



## Testimony for the Senate Judicial Proceedings Committee

### SB 759 – Correctional Services – Pregnancy and Postpartum Support (Prevention of Forced Infant Separation Act)

DARAJA CARROLL  
PUBLIC POLICY  
LEGAL ASSISTANT

March 8, 2023

AMERICAN CIVIL  
LIBERTIES UNION  
OF MARYLAND

**FAVORABLE**

3600 CLIPPER MILL  
ROAD  
SUITE 350  
BALTIMORE, MD 21211  
T/410-889-8555  
F/410-366-7838

WWW.ACLU-MD.ORG

OFFICERS AND  
DIRECTORS  
HOMAYRA ZIAD  
PRESIDENT

DANA VICKERS  
SHELLEY  
EXECUTIVE DIRECTOR

ANDREW FREEMAN  
GENERAL COUNSEL

The ACLU of Maryland urges a favorable report on SB 759, which seeks to create the Healthy Start Bonding Program within the Maryland correctional system which would allow women who are on pre-release status who have recently given birth to reside with their child in the prerelease unit for up to one year following the birth of the child.

The number of incarcerated women was nearly five times higher in 2020 than in 1980.<sup>1</sup> Between 1980 and 2020, the number of incarcerated women increased by more than 475%, rising from a total of 26,326 in 1980 to 152,854 in 2020. In 2020, the imprisonment rate for Black women (65 per 100,000) was 1.7 times the rate of imprisonment for white women (38 per 100,000).<sup>2</sup> There has not been adequate attention put on addressing these disparate rates or remedying the post-conviction reentry barriers that uniquely impact women.

In the State of Maryland, pregnant women who go into labor while incarcerated in a correctional facility will be transported to a hospital to give birth but are required to return to their facility as soon as they are discharged. These women generally have less than 48 hours with their newborns before they are forcibly separated from them. The forced separation of infants leads to a variety of adverse health outcomes for both the baby and the mother. Research suggests that the first year is one

---

<sup>1</sup> <https://www.sentencingproject.org/app/uploads/2022/11/Incarcerated-Women-and-Girls.pdf>

<sup>2</sup> Wan, William. "What Separation from Parents Does to Children: 'the Effect Is Catastrophic'." The Washington Post, WP Company, 19 June 2018, [https://www.washingtonpost.com/national/health-science/what-separation-from-parents-does-to-children-the-effect-is-catastrophic/2018/06/18/c00c30ec-732c-11e8-805c4b67019fcfe4\\_story.html](https://www.washingtonpost.com/national/health-science/what-separation-from-parents-does-to-children-the-effect-is-catastrophic/2018/06/18/c00c30ec-732c-11e8-805c4b67019fcfe4_story.html).

of the most important in an infant's life, as it is a time of significant physical, cognitive, and social development. When babies are forcibly separated from their parents just days after birth, there can be lifelong developmental consequences.<sup>3</sup>

The incarceration of a parent, regardless of the age of the child, has been connected to an increased risk of substance abuse, teenage pregnancy, social isolation, development of learning disabilities, financial hardship, and involvement in the criminal legal system. These hurdles, coupled with the long lasting cognitive, emotional, and psychological effects of separation on newborns, places an immense burden on these vulnerable children. Additionally, because of existing racial disparities in incarceration, these harms disproportionately effect Black and brown children.

Mothers separated from their newborns are more likely to experience post-partum depression, extreme powerlessness, grief, and feelings of detachment after forced separation.<sup>4</sup> Many of these mothers will maintain or reacquire their parental rights and act as caregivers to their children upon release. However, the harms of that initial separation pose great risks to maternal competency and attachment behavior.

The provisions in this bill would maximize contact between mother and baby, mitigating the harms that come along with parental incarceration. This bill would provide pregnant women with prerelease status the option to relocate to the pre-release unit throughout the duration of their pregnancy and remain there with their infants up to one year postpartum. Pregnant women who are not eligible for prerelease status will have access to infant bonding programs that will help them maintain strong bonds with their children through increased visitation. The positive effects that these initiatives will have on mothers and their children cannot be understated.

For the foregoing reasons, the ACLU of Maryland urges a favorable report on SB 759.

---

<sup>3</sup> *Id.*

<sup>4</sup> Leiderman, P. H., & Seashore, M. J. (1975). Mother-infant neonatal separation: some delayed consequences. *Ciba Foundation symposium*, (33), 213–239.

<https://doi.org/10.1002/9780470720158.ch13>; Furneaux, Rosa. "Forcibly Separating Children from Their Mothers Doesn't Just Hurt the Kids." *Mother Jones*, 21 June 2018,

<https://www.motherjones.com/politics/2018/06/trump-forced-family-separation-childrendevastating-effects-mothers-1/>;

Goudarzi, Sara. "Separating Families May Cause Lifelong Health Damage." *Scientific American*, *Scientific American*, 20 June 2018,

<https://www.scientificamerican.com/article/separating-families-may-cause-lifelong-healthdamage/>.