future. Given the increased prevalence and acceptance of both medical and adult-use cannabis, courts should be expressly prohibited from considering cannabis use alone as a factor for determining parental fitness.

At least nine (9) states already provide the similar child custody and visitation protections as those afforded under SB 772. (See – Attachment – Legal Protections for Cannabis Users in Child Custody and Visitation) The Commission believes that social justice in cannabis reform should extend to the family courts by guaranteeing legal protections in child custody and visitation cases to individuals who lawfully use cannabis.

I hope this information is useful. If you would like to discuss this further, please contact me at (410) 487-8069 or william.tilburg@maryland.gov.

Sincerely,

A handwritten signature in blue ink that reads "William Tilburg". The signature is written in a cursive style and is followed by a long, horizontal flourish.

William Tilburg, JD, MPH
Executive Director
Maryland Medical Cannabis Commission

This position does not necessarily reflect the position of the Maryland Department of Health or the Office of the Governor.

Attachment

Legal Protections for Cannabis Users in Child Custody and Visitation

State	Legal Protections
California	<p>Medical Marijuana Program. The status and conduct of a qualified patient who acts in accordance with the Compassionate Use Act shall not, by itself, be used to restrict or abridge custodial or parental rights to minor children in any action or proceeding under the jurisdiction of family or juvenile court.</p> <p><i>See CA HLTH & S § 11362.84</i></p>
Hawaii	<p>No qualifying patient or primary caregiver under this part shall be denied custody of, visitation with, or parenting time with a minor, and there shall be no presumption of neglect or child endangerment, for conduct allowed under this part; provided that this subsection shall not apply if the qualifying patient's or primary caregiver's conduct created a danger to the safety of the minor, as established by a preponderance of the evidence.</p> <p><i>See Title 19 Health §329-125.5(c)</i></p>
Illinois	<p>Patients' authorized use of marijuana cannot disqualify a person from receiving organ transplants or other medical care and will not result in the denial of custody or parenting time unless the patient's actions created an unreasonable danger to the minor's safety.</p> <p>Discrimination prohibited. Neither the presence of cannabinoid components or metabolites in a person's bodily fluids nor possession of cannabis-related paraphernalia, nor conduct related to the use of cannabis or the participation in cannabis-related activities lawful under this Act by a custodial or noncustodial parent, grandparent, legal guardian, foster parent, or other person charged with the well-being of a child, shall form the sole or primary basis or supporting basis for any action or proceeding by a child welfare agency or in a family or juvenile court, any adverse finding, adverse evidence, or restriction of any right or privilege in a proceeding related to adoption of a child, acting as a foster parent of a child, or a person's fitness to adopt a child or act as a foster parent of a child, or serve as the basis of any adverse finding, adverse evidence, or restriction of any right of privilege in a proceeding related to guardianship, conservatorship, trusteeship, the execution of a will, or the management of an estate, unless the person's actions in relation to cannabis created an unreasonable danger to the safety of the minor or otherwise show the person to not be competent as established by clear and convincing evidence. This subsection applies only to conduct protected under this Act.</p> <p><i>See PUBLIC HEALTH – Cannabis Regulation and Tax Act, 410 ILCS 705 and 10-30.</i></p>
Maine	<p>Title 22: HEALTH AND WELFARE Subtitle 2: HEALTH Part 5: FOODS AND DRUGS Chapter 558-C: MAINE MEDICAL USE OF MARIJUANA ACT 4. Person may not be denied parental rights and responsibilities or contact with a minor child.</p> <p>A person may not be denied parental rights and responsibilities with respect to or contact with a minor child as a result of acting in accordance with this chapter, unless the person's conduct is contrary to the best interests of the minor child as set out in Title 19-A, Section 1653, Subsection 3.</p>

	<p>Title 19-A: DOMESTIC RELATIONS, Part 3: PARENTS AND CHILDREN, Chapter 55: RIGHTS AND RESPONSIBILITIES § 1653-A Parental rights and responsibilities.</p> <p>Individuals whose conduct is authorized by the law “may not be denied any right or privilege or be subjected to arrest, prosecution, penalty or disciplinary action.” Unless the person’s behavior is contrary to the best interests of the child, “a person may not be denied parental rights and responsibilities with respect to or contact with a minor child.”</p>
New Hampshire	<p>A qualifying patient’s authorized use of cannabis in accordance with this chapter shall be considered the equivalent of the authorized use of any other medication ... and shall not constitute the use of an illicit substance.” Further, “a person otherwise entitled to custody of, or visitation or parenting time with, a minor shall not be denied such a right solely for conduct allowed under this chapter, and there shall be no presumption of neglect or child endangerment.” <i>See</i> NH ST § 126-X:3</p>
New Jersey	<p>Cannabis use was addressed in an Appellate Division case concerning parental rights termination. In <i>New Jersey Division of Child Protection and Permanency v. D.H.</i>, a trial court upheld the removal of child from their parents based on substance use issues as well as the mother’s mental health issues. The Appellate Division held that a parent’s status as a recreational marijuana user cannot suffice as the sole primary reason to terminate a parent’s rights unless the Division can prove with case-specific evidence, that the marijuana usage endangers the child or children.</p> <p><i>See New Jersey Division of Child Protection and Permanency v. D.H.</i>, 469 N.J. Super. 107, 262 A.3rd 427 (A.D. 2021)</p>
New Mexico	<p>Participation in the medical cannabis program is not, in itself, grounds for “intervention, removal or placement into state custody” of a child. A person “shall not be denied custody of or visitation or parenting time with a child, and there is no presumption of neglect or child endangerment” for conduct allowed under the medical marijuana law.</p> <p><i>See</i> NM ST § 32A-3A-15</p>
Massachusetts	<p>Absent clear, convincing and articulable evidence that the person's actions related to marijuana have created an unreasonable danger to the safety of a minor child, neither the presence of cannabinoid components or metabolites in a person's bodily fluids nor conduct permitted under this chapter related to the possession, consumption, transfer, cultivation, manufacture or sale of marijuana, marijuana products or marijuana accessories by a person charged with the well-being of a child shall form the sole or primary basis for substantiation, service plans, removal or termination or for denial of custody, visitation or any other parental right or responsibility.</p> <p><i>See</i> MA ST 94G § 7(d)</p>
Washington	<p>A qualifying patient or designated provider may not have his or her parental rights or residential time with a child restricted solely due to his or her medical use of cannabis in compliance with the terms of this chapter absent written findings supported by evidence that such use has resulted in a long-term impairment that interferes with the performance of parenting functions as defined under RCW 26.09.004.</p> <p><i>See</i> WA ST 69.51A.120</p>

Stahl Written Testimony - SB 772.pdf

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Position: FAV

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/>

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Written Testimony in Support of Senate Bill 772

Child in Need of Assistance – Neglect – Marijuana Use

Before the Judicial Proceedings Committee: March 10, 2022

Senate Bill 772 protects the parental rights of responsible cannabis users and the integrity of their family unit. Maryland is moving away from harmful punitive policies, having legalized medical cannabis and decriminalized small amounts of cannabis. This bill continues to refine this policy by recognizing that cannabis use that does not endanger a child’s physical or mental health should not qualify as neglect of a child. It also acknowledges that the harm caused by separating families is a more significant public health threat than a parent’s responsible cannabis use. Passage of SB772 would place Maryland among the increasing number of states which protect the sanctity of the family, and public health, by excluding the consideration of non-endangering cannabis use by a parent in cases of children in need.

SB772 Protects Public Health by Keeping Families Intact

Separating children from their parents is rarely warranted. The consequences of separating children from their parents are grave and lasting, negatively affecting the welfare of children for their entire lives. Family separation is a well-documented adverse childhood experience, characterized by enduring trauma.¹ Trauma in childhood contributes to a range of serious health problems over one’s life.² Separated children exhibit heightened rates of anxious behavior, distress, and symptoms of post-traumatic stress disorder.³ Both the American Academy of Pediatrics and the American Medical Association have adopted policies opposing family

¹ Mia Strange & Bret Stark, *The Ethical and Public Health Implications of Family Separation*, J. L. MED. & ETHICS (Jan 2021).

² *Id.*

³ *Id.*

separation based on a body of literature “replete with evidence of the irreparable harm and trauma to children caused by separation from their parents.”⁴

Family separation also punishes parents, subjecting parents to serious health consequences. The decision to separate children from their parents violates the fundamental legal and ethical rights of parents to participate in all the decisions relating to the wellbeing of their children. Research on mothers who have been separated from their children due to immigration policies shows significant and enduring symptoms of depression, anxiety, and stress.⁵ The separation of families for a parent’s cannabis use that does pose a risk to their children threatens deep and lasting harm to parents and children, damaging communities for generations.

SB772 Continues Maryland’s Shift Away from Harmful and Punitive Drug Policy

Maryland has decriminalized small amounts of cannabis and legalized medical cannabis as a legitimate treatment for various conditions. These two policy changes reflect the State’s broader effort to recognize that the risks posed by cannabis do not warrant the harsh and punitive treatment by past policy. SB772 is a natural progression from these policies and buttresses the effectiveness of the medical cannabis program.

Medical cannabis patients should not be treated any differently from other patients who use similarly legal and legitimate medication. If a qualified medical provider has determined the patient requires the use of medical cannabis, the patient should be allowed to take their medication without risk of losing their children. Without SB772, the threat of family separation undermines the state’s policy objectives of allowing licensed providers to recommend, and patients to use, medical cannabis. SB772 would allow parents to use state sanctioned medicine without the risk losing their children.

⁴ U.S. District Court of California, Ms. L v. ICE, Case No. 18cv0428 (2018), “Declaration of A.J. Shapiro,” available at https://www.aclu.org/sites/default/files/field_document/memorandum_iso_motion_for_preliminary_injunction_and_updated_exhibits_3_3_2018.pdf.

⁵ A. Miller et al., *Understanding the Mental Health Consequences of Family Separation for Refugees: Implications for Policy and Practice*, AM. J. OF ORTHOPSYCHIATRY (2018).

Other States Have Provided Similar Protections for Parents

Maryland would not be the first state to provide that cannabis use alone is insufficient to terminate parental rights. Nineteen states have enacted laws protecting the parental rights of responsible cannabis user-parents. For instance, Texas passed HB567 in 2021. Similar to SB772, Texas HB567 provides that child protective services officials can no longer remove a child from their family just because a parent tested positive for cannabis.

Eighteen states provide that medical or recreational cannabis use cannot be the sole basis for denying custody or visitation rights. For instance, New York law provides that no person may be denied custody, visitation, or parenting time solely for legal recreational cannabis use unless it is in the best interest of the child and the child's physical, mental, or emotional condition has been impaired or is imminent danger of becoming impaired.⁶ These laws recognize that cannabis use by itself is not a reason to separate a child from their parents or to terminate parental rights, much like SB772.

Conclusion

Maryland has legalized medical cannabis and decriminalized small amounts of cannabis, recognizing that access to cannabis is less harmful to the public's health than the punitive policies that used to govern cannabis in the state. This bill continues to refine this policy by recognizing that cannabis use that does not endanger a child's physical or mental health should not qualify as neglect of a child. The protection of families with parents that use cannabis also recognizes that the harm caused by separating families is a greater public health threat than a parent's responsible cannabis use. Passage of SB772 would place Maryland among the increasing number of states which protect the sanctity of the family, and public health, by excluding the consideration of non-endangering cannabis use by a parent in cases of children in need.

⁶ NY Canbs. Law § 127 (McKinney's 2021).

SB0772_Stephanie K Glaberson_fav.pdf

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Position: FAV

SB0772 - Favorable

Child in Need of Assistance – Neglect – Marijuana Use

Testimony of Stephanie K. Glaberson, Esq.

Thursday, March 10, 2022

Senate Judicial Proceedings Committee

Dear Senator Smith and Members of the Committee:

I am a Maryland resident, voter, and parent. I am also a Visiting Professor and Director of the Civil Litigation Clinic at Georgetown University Law Center where I research and write on topics related to today's bill. I previously worked as an attorney with Brooklyn Defender Services' Family Defense Practice in New York, representing more than one hundred parents in child welfare proceedings, many of whom faced marijuana-related allegations. As part of my work, I have studied Maryland's Child in Need of Assistance statutes and worked on CINA matters. I submit this testimony in support of SB0772, because I believe it is necessary to reduce the number of Maryland children and families, particularly families of color, who experience unnecessary surveillance or separation due to allegations of marijuana use. **I urge you to issue a favorable report on SB0772.**

SB0772 is a racial justice issue. As the drug war drove mass incarceration and racial disparities in the criminal system, it also helped spur disproportionate family regulation and separation. Although "[c]hildren of all races are equally as likely to suffer from abuse and neglect,"¹ Black children are more than twice as likely to enter foster care, and stay in out-of-home care longer than White children. Here in Maryland, Black children make up only about 30% of the state's child population, but in 2019 accounted for more than 50% of children in foster care.² In 2019, Maryland reported that parental alcohol or drug abuse was a reason for 30% of child removals.³ States are not required to report data disaggregated by the substance involved, but based on my and my colleague's experience, marijuana allegations are a huge driver of child welfare decisions. The same unequal surveillance and policing that results in Black people being arrested for marijuana possession at three times the rate of White people (despite roughly equivalent rates of use), also draws families of color disproportionately into the child welfare system and keeps them there longer. SB0772 would work to close one avenue through which the harms of family surveillance and separation are disproportionately visited on these families.

SB0772 makes explicit what is implicit in current CINA law. The power Maryland exercises through its CINA laws can only be defended to the extent it furthers the state's interest in the welfare of its children. Absent any allegation that a parent's substance use risks impacting their child, that state interest is lacking. For this reason, I believe that Maryland law as written must already permit family interference only on a showing that parental substance use is connected to a risk of harm to the child. That the law implicitly contains this requirement, however, is not enough to safeguard the interests of Maryland families.⁴ Without a clear legislative statement like SB0772, allegations of marijuana use will continue to serve as way for the system to impose moral judgment and race and class-based prejudices on families.

SB0772 prioritizes child safety. SB0772 would ensure that Maryland's child protective system distinguishes between parents' and caregivers' thoughtful and safe marijuana use and the kind of *misuse* that may place children at risk of harm. By doing so, it will keep all children safer in at least three ways. First, by preserving resources—like DSS worker attention and drug treatment program slots—for those families that need them. Second, by avoiding unnecessary burdens on families that don't: the immense time burden posed by unnecessary mandated treatment, for example, often limits parents' ability to seek and maintain employment, pursue education, and spend necessary time with and energy on their children. And third, by avoiding unnecessary prolonged stays in foster care, which itself harms children.⁵

A clear legislative statement that marijuana use alone cannot amount to neglect is vital to working toward racial equity for Maryland's families, *and* to safeguarding the welfare of Maryland's children. I therefore urge you to **support SB0772.**

¹ US GAO, Additional HHS Assistance Needed to Help States Reduce the Proportion in Care <https://www.gao.gov/assets/gao-07-816.pdf>

² Maryland, <https://cwoutcomes.acf.hhs.gov/cwodatasite/pdf/maryland.html>

³ Parental Alcohol or Other Drug Abuse as an Identified Condition or Removal by State, 2019 <https://ncsacw.samhsa.gov/images/statistics/2-aod-removal-by-state.pdf>. Note that "[s]tates often anecdotally report that the percentage of" removals involving alcohol and drug use "is much higher in their state than indicated in the data." *Id.*

⁴ My experience from New York is illustrative. New York law has been clear for years that marijuana use cannot be the sole basis for removing a child from a parent or denying a parent visitation. Yet we continued to see these outcomes regularly.

⁵ Shanta Trivedi, *The Harm of Child Removal*, 43 NYU Rev. L. & Soc. Change 523, 541-52 (2019).