

OPD Testimony SB0071 Forced Separation of Newborns

Uploaded by: Alexa Richardson

Position: FAV



NATASHA DARTIGUE
PUBLIC DEFENDER

KEITH LOTRIDGE
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CHIEF OF EXTERNAL AFFAIRS

ELIZABETH HILLIARD
ACTING DIRECTOR OF GOVERNMENT RELATIONS

POSITION ON PROPOSED LEGISLATION

BILL: SB0071 Correctional Services - Pregnancy and Postpartum Support (Prevention of Forced Infant Separation Act)

FROM: Maryland Office of the Public Defender

POSITION: Favorable

DATE: 02/06/2024

The Maryland Office of the Public Defender respectfully requests that the Committee issue a favorable report on Senate Bill 0071.

Forcibly separating newborn babies from their mothers just days after birth harms babies, mothers, and the state.

Newborns suffer lifelong damage from being forcibly separated from their mothers. In the first hours after birth, babies learn and attach to the sound of their mother’s heartbeat and voice, and to her smell. When they are separated from that comfort and connection, “[t]heir heart rate goes up. Their body releases a flood of stress hormones such as cortisol and adrenaline. Those stress hormones can start killing off dendrites — the little branches in brain cells that transmit mes-sages. In time, the stress can start killing off neurons and — especially in young children — wreaking dramatic and long-term damage, both psychologically and to the physical structure of the brain.”¹

The documented results of separating babies from their mothers include developmental regression, difficulty sleeping, depression, and acute stress.² Babies separated for more than one week in the first two years of life exhibit higher levels of aggression and negativity by ages 3 and 5.³ Early separation

¹ Wan, William, What separation from parents does to children: ‘The effect is catastrophic,’ Wash. Post (June 18, 2018) https://www.washingtonpost.com/national/health-science/what-separation-from-parents-does-to-children-the-effect-is-catastrophic/2018/06/18/c00c30ec-732c-11e8-805c-4b67019fcfe4_story.html

² ERIN SUGRUE, EVIDENCE BASE FOR AVOIDING FAMILY SEPARATION IN CHILD WELFARE PRACTICE – AN ANALYSIS OF CURRENT RESEARCH at 7, Alia (July 2019) https://www.ncsc.org/__data/assets/pdf_file/0031/18985/alia-research-brief.pdf

³ Howard K, Martin A, Berlin LJ, Brooks-Gunn J. *Early mother-child separation, parenting, and child well-being in Early Head Start families*. *Attach Hum Dev*. 2011 Jan;13(1):5-26.

may also lead to long-term chronic medical conditions like cardiovascular disease, hypertension, obesity, and decreased longevity.⁴ Babies separated from their parents in the first two years of life score significantly lower on IQ tests.⁵ They are nearly twice as likely to be arrested or criminally charged as a result, and more likely to have alcohol and substance abuse disorders.⁶ These children also experience higher rates of depression and suicide attempts, and poorer educational and behavioral outcomes.⁷

Separation of a mother from her child is also traumatic for the mother, causing long-lasting damage to her mental health and ability to have a healthy connection with her children over their lifetime.

Conversely, strong data shows that keeping new babies with their mothers while incarcerated has significant rehabilitative effects, resulting in secure bonds for babies with their mothers and very low rates of recidivism.⁸

No one wins when new babies are forcibly separated from mothers that want to care for them. OPD urges the committee to join the growing number of states that keep mothers and babies together in the prison setting, for the benefit of the children and their mother's alike.

For these reasons, the Maryland Office of the Public Defender urges this Committee to issue a favorable report on Senate Bill 0071.

Submitted by: Maryland Office of the Public Defender, Government Relations Division.

Authored by: Alexa Richardson, Assistant Public Defender

⁴ Sugrue, *supra*. See also Sara Goydarzi, Separating Families May Cause Lifelong Health Damage, Scientific American (June 2018), <https://www.scientificamerican.com/article/separating-familiesmay-cause-lifelong-health-damage/>.

⁵ Williams, *supra*.

⁶ Doyle Jr, J. J. (2007). Child protection and child outcomes: Measuring the effects of foster care. *American Economic Review*, 97(5), 1583-1610. Doyle Jr, J. J. (2008). Child protection and adult crime: Using investigator assignment to estimate causal effects of foster care. *Journal of Political Economy*, 116(4), 746-770. Doyle Jr, J. J. (2013). Causal effects of foster care: An instrumental-variables approach. *Children and Youth Services Review*, 35(7), 1143-1151.

⁷ Sugrue, *supra*.

⁸ Goshin LS, Byrne MW, Henninger AM. *Recidivism after release from a prison nursery program*. *Public Health Nurs*. 2014 Mar-Apr;31(2):109-17.

Ltr of Support

Uploaded by: Ariyana Ward

Position: FAV

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WOMEN LEGISLATORS OF MARYLAND
THE MARYLAND GENERAL ASSEMBLY

February 15, 2024

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

Dear Chair William C. Smith Jr.,

On behalf of the majority of the Women Legislators of Maryland members, we are writing to support **SB71 Correctional Services – Pregnancy and Postpartum Support (Prevention of Forced Infant Separation Act)**. This legislation has been identified as one of our priorities for the 2024 legislative session.

This bill the Division of Correction to allow a certain pregnant woman and a certain woman who recently gave birth to transfer to the prerelease unit for women for 1 year following the birth. This legislation ensures the creation of the Healthy Start Bonding Program to allow incarcerated women to bond with their children. The Women Legislators of Maryland fully support women and children and, therefore, offer full support for this bill.

Sincerely,

A handwritten signature in cursive script that reads "Edith J. Patterson".

Delegate Edith J. Patterson
President

SB 71 -Pregnancy and Postpartum Support-UULM-MD-Su

Uploaded by: Ashley Egan

Position: FAV



Unitarian Universalist Legislative Ministry of Maryland

Testimony in Support of SB 71 Correctional Services – Pregnancy and Postpartum Support Prevention of Forced Infant Separation Act

TO: Senator Will Smith, Jr. Chair and Members of the Judicial Proceedings Committee
FROM: Karen “Candy” Clark,
Unitarian Universalist Legislative Ministry of Maryland Criminal Justice Lead
DATE: February 7, 2024

The state-wide Unitarian Universalist Legislative Ministry of Maryland (UULM-MD) asks for a favorable vote for **SB 71 – Correctional Services- Pregnancy and Postpartum Support**. This bill upholds one of our Unitarian Universalist basic faith principles: to employ the use of compassion, equity, and justice with others. Incarcerated people who give birth in prison need the opportunity to bond with their child. Sadly, it was only a few years ago Maryland passed a bill that ended the practice of requiring incarcerated prisoners to be shackled during birth.

Past prison regulations have limited time between the imprisoned parent and the babies they just gave birth to. This bill provides a way for people who are pregnant when they enter prison and people who give birth in prison to spend more time with their baby, by moving them to a Women’s Reentry Center. Here they will attend a program—developed by professionals—dedicated to building strong bonds between the Parents and their babies. During a year-long stay, the Imprisoned Parent (and their babies) would go through Parental and Child Health Trainings. The imprisoned parent’s partner and other family would have visitations, and other experiences to build strong bonds between the family.

This program is contingent on the establishment of the Women’s Reentry Center which has been approved by the legislature. The desire for this bill to pass should place more pressure to move towards a completion of the Center. Please put more effort to help make that happen. The Unitarian Universalist Legislative Ministry asks for your support for SB 71.

In appreciation of your service,

Karen Clark

UULM-MD Criminal Justice Lead

842 Mill Creek

Arnold, Md 21012

UULM-MD c/o UU Church of Annapolis 333 Dubois Road Annapolis, MD 21401 410-266-8044,

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WDC 2024 Testimony_SB71_FINAL.pdf

Uploaded by: Beth Tomasello

Position: FAV



MONTGOMERY COUNTY, MARYLAND
WOMEN'S DEMOCRATIC CLUB

P.O. Box 34047, Bethesda, MD 20827

www.womensdemocraticclub.org

**Senate Bill 71 - Correctional Services - Pregnancy and Postpartum Support
(Prevention of Forced Infant Separation Act)
Judicial Proceedings Committee – February 7, 2024
SUPPORT**

Thank you for this opportunity to submit written testimony concerning an important priority of the **Montgomery County Women's Democratic Club (WDC)** for the 2024 legislative session. WDC is one of the largest and most active Democratic clubs in our state with hundreds of politically active members, including many elected officials.

WDC urges the passage of SB0071. This legislation allows women who give birth while in pre-release status to keep their newborns with them for one-year postpartum. SB0071 is patterned after Minnesota's [Healthy Start Act](#), a first-in-the nation law, passed on a bi-partisan basis, that allows an incarcerated woman to be placed in a community-based setting with her baby for the first year of the baby's life. Separation of infants from their mothers during the first year of life is bad for the baby and the mother. SB0071 is good policy and should be passed without delay.

Pregnant Women in Maryland's Jails and Prison: Pregnant women who go into labor while incarcerated in a Department of Public Safety and Correctional Services (DPSCS) correctional facility are transported to a hospital but are required to return to their facility as soon as they are discharged¹. For a standard vaginal delivery, this is generally 1-2 days after giving birth². Most incarcerated women have less than 48 hours with their newborns before the baby is forcibly separated from them. Women who are pregnant and give birth while in prerelease status are in the final 18 months of their sentences.³ It makes no sense whatsoever to remove the baby from his or her mother, and potentially require the baby to enter the foster care system when the mother has so little time left on her sentence.

Forced Separation Leads to Negative Outcomes for Baby and Mother. Research suggests that the first year is one of the most important in an infant's life, as it is a time of significant physical, cognitive, and social development⁴. When babies are forcibly separated from their mothers just days after birth, there can be lifelong developmental consequences, because caregivers must be physically present and accessible for babies to become attached to them. Research has shown that maternal availability is particularly important in early childhood because of a baby's limited understanding of the reasons for maternal absence. Separation during

¹ <https://casetext.com/statute/code-of-maryland/article-correctional-services/title-9-state-and-local-correctional-system-inmates/subtitle-6-miscellaneous/section-9-601-pregnant-inmates>

² <https://www.acog.org/womens-health/faqs/a-partners-guide-to-pregnancy>

³ The Maryland Department of General Services (DGS) recently completed the Part I and Part II planning documents for the Women's Prerelease Facility mandated by the passage after executive veto of SB624, The Gender-Responsive Pre-Release Act. DGS cited DPSCS data that, as of 2022, the average time remaining on women's sentences when they enter pre-release status is 523 days, or nearly 18 months. Department of General Services, Project Program Part I, Life Skills and Re-entry Center for Women, Part I, Page 15.

⁴ <https://www.uofmhealth.org/health-library/hw251065>



MONTGOMERY COUNTY, MARYLAND
WOMEN'S DEMOCRATIC CLUB

P.O. Box 34047, Bethesda, MD 20827

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the first year of life may be a strong determinant of lifelong negative outcomes for the child. Studies examining the impacts of even minor separations of a week or more from a caregiver found adverse consequences associated with children's reading achievement by age 8.⁵ In addition to causing an immediate and permanent increase in a baby's stress levels, separated babies are more likely to develop post-traumatic stress and substance use disorders as adults⁶.

Mothers forcibly separated from their newborns are more likely to experience postpartum depression, feelings of extreme powerlessness, grief, and feelings of detachment, all of which will impede effective parenting when mother and baby are reunited. There is no good reason to impose these negative consequences on both baby and mother when the mother has so little time left to serve. SB0071 can break this negative cycle. Given the cost of foster care and the lifelong costs of remedying mother-infant separation, any marginally increased cost of the program during pre-release is money well spent.

Despite the rapid growth of the population of women in Maryland's prisons and jails, Maryland's carceral system has not adapted to a model that meets a child's need for the continued physical presence of their mother. SB0071 is a step in that direction.

We ask for your support for SB0071 and strongly urge a favorable Committee report.

Tazeen Ahmad
WDC President

Beth Tomasello
WDC Criminal Justice
Reform Subcommittee

Cynthia Rubenstein
Co-Chair, Advocacy

⁵ Kimberly Howard, Anne Martin, Lisa J. Berlin & Jeanne Brooks-Gunn (2011) Early mother-child separation, parenting, and child well-being in Early Head Start families, *Attachment & Human Development*, 13:1, 5-26, DOI: [10.1080/14616734.2010.488119](https://doi.org/10.1080/14616734.2010.488119)

⁶ <https://theconversation.com/a-sudden-and-lasting-separation-from-a-parent-can-permanently-alter-brain-development-98542>

SB0071_Correctional_Services_Prevention_of_Forced

Uploaded by: Cecilia Plante

Position: FAV



TESTIMONY FOR SB0071
Correctional Services
Prevention of Forced Infant Separation Act

Bill Sponsor: Senator Carter

Committee: Judicial Proceedings

Organization Submitting: Maryland Legislative Coalition

Person Submitting: Aileen Alex, co-chair

Position: FAVORABLE

I am submitting this testimony in favor of SB0071 on behalf of the Maryland Legislative Coalition. The Maryland Legislative Coalition is an association of activists - individuals and grassroots groups in every district in the state. We are unpaid citizen lobbyists, and our Coalition supports well over 30,000 members.

Currently, Maryland women who are incarcerated are only permitted to remain with their newborns until they are discharged from the hospital – typically 24 to 48 hours after birth for a standard vaginal delivery. Then the infant must either be placed with a secondary caregiver or enter the foster care system at just a few days old.

With the Prevention of Forced Infant Separation Act, pregnant women who are at pre-release status can relocate to the facility for the duration of their pregnancy and up to one-year postpartum. During that postpartum period, infants will be permitted to live in the facility with their mothers and have access to care specialized for their developmental needs. For women who are not eligible for pre-release, the bill allows increased visitation for infants and access to infant bonding programs.

The benefits of allowing an infant to be with their mother are infinite and life-long. As a mother, I cannot imagine the heartache and depression I would endure if my child were taken from me within hours of giving birth and possibly put into foster care. I cannot imagine the life-long impact on a child to be born into such uncertain conditions. Fyodor Dostoevsky wrote that “the degree of civilization in a society can be judged by entering its prisons.” Maryland cannot be judged well until it passes and enacts the Prevention of Forced Infant Separation Act.

MLC supports this bill and recommends a **FAVORABLE** report in committee.

SB0071 CMPC FAV.pdf

Uploaded by: Diana Philip

Position: FAV

THE COALITION TO PROTECT MARYLAND'S CHILDREN

Our Mission: To combine and amplify the power of organizations and citizens working together to keep children safe from abuse and neglect. We strive to secure the budgetary and public policy resources to make meaningful and measurable improvements in safety, permanence, and well-being.

Testimony before the Senate Judicial Proceedings Committee ****Support****

Bill # SB71 - Correctional Services – Pregnancy and Postpartum Support (Prevention of Forced Infant Separation Act)

February 7, 2024

The Coalition to Protect Maryland's Children (CPMC) is a consortium of Maryland organizations and individuals formed in 1996 to promote meaningful child welfare reform. CPMC **supports** passage of SB71: Correctional Services – Pregnancy and Postpartum Support (Prevention of Forced Infant Separation Act).¹

Senate Bill 71 would allow a pregnant woman who is in prerelease status to relocate to the prerelease unit for women throughout the duration of pregnancy. It would also allow a pregnant woman in prerelease status who has recently given birth and her infant to reside in the prerelease unit for up to one year following the birth of the child. The legislation would require the establishment of this program at the Maryland Correctional Institution for Women and would require that professionals with expertise in maternal and child health and well-being be consulted in the development of the program.

Mother infant bonding begins with the first contact between mother and infant following birth. Continued contact and interaction between mother and baby leads to long-term emotional attachment for mother and baby as well as infant social and emotional development. Separation between mother and baby inhibits this bonding process and increases the risk for insecure attachment. It also inhibits breastfeeding and all the benefits that come with breastfeeding. While we are not weighing in on the details or feasibility of establishing this program, we strongly support the concept and believe that whenever possible, we should find ways to keep infants with their mothers.

For these reasons we recommend a favorable committee report on SB71: Correctional Services – Pregnancy and Postpartum Support (Prevention of Forced Infant Separation Act).

¹ Members of CMPC who support this legislation include Child Justice, Center for Hope, Fostering Change Network Foundation, Franklin Law Group, Maryland Children's Alliance, Maryland Coalition Against Sexual Assault, MOMCares, National Association of Social Workers - MD, and Diana Philip.

Maryland Catholic Conference_FAV_SB71.pdf

Uploaded by: Diane Arias

Position: FAV



MARYLAND
CATHOLIC
CONFERENCE

February 6, 2024

Senate Bill 71
**Correctional Services – Pregnancy and Postpartum Support (Prevention of
Forced Infant Separation Act)**
Senate Judicial Proceedings Committee

Position: Favorable

The Maryland Catholic Conference (MCC) is the public policy representative of the three (arch)dioceses serving Maryland, which together encompass over one million Marylanders. Statewide, their parishes, schools, hospitals, and numerous charities combine to form our state's second largest social service provider network, behind only our state government.

Senate Bill 71 would require the Department of Correction to allow certain pregnant women and certain women who have recently given birth to transfer to the prerelease unit for women for a certain period of time, contingent on the establishment of a prerelease unit for women, in order to facilitate strong bonds between incarcerated women and their children.

The Conference supports programming focused on children and families impacted by incarceration and believes these specialized programs can make a positive impact in the lives of families as they face challenging times. The United States is just one of a few countries in the world that routinely separate incarcerated moms from their newborn babies. The trauma of such a separation is profound and harms the health of both the mother and baby. Women in prison tend to be younger, have completed less education, and are more likely to have experienced physical or chemical abuse. Since 1970, the number of women in U.S. jails has increased 14-fold and this increase disproportionately affects women of color.¹ In Maryland, women make up 53% of the state's prison population.²

Moving women and their children from traditional prison settings to a pre-release setting, as called for in this legislation, can improve birth outcomes for mothers and babies. Allowing parents to bond during the first year of life can improve the health outcomes for children during this first year and for the remainder of their lives. A positive, healthy relationship with a parent or caregiver is an important factor for successful development in early life. These

¹ <https://www.vera.org/downloads/pdfdownloads/state-incarceration-trends-maryland.pdf>

² <https://www.marylandattorneygeneral.gov/press/2023/102523.pdf>

relationships not only provide a safe and healthy environment for growth, but also positive interactions that support healthy emotional and social development and learning. The Prevention of Forced Infant Separation Act is an opportunity to positively impact two generations at a time and help make Maryland a leader in prison reform for pregnant women, especially women in marginalized communities.

For these reasons, the MCC asks for a favorable report on **SB 71**.

Thank you for your consideration.

PPM SB 71--FAV.pdf

Uploaded by: Erin Bradley

Position: FAV

Planned Parenthood of Maryland

Committee: Judicial Proceedings Committee

Bill number: SB 71 - Correctional Services - Pregnancy and Postpartum Support (Prevention of Forced Infant Separation Act)

Hearing Date: February 7, 2024

Position: Support

Planned Parenthood of Maryland (PPM) supports *SB 71-- Correctional Services - Pregnancy and Postpartum Support (Prevention of Forced Infant Separation Act)*. The bill would permit an incarcerated person who is either pregnant or recently gave birth to transfer to the prerelease unit and will establish the Healthy Start Bonding Program to promote the development of healthy relationships between incarcerated parents and their children.

PPM supports this measure because the forced separation of infants leads to a variety of adverse health outcomes for both the baby and the parent. Research suggests that the first year is one of the most important in an infant's life, as it is a time of significant physical, cognitive, and social development.¹ When babies are forcibly separated from their parents just days after birth, there can be lifelong developmental consequences. Not only does separation immediately cause a permanent increase in a baby's stress levels, but separated babies are more likely to develop post-traumatic stress and substance use disorders as adults.² People separated from their newborns are more likely to experience post-partum depression, extreme powerlessness, grief, and feelings of detachment after forced separation.³ It is in nobody's best interest to separate infants and parents so soon after birth.

We ask for a favorable report. If we can provide any further information, please contact Erin Bradley at erin.bradley@ppm.care or (443) 604-3544.

¹ <https://www.uofmhealth.org/health-library/hw251065>

² <https://theconversation.com/a-sudden-and-lasting-separation-from-a-parent-can-permanently-alter-braindevelopment-98542>

³ [https://www.jognn.org/article/S0884-2175\(15\)33973-3/pdf](https://www.jognn.org/article/S0884-2175(15)33973-3/pdf)

SB71 Forced Letter.pdf

Uploaded by: Essita Duncan

Position: FAV



www.marylandwomen.org

Maryland Commission for Women

A Commission of the Maryland Department of Human Services

51 Monroe Street, Ste. 1034 – Rockville, Maryland 20850

240-306-5718

www.marylandwomen.org

February 7, 2024

Tawanda A. Bailey, Chair

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Rev. Tamara England Wilson

*Vacant,
Executive Director*

*Tammy Wise
Management Associate*

The Honorable William C. Smith, Jr., Chair
The Honorable Jeff Waldstreicher, Vice Chair
Judicial Proceeding Committee
2 East
Miller Senate Office Building
Annapolis, Maryland 21401

Re: SB0071 – Correctional Services - Pregnancy and Postpartum Support (Prevention of Forced Infant Separation Act)

Dear Senators Smith and Waldstreicher and Members of the Judicial Proceeding Committee:

The Maryland Commission for Women writes to you with respect to support SB0071 – Correctional Services - Pregnancy and Postpartum Support (Prevention of Forced Infant Separation Act) requiring the Division of Correction to allow a certain pregnant woman and a certain women who recently gave birth to transfer to the prerelease unit for women for up to 1 year following the birth.

The MCW was established in 1965 and was set in state law in 1971. An office of the Department of Human Services, the commission is a 25-member advisory board whose duties outlined in its enabling legislation include:

- Study the status of women in our state.
- Recommend methods of overcoming discrimination.
- Recognize women's accomplishments and contributions.
- Provide informed advice to the executive and legislative branches of government on the issues concerning the women of our state.

It is to fulfill this mandate that the commission writes to you today. Please note that the positions expressed in this letter are those of the Commission for Women and do not necessarily reflect the position of the Governor or the Department of Human Services.

An average of 4-8% of incarcerated women are pregnant during their incarceration. Incarcerated pregnant women are at risk for prenatal complications and preterm births. Additionally pregnant women often enter our correctional system with multiple socio-cultural factors that contribute to detrimental social and Health outcomes for themselves and their babies upon release.

During the period of incarceration, Maryland's correctional system has a unique opportunity to address issues, including facilitating strong bonding of the infants with their mothers and incentivizing the mothers to comply with requirements to remain with their child in the prerelease unit. This bill requires the Division of Correction to

establish the Healthy Start Bonding Program to facilitate strong bonds between incarcerated women and their children; and requiring the Division to allow liberal visitational between certain individuals and certain children under certain circumstances. In addition, this bill will give our state correctional system the means to provide services aimed at improving potential mental health issues that can arise from the separation of mother and child during periods of incarceration.

This bill will undoubtedly improve health and mental health outcomes when new mothers leave prison and re-enter society. Therefore, we strongly urge you to support for SB0071.

With very best regards,

A handwritten signature in black ink, appearing to read "Tawanda A. Bailey". The signature is fluid and cursive, with the first name being the most prominent.

Tawanda A. Bailey, Chair
Maryland Commission for Women

(The positions expressed in this letter are those of the Commission for Women and do not necessarily reflect the position of the Governor or the Department of Human Services.)

SB 71 - Forced Infant Separate - ACLU Testimoy (Fe

Uploaded by: Frank Patinella

Position: FAV



Testimony for the Senate Judicial Proceedings Committee

February 7, 2024

SB 71 - Correctional Services – Pregnancy and Postpartum Support (Prevention of Forced Infant Separation Act)

FRANK PATINELLA
SENIOR POLICY
ADVOCATE

FAVORABLE

AMERICAN CIVIL
LIBERTIES UNION
OF MARYLAND

The ACLU of Maryland urges a favorable report on SB 71, the Prevention of Forced Infant Separation Act.

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Though many more men are in prison than women, the rate of growth for female imprisonment has been twice as high as that of men since 1980. Between 1980 and 2019, the number of incarcerated women increased by more than 700%.¹ Despite this, adequate attention has not been given to the specialized needs of women who are incarcerated. Nowhere is this more obvious than in the treatment of pregnant and postpartum mothers.

WWW.ACLU-MD.ORG

OFFICERS AND
DIRECTORS
COREY STOTTMAYER
PRESIDENT

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.

DANA VICKERS
SHELLEY
EXECUTIVE DIRECTOR

ANDREW FREEMAN
GENERAL COUNSEL

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 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.² The incarceration of a parent, regardless of the age of the child, has been connected to increased risk of substance abuse, teenage pregnancy, social isolation, development of learning disabilities, financial hardship, and

¹ Incarcerated Women and Girls. The Sentencing Project, 24 Nov. 2020, <https://www.sentencingproject.org/wp-content/uploads/2016/02/Incarcerated-Women-and-Girls.pdf>

² 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-11e8-805c-4b67019fcfe4_story.html

involvement in the criminal legal system.³ 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 affect 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.⁴ 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. In order to mitigate harms to both mother and baby, we must allow the two to have as much contact as possible with one another during this critical period.

For the foregoing reasons, the ACLU of Maryland urges a favorable report on SB 71.

³ Gifford, E. J., Eldred Kozecke, L., Golonka, M., Hill, S. N., Costello, E. J., Shanahan, L., & Copeland, W. E. (2019). Association of Parental Incarceration With Psychiatric and Functional Outcomes of Young Adults. *JAMA network open*, 2(8), e1910005. <https://childandfamilypolicy.duke.edu/news/parental-incarceration-increases-childrens-risk-of-substance-abuse-anxiety-in-adulthood/>

⁴ 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-children-devastating-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-health-damage>

PCM SB 71 FAV.pdf

Uploaded by: Jennifer Mercer

Position: FAV

Pro-Choice Maryland Action

www.prochoicemd.net

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TESTIMONY IN SUPPORT OF SENATE BILL 71: Correctional Services - Pregnancy and Postpartum Support (Prevention of Forced Infant Separation Act)

TO: Chair William Smith and Members of the Senate Judicial Proceedings Committee

FROM: Pro-Choice Maryland Action

DATE: February 7, 2024

Pro-Choice Maryland Action 501(c)(4) is an independent, nonprofit organization that develops and advocates for policies that protect reproductive freedom and that advance reproductive justice, including support and services for those who have children. Pro-Choice Maryland Action **strongly supports Senate Bill 71 as a means of promoting secure attachment between infants and their birth parent, and of advancing better health outcomes for both children and parents.**

Currently, infants born to incarcerated individuals in Maryland are separated from their birth-parents almost immediately. Within one to two days of birth, newborns are placed with secondary caregivers or into the foster system. Research studies show that when newborns are shuffled from one caregiver to another, or placed in an otherwise unstable environment, they suffer severe trauma that may lead to complications throughout life, including mental health struggles, developmental regression, heart disease, hypertension, decreased longevity, substance abuse, and more. For the birth parent, the separation can lead to feelings of extreme grief and loss, and profound mental health challenges.

The problem of infant separation addressed by this bill will only be exacerbated in upcoming years. While men constitute a larger share of the incarcerated population, the rate of growth for incarcerated women has been twice as high as that of men since 1980. Of these women, up to 8% of them give birth behind bars.

Current policies disproportionately harm individuals who already face significant other systemic disadvantages. Women of color, individuals who have been trafficked, or who live in poverty are more likely to be incarcerated and pregnant behind bars. Maryland has an opportunity to not only promote the well-being of infants born behind bars, but also to address racial disparities created through the practice of separating infants from their birth parents, as well as to support the rehabilitation of their birth parents, and their subsequent successful reentry.

For the aforementioned reasons, **we urge a favorable report on Senate Bill 71.**

HPP SB 71 Testimony- FAV.pdf

Uploaded by: Jessica Emerson

Position: FAV

Testimony of the Human Trafficking Prevention Project

BILL NO:	Senate Bill 71
TITLE:	Correctional Services – Pregnancy and Postpartum Support (Prevention of Forced Infant Separation Act)
COMMITTEE:	Judicial Proceedings
HEARING DATE:	February 7, 2024
POSITION:	FAVORABLE

Senate Bill 71 would 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 pre-release unit for up to one year following the birth of the child. The Human Trafficking Prevention Project supports this bill because it prioritizes the emotional health of incarcerated mothers, many of whom are survivors of human trafficking.

Across the country, there has been a disturbing gender disparity in recent prison population trends. While recent reforms nationally have reduced the total number of people in state prisons since 2009, almost all the decrease has been among men. Women are being incarcerated at a significantly higher rate than men, with the number of women in Maryland prisons having increased by over more than eightfold over the past 40 years.¹ Pregnant women who go into labor while incarcerated in a Department of Public Safety and Correctional Services (DPSCS) correctional facility are transported to a hospital but are required to return to their facility as soon as they are discharged. For a standard vaginal delivery, this is generally 1-2 days after giving birth. This means that most incarcerated women have less than 48 hours with their newborns before the baby is forcibly separated from the mother.

Research suggests that the first year is one of the most important in an infant's life, as it is a time of significant physical, cognitive, and social development. This means that when babies are forcibly separated from their parents just days after birth, there can be lifelong developmental consequences. Not only does separation immediately cause a permanent increase in a baby's stress levels, but separated babies are more likely to develop post-traumatic stress and substance use disorders as adults. For mothers, the psychological consequences of forced separation can be just as severe. Further, if the mother is the sole or primary caretaker of the child – like the majority of incarcerated mothers - the separation can become permanent as child protective services and the foster system becomes involved.

SB 71 will also have a strong positive impact on the lives of pregnant and parenting survivors of human trafficking, who are frequently charged with non-violent criminal offenses stemming from acts they were forced to commit by their traffickers, or from the instability that so often precedes or follows a trafficking experience. Data recently obtained from a national survey of both sex and labor trafficking survivors highlights the regularity with which survivors of trafficking are criminalized, with 91% of survivors reporting having been arrested.² In a life already rife with coercion, control, and abuse, permitting these pregnant and parenting survivors to remain with their newborns will allow them to work toward creating healthy, secure bonds with their children, which in turn supports their recovery from the trauma of their trafficking experience.

For these reasons, the Human Trafficking Prevention Project supports Senate Bill 71 and respectfully urges a favorable report.

¹ Vera Institute of Justice, *Incarceration Trends in Maryland* (2019), <https://www.vera.org/downloads/pdfdownloads/state-incarceration-trends-maryland.pdf> (citing that the number of women in Maryland's jails has increased from 120 in 1970 to 1,000 in 2015).

² National Survivor Network, *National Survivor Network Members Survey: Impact of Criminal Arrest and Detention on Survivors of Human Trafficking* (2016), <https://nationalsurvivornetwork.org/wp-content/uploads/2017/12/VacateSurveyFinal.pdf>.

SB0071 Testimony.pdf

Uploaded by: Jill Carter

Position: FAV



THE SENATE OF MARYLAND
Annapolis, Maryland 21401

Testimony of Senator Jill P. Carter
In Favor of SB0071 – Correctional Services – Pregnancy and
Postpartum Support (Prevention of Forced Infant Separation Act)
Before the Judicial Proceedings Committee
On February 7th 2024

Mr. Chairman, Vice Chair, and Members of the Committee:

Senate Bill 0071 will establish space at the upcoming pre-release facility for women who give birth while incarcerated to remain with their newborn up to one year postpartum. This bill will also establish a Healthy Start Bonding Program to facilitate relationships between mothers and their children.

I believe that this bill is a crucial step towards ensuring that incarcerated pregnant women receive the direct healthcare and postpartum support they need.

Under current Maryland law, a pregnant woman may be granted parole, a reduced sentence, or an alternative residential setting for pregnancy, however after birth they should return to a facility dependent on health. This bill will provide pregnant women with an alternative residential setting for up to one year postpartum.

According to Maryland Matters, “In 2020, 10% of women housed at Maryland Correctional Institution for Women were pregnant and 65% of these pregnancies ended in a live birth”. The protocol at the Maryland Correctional Institution for Women and other institutions in the state are that women who enter the facility and stay long enough to give birth are only permitted to remain with their newborn between 24 to 48 hours after birth for a standard vaginal delivery.

Due to this protocol, infants born to incarcerated women are either placed with a secondary caregiver or entered in the foster care system. Based on research it’s proven that separating newborns from their mothers can have lifelong developmental concerns. Separated newborns at birth are more likely to have mental health issues, end up in foster care, and drop out of school in the future. Women who are separated from their newborns are at a higher risk of postpartum depression, feeling extreme powerlessness, and grief and feelings of detachment after the separation. This bill would allow pregnant women to have the ability to form strong bonds with their newborns which is essential for the health of the mother and newborn.

As such I urge this committee to issue a favorable report on SB0071. Thank you for your time.

Respectfully,

Senator Jill P. Carter

NASW Maryland - 2024 SB 71 FAV - Prevention of For

Uploaded by: Karessa Proctor

Position: FAV

**Testimony before Senate Judicial Proceedings Committee
February 7, 2024**

**Senate Bill 71 - Correctional Services - Pregnancy and Postpartum Support
(Prevention of Forced Infant Separation Act)
SUPPORT**

On behalf of the National Association of Social Workers, Maryland Chapter (NASW-MD) Forensics Committee, we would like to express our support for Senate Bill 71 - Correctional Services - Pregnancy and Postpartum Support (Prevention of Forced Infant Separation Act).

Maternal infant bonding occurs primarily through the first year of a baby's life. During this period, the baby and mother begin to feel a strong attachment with each other and attachment promotes healthy growth and development. Eye to eye contact provides meaningful communication making it critical for bonding to occur in the first months. This is the initial and deepest bond.

Research has proven that bonding ensures that a helpless infant receives their primary needs. Early social experiences of infants can strengthen growth of the brain and can have an enduring influence in the ability to form stable relationships with others. When bonding is well established, children are more secure in attachments and are better in entering healthy relationships with others. This increases stability throughout one's life.

Bonding gives babies a source of security and self-esteem and we support giving women who are incarcerated and their newborns the chance to achieve this in child's first year.

We urge a favorable report on Senate Bill 71.

Respectfully submitted,

Karessa Proctor, BSW, MSW
Executive Director, NASW-MD

2024 ACNM SB 71 Senate Side.pdf

Uploaded by: Lisa Spencer

Position: FAV



Committee: Senate Judicial Proceedings Committee

Bill: Senate Bill 71 - Correctional Services - Pregnancy and Postpartum Support (Prevention of Forced Infant Separation Act)

Hearing Date: February 7, 2024

Position: Support

The Maryland Affiliate of the American College of Nurse Midwives (ACNM) supports *Senate Bill 71 - Correctional Services - Pregnancy and Postpartum Support (Prevention of Forced Infant Separation Act)*. The bill will would permit an incarcerated woman who is either pregnant or recently gave birth to transfer to the prerelease unit for women. It also establishes the Healthy Start Bonding Program to promote the development of healthy relationships between incarcerated women and their children.

Currently, newborns born to incarcerated mothers in Maryland are separated from their mothers almost immediately and the baby is placed with a secondary caregiver or into the foster system. This outdated practice is well-documented as traumatic for both mothers and babies; children are more likely to experience poor attachment to their caregiver and later academic difficulties, post-traumatic stress symptoms, delinquency, and risky behaviors.¹ This bill establishes a program to stop this outdated and harmful separation policy. Instead, policies will be guided by the evidence-based Healthy Start Bonding Program, which has been developed with maternal-child health experts to support healthy parenting, attachment, and supportive family ties.

We ask for a favorable report on this legislation. If we can provide any further information, please contact Robyn Elliott at relliott@policypartners.net or (443) 926-3443.

¹ Dallaire. Children with incarcerated mothers: Developmental outcomes, special challenges and recommendations. *Journal of Applied Developmental Psychology*. 2007;28(1):15-24.

SB0071_FAV_MDACOG_Cor. Serv. - Preg. & Post. Supp.

Uploaded by: Pam Kasemeyer

Position: FAV



Maryland Section

TO: The Honorable William C. Smith, Jr., Chair
Members, Senate Judicial Proceedings Committee
The Honorable Jill P. Carter

FROM: Pamela Metz Kasemeyer
J. Steven Wise
Danna L. Kauffman
Christine K. Krone

DATE: February 7, 2024

RE: **SUPPORT** – Senate Bill 71 – *Correctional Services – Pregnancy and Postpartum Support (Prevention of Forced Infant Separation Act)*

The American College of Obstetricians and Gynecologists, Maryland Section (MDACOG), which represents the Maryland physicians who serve the obstetrical and gynecological needs of Maryland women and their families, **supports** Senate Bill 71.

Senate Bill 71 provides an alternative to separating newborn babies and their incarcerated mothers. Currently, newborns born to incarcerated mothers are separated from their mothers as soon as the mother is discharged from the hospital and placed with a secondary caregiver or placed into the foster care system. This is traumatic for both mothers and babies and disrupts the formation of a healthy bond between them. It has been proved to increase maternal depression, grief, and detachment. The babies have an increased likelihood of not forming an attachment to their caregiver, often resulting in long term negative outcomes, such as academic difficulties, PTSD, delinquency, and risky behaviors. As women of color are disproportionately likely to be imprisoned, the impact of the current policy also disproportionately impacts minority communities and, thereby, exacerbates existing social and economic disadvantages for these families.

Senate Bill 71 establishes a program to facilitate strong, healthy bonds between incarcerated women and their newborns. In the proposed program, incarcerated women who have earned pre-release status would transfer to the women's pre-release unit where they would remain for up to 1 year after delivery with their infants. It also establishes an evidenced-based Healthy Start Bonding Program to support healthy parenting and attachment between the mother and child and strengthen other supportive family ties by facilitating frequent visitation by fathers or secondary caregivers.

Similar programs have been established in a number of states and are considered to be a best-practice model. The programs have reduced costs associated with foster care and have been shown to have significant positive impacts on the infant's ability to develop secure attachments and enhanced well-being. The women who participate have also demonstrated lower recidivism rates. Maryland should adopt this best-practice model to keep families together. A favorable report is requested.

For more information call:

Pamela Metz Kasemeyer
J. Steven Wise
Danna L. Kauffman
Christine K. Krone
410-244-7000

2024 WLCM SB 71 Senate Side.pdf

Uploaded by: Robyn Elliott

Position: FAV

Committee: Senate Judicial Proceedings Committee

Bill number: SB 71 - Correctional Services - Pregnancy and Postpartum Support
(Prevention of Forced Infant Separation Act)

Hearing Date: February 7, 2024

Position: Support

The Women's Law Center of Maryland (WLC) supports *SB 71 - Correctional Services - Pregnancy and Postpartum Support (Prevention of Forced Infant Separation Act)* because WLC believes that keeping families together whenever possible is in the best interest of children, families, and our society at large. The bill would 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.

Across the country, there has been a disturbing gender disparity in recent prison population trends. While recent reforms nationally have reduced the total number of people in state prisons since 2009, almost all the decrease has been among men. Pregnant women who go into labor while incarcerated in a Department of Public Safety and Correctional Services (DPSCS) correctional facility are transported to a hospital but are required to return to their facility as soon as they are discharged. For a standard vaginal delivery, this is generally 1-2 days after giving birth. This means that most incarcerated women have less than 48 hours with their newborns before the baby is forcibly separated from the mother.

Research suggests that the first year is one of the most important in an infant's life, as it is a time of significant physical, cognitive, and social development. This means that when babies are forcibly separated from their parents just days after birth, there can be lifelong developmental consequences. Not only does separation immediately cause a permanent increase in a baby's stress levels, but separated babies are more likely to develop post-traumatic stress and substance use disorders as adults. For mothers, the psychological

consequences of forced separation can be just as severe. Further, if the mother is the sole or primary caretaker of the child – like the majority of incarcerated mothers – the separation can become permanent as child protective services and the foster system becomes involved.

Ultimately, allowing incarcerated new mothers the ability to remain with their newborns will help the hidden victims of crime, namely the children left behind. As such, the WLC urges a favorable report on this bill. If we can provide any further information, please contact Robyn Elliott at relliott@policypartners.net or (443) 926-3443.

The Women’s Law Center of Maryland is a private, non-profit, legal services organization that serves as a leading voice for justice and fairness for women. It advocates for the rights of women through legal assistance to individuals and strategic initiatives to achieve systemic change, working to ensure physical safety, economic security, and bodily autonomy for women in Maryland

SB0071 - Amended Final.pdf

Uploaded by: Anne Kirsch

Position: FWA



PREPARE
PREpare for PARole and REentry

Anne Bocchini Kirsch
Director of Advocacy, PREPARE
anne@prepare-parole.org
(410) 994-6136

SBO071 - Correctional Services - Pregnancy and Postpartum Support (Prevention of Forced Infant Separation Act) - Support if Amended

The CARES Act began releasing low risk Federal incarcerated individuals on home detention in 2020 in response to the COVID pandemic. The 3 year data is spectacular, and is contained in the attached June 2023 policy brief. **This information was unavailable last legislative session**, but is incredibly relevant to SBO071. Of particular interest is the new charge recidivism rate of 0.17%. From a CARES Act population of 13,204 people, which is nearly as many people as the entire Maryland prison population, only 22 people committed new offenses, most of which were minor. (see page 4) This incredible success cut the financial cost of incarceration in half (see page 6) while contributing less crime to the community than an equal cohort of randomly selected individuals. It also allowed these low risk incarcerated individuals to return to their home, where they could obtain employment, pay taxes, reunify with family, and contribute socially and financially, offsetting the cost of their monitoring even more with secondary contributions.

The CARES Act data is relevant because the women considered in SBO071 are all on pre-release status, the lowest security status available only to those with less than 36 months to serve. They would have been incarcerated for less than 40 weeks considering that they are pregnant or immediately postpartum. That means the crime they have been convicted of would almost universally be a non-violent crime that carries a short sentence. Institutional infractions would raise their security levels, so they have all exhibited good behavior. They are a comparable population to the one successfully reintegrated through the CARES Act, and the lower-cost, higher-benefit solution of home detention should be implemented instead.

Instead of utilizing this now-proven GPS technology, SBO071 instead seeks to incarcerate the infant with their mothers in centralized prison housing in the Baltimore area away from the families, including the father of the child. Maryland law gives an equal presumption of custody to both parents and reviews that presumption only through the lens of the child's best interest, but SBO071 does something different. It includes no mechanism by which the father is identified, notified or given the opportunity to object. There is no requirement to obtain his consent. The wording of 3-903 (A) betrays its intent by referring to the "father or secondary caretaker" -

PREPARE
PO Box 9738 Towson, MD 21284

assigning a lower, secondary status to the father solely on the basis of gender. It then assigns custody to the mother, while providing only a toothless provision that provides the father with “liberal visitation” assuming he can travel to Baltimore and the institution is compliant and sufficiently staffed. It strips the father of his right to participate in important parenting and medical decisions, attend pediatrician appointments, take paternity leave and bond with his child, and to be present for his child’s first year milestones. It remains silent on whether or not he is still responsible for child support, with all the collateral consequences of nonpayment, while his infant is incarcerated - and if he is liable, whether the mother, who is also not financially contributing, should have to pay child support to the state as well.

SB0071 is not even good for the women without consideration of the child. While it is true that about 38% of incarcerated individuals returned to Baltimore City in 2023, that means that 62% did not. Forcing all incarcerated women to participate in Baltimore reentry programming does not make sense on any level because the 62% of women returning elsewhere will not have jobs or service providers when they are released and go home. They will have to endure the frustration of rebuilding their lives twice. CARES Act style home detention is the better option for the majority of women returning in Maryland. Under SB0071, an infant must now endure these disruptions alongside the mother. Knowing the negative consequences of Adverse Childhood Experiences, it seems that this kind of harm should be prevented, not encouraged.

In my experience as a parole advocate and reentry coach, I recognize the importance of family reunification in successful reentry. While I take note of the research that shows lower recidivism among women utilizing prison nurseries in other states, it is important to recognize that there are many interventions that can lower recidivism and studies also recognize the risks and difficulties of raising an infant inside a prison. In the past there may have been an argument for a risk/benefit analysis, however today technological advances have outstripped the need for prison nurseries. Using the CARES Act as a model, Maryland can save money by using GPS technology, help incarcerated mothers rebuild their lives at home, and promote family unification. It is my hope that SB0071 can be amended to remove the use of a single physical location and replace it with GPS monitoring, however if that is not possible, I urge an unfavorable report.

SENATOR CORY A. BOOKER

CARES Act
Home Confinement
Three Years Later

June 2023

OVERVIEW

“All you heard was just coughing all night, all night”—that is how Ron Shehee, an incarcerated individual at USP Lompoc, described the environment at the federal facility in California in the early days of the COVID-19 pandemic. Shehee’s account was not an isolated incident. As the coronavirus swept across the nation, America’s jails and prison were particularly hard-hit, primarily due to the inherent difficulty in practicing social distancing. As months passed, the number of confirmed Covid-19 cases in prisons grew, leading to unprecedented lockdowns, widespread illnesses, and tragically, fatalities.

On March 27, 2020, President Trump signed the CARES Act, which expanded the amount of time individuals could be placed in home confinement during the “covered emergency period” that began on March 13. This marked the official inception of CARES Act home confinement, which would effectively serve as a large-scale experiment to test the feasibility of the expanded use of noncustodial sentences.

Eligibility Factors for CARES Act Home Confinement

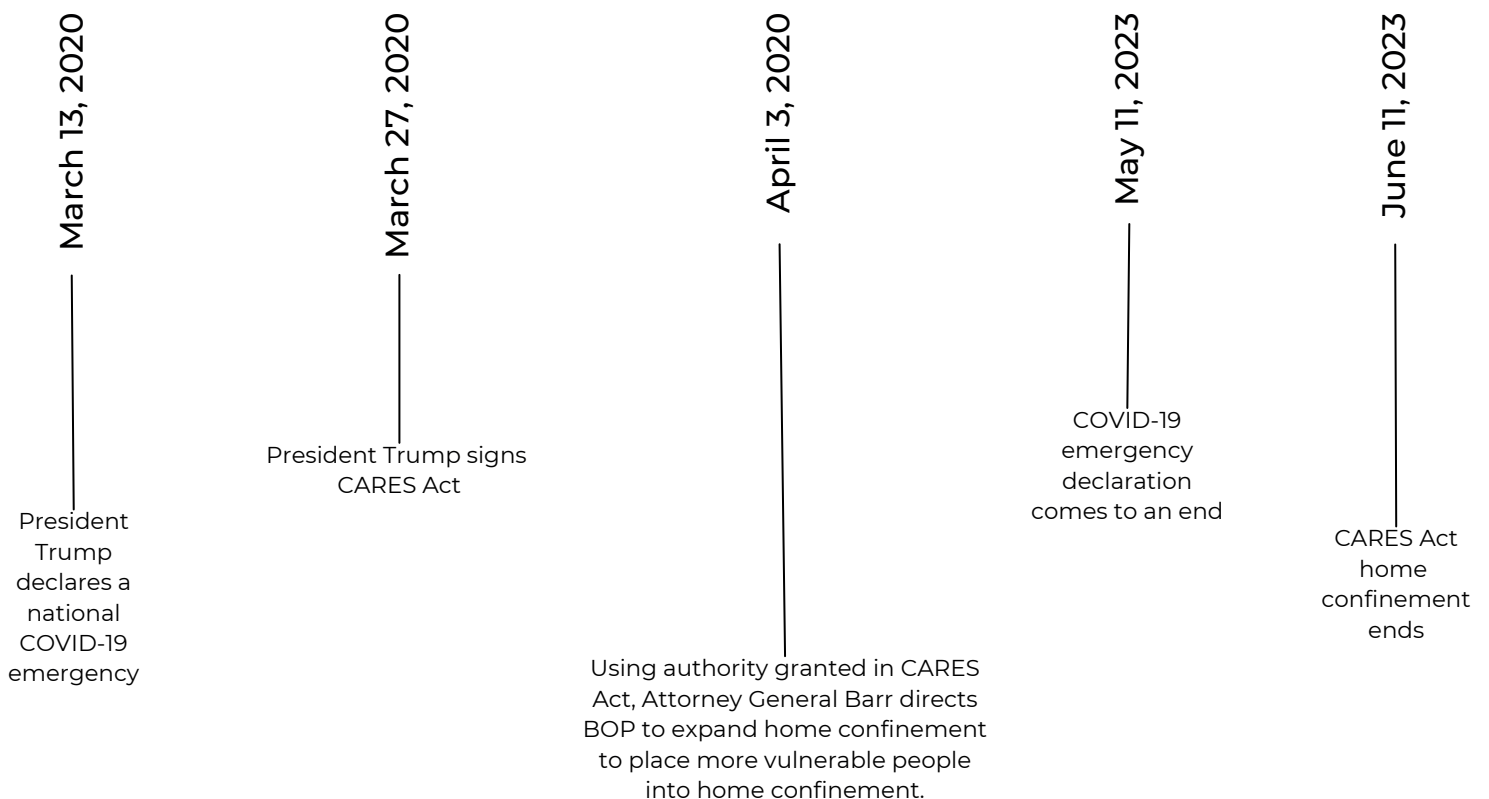
- Medically vulnerable
- No violent, sexual or terrorism-related convictions
- Completion of substantial amount of custodial sentence
- No violence or gang involvement and no disciplinary infractions within the past 12 months
- Viable release plan
- Minimum (later amended to low) PATTERN risk score
- Low or minimum security facility placement

On April 3, 2020, Attorney General Barr directed the Bureau of Prisons (BOP) to expand inmate eligibility for home confinement due to emergency conditions impacting the prisons. The Bureau implemented the criteria outlined by Attorney General Barr to expand the eligible population. These stringent criteria restricted release to medically vulnerable individuals who had no history of violence, terrorism, or sexual offending; a clean disciplinary record for the preceding 12 months and no history of violence or gang involvement whatsoever while in prison; a viable release plan; a minimum (later amended to low) risk score on the BOP’s risk-assessment tool; and who had served a substantial portion of their prison sentence in custody and had been placed in a low or minimum security facility. Since March 26, 2020, the BOP has successfully placed 13,204 individuals in home confinement under the CARES Act authority, with 3,627 inmates remaining in the CARES Act home confinement program as of May 27, 2023.

The CARES Act home confinement program has proven to be a successful, evidence-based, and cost-saving approach to safely reintegrate people into society without compromising public safety. The data collected over the past one to three years demonstrates its effectiveness. This program has not only saved taxpayers millions of dollars but has also alleviated the burden on correctional officers and prison staff. Moreover, it has enabled the reunification of thousands of families, empowered individuals serving sentences to actively pursue employment and education, and facilitated their meaningful contributions to our economy and community. Congress should closely examine the success of the CARES Act home confinement program and consider it as a potential guiding framework for future initiatives that prioritize public safety and effectively promote rehabilitation.

The evidence is clear: CARES Act home confinement has been a resounding success in safely reintegrating individuals into the community without compromising public safety.

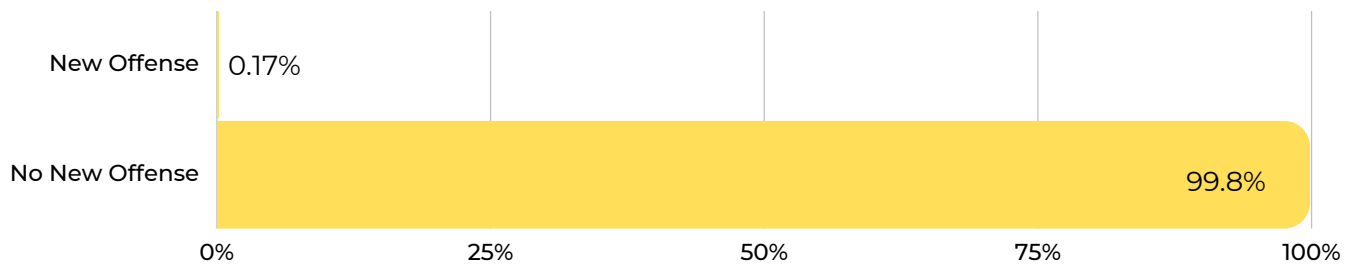
TIMELINE



MEASURING PROGRESS: RECIDIVISM RATES

Among the 13,204 individuals serving their sentence on home confinement since March 2020, only 22 individuals (0.17%) have been rearrested for a new offense. Most of those 22 new offenses were for drug-related or other minor crimes

Recidivism Rate for Individuals on CARES Act Home Confinement

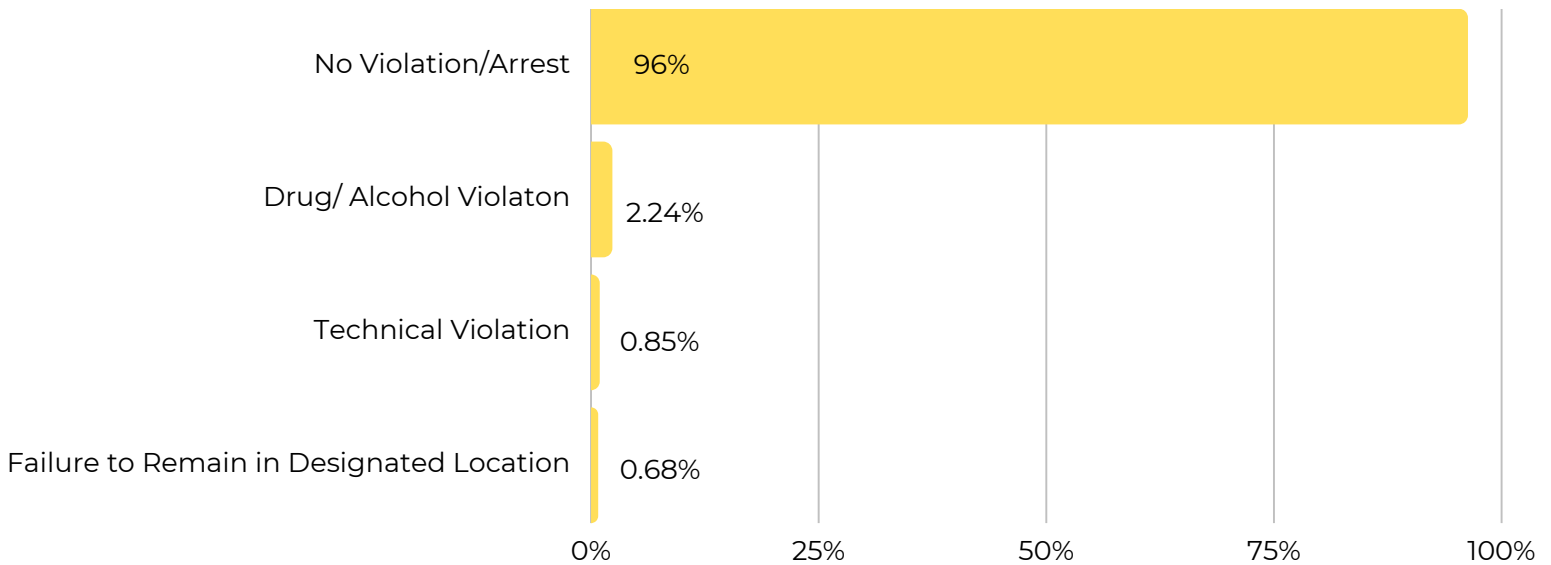


Source: Bureau of Prisons (as of May 27, 2023)

MEASURING PROGRESS: COMPLIANCE

Among 13,204 individuals placed in home confinement under the CARES Act since March 2020, 12,683 (96%) complied fully with their confinement terms without any violations or new arrest. Of the 521 individuals who were returned to custody, 499 were removed from home confinement for a violation. These violations include 296 for drug or alcohol abuse, 113 for technical issues (e.g., missed appointments or check-in calls), and 90 cases of failure to stay at the designated location. According to the BOP, the 499 count could potentially decrease, as it is possible that upon investigation, the individuals may be found not guilty of the violation, thereby reducing the overall count.

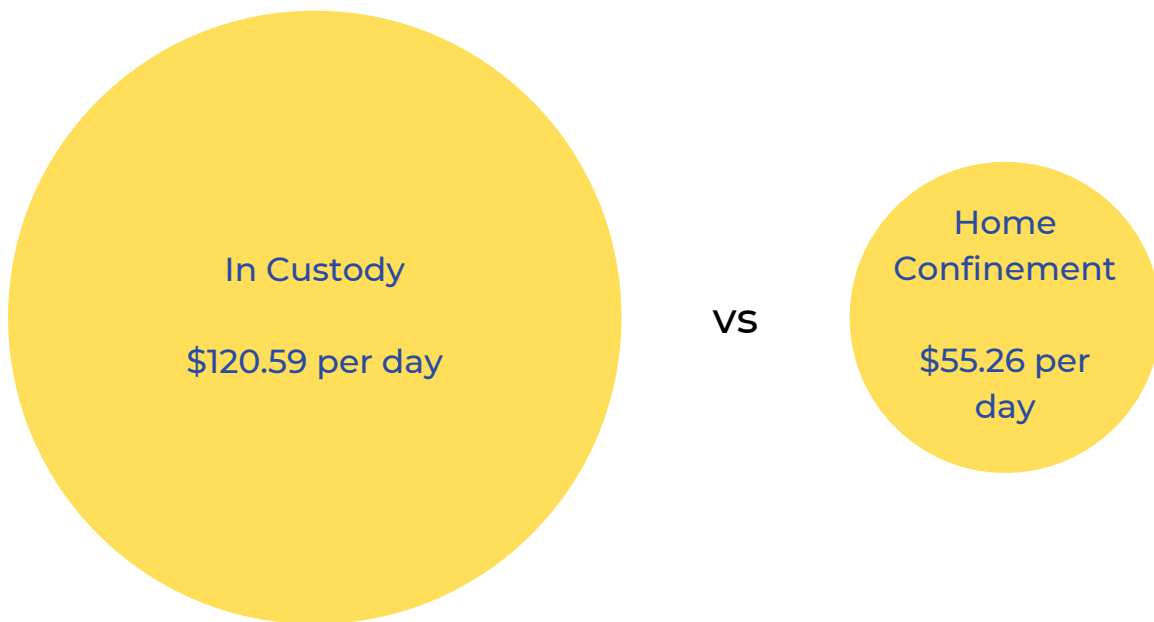
Compliance with terms of CARES Act Home Confinement



Source: Bureau of Prisons (as of May 27, 2023)

MEASURING PROGRESS: SAVINGS

In FY 2020, the cost of incarcerating someone in a federal facility was \$120.50 per day, while home confinement averaged \$55.26 per day—less than half the cost. The federal government saves millions of dollars when placing people in home confinement as opposed to holding them in custody.



Source: Department of Justice, Bureau of Prisons

KEY TAKEAWAYS

- In March 2020, President Trump signed the CARES Act, permitting the DOJ to expand the length of time a person can be placed on prerelease home confinement during the “covered emergency period” to mitigate COVID-19 risks in federal prisons. Since then, the BOP has transferred 13,204 individuals to serve their sentences on home confinement under the CARES Act, with 3,627 individuals currently remaining in the program.
- Eligibility for home confinement under the CARES Act is narrowly defined and targeted. CARES Act home confinement was restricted to medically vulnerable individuals who had no history of violence, terrorism, or sexual offending; a clean disciplinary record for the preceding 12 months and no history of violence or gang involvement whatsoever while in prison; a viable release plan; a minimum (later amended to low) risk score on the BOP’s risk-assessment tool; and who had served a substantial portion of their prison sentence in custody and had been placed in a low or minimum security facility.

Success Stories: Wendy Lankton

“I’m not sure if I am the first to start [my JD] while still in BOP custody, but I’m fairly certain I will be one of the extremely few, if not the only, to graduate with a JD while still in BOP custody. I am aware I will need to convince the character and fitness committee of the state bar association of my rehabilitation and reformation when I apply after graduation. I am beyond excited to spend the rest of my life proving that to the whole world, let alone the bar.”

-Wendy Lankton, Buffalo, NY

- Home confinement does not constitute early release; individuals on home confinement are still serving their sentences. Individuals on CARES Act home confinement are still under the custody and control of the Bureau of Prisons. Home confinement involves stringent conditions, including curfews, approved work assignments, ankle monitoring, random drug and alcohol tests, and restricted movements outside the home without permission. Violations of these conditions can result in returning to prison. After completing a federal prison sentence in home confinement, most people will still have to serve additional years on supervised release—where they likewise have to comply with strict court-ordered conditions and face the prospect of reincarceration if they violate.

- **Three years since its enactment, CARES Act home confinement has been a resounding success.** It has alleviated a strain on federal prison staff, saved taxpayers millions, reunified families, and successfully reintegrated thousands of formerly incarcerated individuals back into society—all without compromising public safety.
- **CARES Act home confinement posed minimal to no risk to public safety.** Of the 13,204 individuals placed on CARES Act home confinement since March 2020, only 22 people—less than 1%—have been charged with a new criminal offense. Most of those 22 new offenses were for drug-related or other minor crimes.
- **Placing individuals in home confinement instead of custody in a prison facility can save taxpayers millions.** In FY 2020, the cost of incarcerating someone in a federal facility was \$120.50 per day, while home confinement averaged \$55.26 per day—less than half the cost.

Success Stories: Brian D'Antonio

"I was sentenced to 97 months in federal prison and had served 32 months in prison when CAHC was enacted in 2020. I have been home now for 3 years and 2 months. It has been a miracle for me to have been able to come home in 2020. I was able to be involved and help raise my 2 young children, who are now 16 and 12."

-Brian D'Antonio, Los Angeles, CA

- **Beyond the numbers are the stories of individuals who have successfully integrated into society through the CARES Act.** These individuals have rebuilt their lives, reconnected with their families, contributed to our economy, and have become productive members of their communities.
- **Congress should closely examine the success of the CARES Act home confinement program and consider it as a potential guiding framework for future initiatives that prioritize public safety and effectively promote rehabilitation.** The CARES Act effectively gave rise to a large-scale pilot program to test whether carefully vetted individuals can safely and successfully serve part of their sentence at home. The data confirm this and show the added benefit of expediting reintegration into society.

HOME CONFINEMENT FAQs

What is home confinement?

Home confinement is a process by which the Bureau of Prisons can allow a person to serve some remaining portion of their sentence – as the term suggests – at home. Home confinement is frequently confused with early release, whereby an individual can have their sentence shortened for good behavior. To the contrary, people placed on home confinement are closely supervised and subject to strict rules, often wearing an electronic monitoring device or GPS. They are also under supervision of the Bureau of Prisons and subject to BOP disciplinary procedures. Their sentences are in no way shortened by being placed on home confinement. While still serving a sentence, home confinement allows individuals to reunite with their friends and family, work, go to school, take care of their children or elderly family, and begin the process of successful reintegration into society once they've served their sentence.

Success Stories: James Catledge

"I am so thankful for CARES Act Home Confinement, and the thousands of men and woman who were saved from COVID-19 and the opportunity to show our families, community, and government, that there are a high percentage of us who are truly reformed and can serve their time in a community environment, being productive citizens, reducing the burden on taxpayers and the social services needed to support so many families."

-James Catledge, Las Vegas, NV

What are the benefits of home confinement?

Home confinement allows individuals to reunite with their friends and families, work, go to school, and begin the process of successful reintegration into society. This lessens the demands on the federal prison system, which is grappling with overcrowding and understaffing. These conditions create significant health and safety risks for the Bureau of Prisons employees and the individuals held in its facilities. There are also significant savings to taxpayers when people are placed on home confinement.

What are the savings to taxpayers?

The federal government saves millions of dollars when placing people in home confinement as opposed to holding them in custody. In Fiscal Year ("FY") 2019, the cost of incarceration fee ("COIF") for a Federal inmate in a Federal facility was \$107.85 per day; in FY 2020, it was \$120.59 per day. In contrast, according to the Bureau, an inmate in home confinement costs an average of \$55.26 per day—less than half the cost of an inmate in secure custody in FY 2020.

What did we learn from the CARES Act home confinement experiment?

Under BOP's CARES Act policy, 13,204 were released and the data show that allowing those individuals to serve part of their sentence in home confinement did not pose a danger to society. Recidivism rates among people placed on home confinement were astonishingly low, and people placed on home confinement have been able to contribute to society, contribute to their families, and strengthen prosocial family and community ties that help further reduce the risk of recidivism. In essence, the CARES Act resulted in a large pilot program to assess whether expanded home confinement yielded social, economic, and public-safety benefits—and the result of this pilot program has been a resounding success, demonstrating that expanded home confinement can be a viable alternative to traditional incarceration for certain individuals in federal custody without comprising public safety.

Success Stories: Won Lee

In May 2021, I came home under the Care Act Home Confinement program ("CAHC"). A month later, I was diagnosed with cancer, Non-Hodgkins Lymphoma. I was extremely fortunate that I was at home with my parents when this happened, which allowed me not only to get emotional support but also to get significantly better medical care than inside of prison.

-Won Lee, Henderson, NV

Success Stories: Craig Cesal

"My first joy was to reunite with my now-33 year old daughter, who was 13 when I was imprisoned. I met the wives and husbands of my nieces and nephews for the first time, as well as their children. But most amazing, was that I was moved in with my 83-year old mother, who now lived alone, and due to macular degeneration, she was losing her sight.

-Craig Cesal, Lombard, IL

SWASC Written Testimony - SB 71.pdf

Uploaded by: UM SWASC

Position: FWA

**TESTIMONY IN SUPPORT OF SENATE BILL 71
WITH AMENDMENTS TO IMPLEMENT ALTERNATIVES TO
PROGRAMMING UNTIL CONSTRUCTION OF THE WOMEN'S
PRERELEASE CENTER IS CONSTRUCTED**

**Correctional Services – Pregnancy and Postpartum Support
(Prevention of Forced Infant Separation Act)**

Judicial Proceedings Committee

February 7, 2024

Social Work Advocates for Social Change supports SB 71 with proposed amendments. SB 71 will require the Division of Corrections to transfer incarcerated individuals who are pregnant or who recently gave birth to a prerelease unit for up to one year after the child's birth. SB 71 also establishes the Healthy Start Bonding Program to support the development of strong bonds between an incarcerated individual and their child(ren) and requires the allowance of liberal visitation between certain individuals and their children.

SB 71 will mitigate the harmful impact of parent separation due to incarceration on children. Since 1991, the number of children who have an incarcerated mother has increased by 131%.¹ In early development, children depend on access to their mothers to develop secure relationships, learn how to regulate their emotions, understand risk and safety, and establish their own boundaries and confidence. Attachment theory argues that separation from one's mother during infancy is a traumatic event and a risk factor for maladaptive behaviors.² Children who are separated from their mothers due to incarceration are also more likely to experience negative impacts to their academic progress including cognitive delays, academic failure, and dropping out. Specifically, young men whose mothers were incarcerated were 25% more likely to "quit school than other children."³

SB 71 will contribute positively to family cohesion and stability. Under current state law, after a mother who is incarcerated gives birth, she only has 24-48 hours with the child before she returns to prison and the baby is taken away.⁴ This imminent separation disrupts the natural process of bonding and healing for both the mother and infant and can impact the child's socio-emotional development across the lifespan.⁵ SB 71 would also contribute to the positive health of the mother and mitigate the risk of

¹ Public Policy Institute. (2023). *Effects of Maternal Incarceration on Child Health*. Center for Health and Justice Research. <https://policyinstitute.iu.edu/doc/maternal-incarceration-brief-2023.pdf>

² Bowlby, J. (1973). *Attachment and loss. Separation*, Vol. 2. New York: Basic Books

³ Public Policy Institute. (2023). *Effects of Maternal Incarceration on Child Health*. Center for Health and Justice Research. <https://policyinstitute.iu.edu/doc/maternal-incarceration-brief-2023.pdf>

⁴ Bowlby, J. (1973). *Attachment and loss. Separation*, Vol. 2. New York: Basic Books

⁵ Poehlmann, J. (2005). Representations of attachment relationships in children of incarcerated mothers. *Child Development*, 76, 679–696

postpartum depression which is further exacerbated by infant separation.⁶ This bill will undoubtedly support the 80% of pregnant incarcerated women who present with depression in their third trimester.⁷

SB 71 will promote racial and gender equity among the most vulnerable of the incarcerated population. Women who are incarcerated are more likely to be caregivers, and more likely to be single mothers at the time of their detainment.⁸ Black women and girls are still disproportionately represented in prisons by almost double compared to white women.⁹ Across all races, the incarceration of women is six times higher than it was in 1980.¹⁰ The need for the Healthy Start Bonding Program will only continue to grow and SB 71 is an important start toward addressing the needs of incarcerated mothers and their children.

SB 71 centers best practices in maternal and child health and follows the lead of other states that have already implemented these needed changes. We must understand that maternal and child wellbeing matters beyond the first 24-48 hours after an individual has given birth. The physical and mental wellbeing of a mother before and after they give birth provides a foundation for wellness and stability for the years to come. Many states across the nation have implemented similar laws and found these legislative changes can lead to improvements of mental health for all family members, reduced risk of recidivism, and may further reduce the barriers to reunification following release by preventing legal separation.^{11, 12}

For these reasons Social Work Advocates for Social Change supports SB 71 and recommends a favorable report with the amendment requiring the Department of Corrections to identify appropriate community-based programs as modeled by Minnesota’s Healthy Start Act, to be used to house eligible incarcerated individuals and their infants until the Women’s Prerelease Center can be constructed.

Social Work Advocates for Social Change is a coalition of MSW students at the University of Maryland School of Social Work that seeks to promote equity and justice through public policy, and to engage the communities impacted by public policy in the policymaking process.

⁶ Eapen, V., Dadds, M., Barnett, B., Kohlhoff, J., Khan, F., Radom, N., & Silove, D. M. (2014). Separation Anxiety, Attachment and Inter-Personal Representations: Disentangling the Role of Oxytocin in the Perinatal Period. *PLoS ONE*, 9(9), e107745. <https://doi.org/10.1371/journal.pone.0107745>

⁷ Fogel CI. Pregnant prisoners: impact of incarceration on health and health care. *J Correct Health Care*. 1995; 2(2): 169-190.

⁸ Friedman, S. H., Kaempf, A., & Kauffman, S. (n.d.). The Realities of Pregnancy and Mothering While Incarcerated. *Journal of the American Academy of Psychiatry and the Law*. <https://doi.org/10.29158/JAAPL.003924-20>

⁹ Carson, E.A. (2022). Prisoners in 2021 – Statistical Tables. Washington, DC: Bureau of Justice Statistics

¹⁰ Maruschak, L. M., Bronson, J., & Alper, M. (2021). Parents in prison and their minor children: Survey of prison inmates, 2016. Bureau of Justice Statistics. <https://bjs.ojp.gov/library/publications/parents-prison-and-their-minor-children-survey-prison-inmates-2016>.

¹¹De Claire, K., & Dixon, L. (2015). The Effects of Prison Visits From Family Members on Prisoners’ Well-Being, Prison Rule Breaking, and Recidivism: A Review of Research Since 1991. *Trauma, Violence & Abuse*, 18. <https://doi.org/10.1177/1524838015603209>

¹² Warner J: Infants in orange: an international model-based approach prison nurseries. *Hastings Women's LJ* 26:65–92, 2015

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POSITION: LETTER OF INFORMATION

COMMENTS:

The Department operates the Division of Correction (DOC), the Division of Pretrial Detention and Services (DPDS), and the Division of Parole and Probation (DPP).

- DOC operates 13 State correctional facilities housing offenders sentenced to periods of incarceration for 18 months and longer.
- DPDS operates the Baltimore City Pretrial Complex which houses pretrial detainees and incarcerated individuals sentenced to incarceration for periods of 18 months and less.
- DPP supervises parolees, probationers and those on mandatory release from correctional facilities.

SB 71 would require the DOC to allow a pregnant woman who is eligible for prerelease to be transferred to the prerelease unit for women throughout her pregnancy. The bill would also allow for a prerelease eligible woman who has recently given birth to reside in the prerelease unit for women, with the child, for up to one year following the birth of the child.

SB 71 would also require the DOC to develop and implement a Healthy Start Program to be offered at both the Maryland Correctional Institution for Women (MCI-W) and the prerelease unit for women.

In addition, this bill would provide the father or secondary caretaker of a child residing at the prerelease unit for women or an inmate at MCI-W to liberal visitation with the child.

The DOC recognizes the importance of developing strong bonds between parents and their children. As such, the DOC has operated programs to help parents, male and female, to improve parenting.

MCIW operates a Baby Bonding program, which allows female inmates with children between the ages of infancy to 3 years to have the opportunity to

embrace and play with their children in a nursery setting. A similar program is offered monthly to grandmothers.

The prerelease unit for women has not been constructed yet. When the bill was introduced in 2021, it was vetoed by the Governor. During the 2022 Session, the veto was overridden. At that time, \$150,000 in operating funds was appropriated in the FY23 budget to fund a management consultant contract for initial project planning.

The Department and DGS are in Phase I and Phase II of the program. Once a location has been secured, the project will be able to move forward to the design phase. The design phase is projected to take 12 - 18 months before construction could begin.

As the prerelease center for women moves forward in the capital construction process, the Department will begin developing comprehensive programs and services to provide to the incarcerated women which will include programs such the Healthy Start Bonding Program.

There would be a significant fiscal and operational impact on the Department to allow for a prerelease eligible woman who has recently given birth to reside in the prerelease unit for women, with the child, for up to one year following the birth, including contract modifications as well as appropriate medical staffing to provide infant care.

CONCLUSION: For these reasons, the Department of Public Safety and Correctional Services respectfully urges the Committee to consider this information as it deliberates on Senate Bill 71.