

Support HB 337

Criminal Procedure-Sentencing-Primary Caretaker

Testimony of Spencer Hall, Esq.

Tuesday, February 8, 2022

House Judiciary Committee



Sayra and Neil Meyerhoff
Center for Families,
Children and the Courts

Dear Del. Clippinger and Members of the House Judiciary Committee:

On behalf of the Sayra and Neil Meyerhoff Center for Families, Children and the Courts at the University of Baltimore School of Law (CFCC), **I urge you to issue a favorable report on HB 337.** 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. We believe that HB 337 is an important step forward for preserving family integrity, strengthening our communities, and promoting better outcomes for Maryland's children and their families.

HB 337 will allow people convicted of nonviolent offenses to file a motion post-conviction requesting that their status as primary caretaker to a dependent (including children and vulnerable adults) be considered at sentencing. Accordingly, judges are then required to consider whether a suitable community-based alternative to incarceration would be more appropriate. Job training, substance abuse treatment, and home confinement are just a few of the many options that allow for families to remain together. Further, sentencing parents to incarceration, particularly when they are accused of nonviolent crimes, arguably violates both the parent and child's constitutional right to family integrity.¹ Given that this is a fundamental right, while the interest might be compelling, the means are not narrowly tailored. The community-based alternatives to incarceration demonstrate that alternative means exist.

The devastating impact of parental incarceration on Maryland's children cannot be overstated. The Governor's Office for Children estimates that on any given day, 90,000 children in Maryland have a parent under some form of correctional supervision. The Centers for Disease Control and Prevention (CDC) recognizes having an incarcerated parent as an Adverse Childhood Experience (ACE), and, more specifically, that parental separation due to incarceration can severely undermine a child's sense of safety, stability, and bonding. There is a growing body of evidence that parental incarceration has lasting negative effects on a child's physical and mental health. One study found that children with an incarcerated parent are three times more likely to have behavioral problems or depression, and twice as likely to suffer from ADHD and anxiety disorders.² Further, incarcerated parents whose children go into foster care simply due to their incarceration and unrelated to their parenting are more likely to have their parental rights terminated, permanently destroying the family.³ And given that half of Maryland's prison population is Black, incarceration disproportionately impacts Black children.⁴

For the past seventeen years, CFCC has operated the Truancy Court Program (TCP), a holistic, early intervention program for children and families who struggle with school attendance. Each year we work with families whose lives have been upended by the incarceration of a parent or caregiver. When the primary caregiver is sent to prison, children often find themselves unstably housed, bounced back and forth between relatives, or placed in foster care. Worse still, children are sometimes not only separated from their parents, they are also separated from their siblings as a result. In our experience, children with an incarcerated parent are extremely reluctant to seek mental health counseling and other types of support because of the shame and stigma associated with incarceration. When primary caregivers are sentenced to incarceration, they are not the only ones who are punished. We see that every day.

For these reasons, **I urge the House Judiciary Committee to issue a favorable report on HB 337.**

Respectfully,
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¹ <https://harvardcrcl.org/wp-content/uploads/sites/10/2021/10/Trivedi.pdf>

² Kristin Turney, "Stress Proliferation Across Generations? Examining the Relationship Between Parental Incarceration and Childhood Health," *Journal of Health and Social Behavior* 55, no. 3 (2014): 302-19.

³ <https://www.themarshallproject.org/2018/12/03/how-incarcerated-parents-are-losing-their-children-forever#:~:text=Mothers%20and%20fathers%20who%20have,their%20kids%2C%20according%20to%20a>

⁴ <https://www.sentencingproject.org/publications/color-of-justice-racial-and-ethnic-disparity-in-state-prisons/>