

## Support HB 1325

Child in Need of Assistance – Neglect – Marijuana Use

Testimony of Shanta Trivedi, Esq.

Thursday, March 1, 2022

House Judiciary Committee

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

I am an Assistant Professor of Law at the University of Baltimore School of Law. I teach courses on Family Law and the Child Welfare System and write on child welfare issues, particularly as it affects low-income and minority families. I have also represented hundreds of parents who have been separated from their children or who were at risk of being separated. In addition, I serve as the Faculty Director of the 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 urge you to issue a favorable report on HB1325.**

HB1325 would clarify that marijuana use alone is insufficient for a finding of neglect. While the law, as written, already requires that any alleged neglect cause harm, experience, and data tell us that this is not how it is understood by those enforcing it. 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.<sup>1</sup> This is true even when there is no evidence that the parent used marijuana while caregiving or that it impaired their ability to safely care for their child in any way. And most often, those parents are low-income and Black.<sup>2</sup> Marijuana use can be a gateway for bias, an easy entry point to discriminate against low-income and marginalized parents. Maryland reflects a nationwide trend<sup>3</sup>: Black children are disproportionately represented in foster care<sup>4</sup> and bias permeates the child welfare system at every level.<sup>5</sup> This should come as no surprise as this is the way that criminal laws were enforced during the war on drugs that led to mass incarceration and the destruction of Black and Brown communities.

The child welfare system's goal is to protect children from harm - all harm. As the Supreme Court has stated, "the State registers no gain towards its declared goals when it separates children from the custody of fit parents. Indeed, if [the parent is] fit...the State spites its own articulated goals when it needlessly separates him from his family."<sup>6</sup> Removal from one's parent has devastating and long-term impacts on children causing trauma, anxiety, and toxic stress.<sup>7</sup> If children are later placed into foster care, they are faced with the possibility of being moved from home to home, higher likelihood of behavioral and mental health issues and worse long-term educational outcomes. They are more likely than their peers to be poor, to be unhoused, to have juvenile justice involvement, to have substance use disorders or to become parents as teenager.

HB 1325 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 HB 1325.**

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<sup>1</sup> 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/>

<sup>2</sup> 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>.

<sup>3</sup> <https://cwoutcomes.acf.hhs.gov/cwodatasite/pdf/maryland.html>

<sup>4</sup> Child Welfare Info. Gateway, U.S. Dept of Health & Human Servs., *Racial Disproportionality and Disparity in Child Welfare*, ISSUE BRIEF, Nov. 2016, at 1, 6.

<sup>5</sup> 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).

<sup>6</sup> *Stanley v. Illinois*, 405 U.S. 645, 652–53, 92 S. Ct. 1208, 1213, 31 L. Ed. 2d 551 (1972)

<sup>7</sup> Press Release, Colleen Kraft, Am. Acad. of Pediatrics, AAP Statement Opposing Separation of Children and Parents at the Border (May 8, 2018), <https://www.aap.org/en-us/about-the-aap/aap-press-room/Pages/StatementOpposingSeparationofChildrenand> [https://perma.cc/25QX-B2ZA];