



**MARYLAND
LEGAL AID**

Advancing
**Human Rights and
Justice for All**

March 14, 2023

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

RE: Testimony of Maryland Legal Aid in Support of Senate Bill 653 – Child in Need of Assistance – Neglect – Cannabis Use

Dear Chairman Smith and Members of the Committee:

Thank you for the opportunity to testify in support of Senate Bill 653, which targets the unnecessary investigation and separation of Maryland families based on cannabis use. Maryland Legal Aid (MLA) is Maryland's largest civil non-profit law firm, providing free legal services to indigent Maryland residents, including vulnerable young people in Child in Need of Assistance (CINA) matters. MLA submits this testimony at the request of Senator Jill P. Carter and urges the committee to issue a favorable report.

Children in, or at risk of being sent to, foster care are one of Maryland's most vulnerable populations. We know because we represent these children via our CINA practice. Too often, our clients suffer abuse at the hands of those who are charged with ensuring they are safe and cared for, and therefore we must argue that the children be removed and placed outside the home. However, we do not take those arguments or their consequences lightly. Removing children from their families based on alleged neglect must be tied to actual harm, or the substantial risk thereof. SB 653 would keep the focus on the safety and well-being of children by limiting the definition of neglect to cases where cannabis use by a parent or guardian causes the child to suffer physical or mental harm or puts them at substantial risk of the same. Without that clear causal link, marijuana use alone should never result in a child welfare investigation, much less a family separation, because that would *cause* significant harm to our state's children and their families. It would also be particularly perverse in a state where marijuana use is now legal.

Historically, people of color and families living in poverty have been overrepresented in child welfare cases¹ some of which have resulted in the separation of families solely due to cannabis.

¹African-American and American Indian or Alaska Native children are at greater risk than other children of being confirmed for maltreatment and placed in out-of-home care (Yi et al., 2020). Families of diverse racial and ethnic backgrounds also experience disparate treatment once they are involved with child welfare... and spend more time in foster care (U.S. Government Accountability Office, 2007a) and are less likely to reunify with their families (Lu et al., 2004), and compared with White children, they are less likely to receive services (Garcia et al., 2016). U.S. Department of Health and Human Services. HHS Action Plan to Reduce Racial and Ethnic Disparities: A Nation Free

This despite reams of data that white people and Black people, for example, use cannabis at roughly the same rates. This reflects a persistent, destructive bias and stigma against marijuana use in certain communities, resulting in certain children being torn from their parents or guardians, or remaining in foster care unnecessarily. However, there is no reliable evidence that use of cannabis, by itself, places children at risk of harm or mental injury. There is also inconsistency in determinations across the state. Some jurisdictions in Maryland continue to keep families separated when the only issue is cannabis use with no correlation to the safety and wellbeing of the child. Therefore, the bill will also bring much needed equality, consistency, and clarity to the state's family justice system.

Other states have passed or are considering legislation with the same purpose as SB 653. This even includes states that have yet to legalize recreational cannabis.² Maryland should not find itself on the flip side of this coin—legalization in theory, but persecution in fact.

SB 653 will serve to keep the focus on child safety and away from arbitrary, unnecessary, and biased findings of neglect. MLA strongly supports this bill and urges a favorable report and passage of House Bill 232.

Sincerely yours,

/s/ Erica I. LeMon

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of Disparities in Health and Health Care. Washington, D.C.: U.S. Department of Health and Human Services. April 2011. http://minorityhealth.hhs.gov/npa/files/Plans/HHS/HHS_Plan_complete.pdf

²Prior to codifying recreational marijuana, Arizona's medical marijuana statute provided that there was no presumption of neglect or child abuse due to marijuana use.) ARIZ. REV. STAT. ANN. § 36-2813(D) cited in <https://scholarcommons.sc.edu/cgi/viewcontent.cgi?article=4344&context=sclr>.

Marijuana was legalized in Massachusetts in 2016 and the neglect statute was also revised to coincide with the new law. MASS. GEN. LAWS ch. 94G, § 7(d) (2016). <https://www.nbcnews.com/news/us-news/massachusetts-make-history-first-legal-marijuana-shops-east-coast-set-n938136> last visited 3/14/2016.