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POSITION ON PROPOSED LEGISLATION

BILL: HB0833 Child in Need of Assistance- Parents in Substance Use Disorder Treatment

FROM: Maryland Office of the Public Defender

POSITION: Favorable

DATE: 03/24/2024

The Maryland Office of the Public Defender respectfully requests that the Committee issue a favorable report on House Bill 0833.

House Bill 833 would prevent the removal of infants, or facilitate the quick reunification of infants who have been removed, from parents or perinatal persons who test positive for substances at birth, but are enrolled or are working with the Department of Social Services to be enrolled into a Mother-Baby Substance Use Treatment Program.

Currently, when a baby is born exposed to substances, the baby is removed from the parents' custody and placed either with a relative or in foster care in the custody of the Department of Social Services. The parent, usually the mother, has only one hour a week of visitation with her new born baby.

There are state licensed mother-baby substance use treatment programs where mothers can receive intensive substance use treatment and have their babies reside with them. However, DSS currently refuses to place babies with their mothers in those treatment programs, insisting that the mothers must show many months (often six to nine months or more) of documented sobriety before the baby can join them. The mother-baby treatment facilities are designed to protect children while enabling treatment for the mothers. They have safety measures in place, including 24-hour staffing, hourly rounds at night, everyone must sign in or sign out to enter or leave the facility, daycare provision for babies during the day, regular drug testing of mothers, and mothers participate in hours of groups and therapy each day while there. The staff at mother-baby treatment programs are

mandated reporters, who would need to report to DSS if there were concerns about the safety of the baby.

Because DSS will not place babies with their mothers in Mother-Baby treatment programs, women whose newborn babies are removed routinely experience lengthy separations of nine to eighteen months or more, even when sober and engaging in treatment. Those babies miss out on the critical bonding and attachment that research shows is connected to lifelong physical, mental, and behavioral health outcomes. For the mothers, the separation is traumatic. Many mothers whose babies are removed for substance use disorder spiral in despair and do not enter treatment, because they know their baby won't be given to them even if they enter treatment. Babies and mothers are harmed by the needless policy of keeping mothers in treatment apart from their babies.

Most of our clients have to contend with not only their substance use disorder, but the many stigmas surrounding people who use drugs while pregnant. Very little thought is given to the fact that pregnant women rarely decide to use drugs when they are pregnant. On the contrary, many women who battle substance use disorder while pregnant are women who had a pre-existing substance use disorder, and subsequently got pregnant. Upon getting pregnant, many women pursue substance use treatment to ensure the health of their babies. Research suggests that the most opportune time for a woman to engage and be successful in treatment is during the time she is pregnant and/ or right after giving birth as she is motivated to stay clean by the birth of her newborn¹. It is also important to note that the safest way for a pregnant person to pursue sobriety is through medication assisted treatment, also known as MAT^{2 3}. MAT is the use of medication in combination with counseling and behavior therapies to treat substance use disorder⁴. Methadone, suboxone and Buprenorphine and drugs commonly used to treat people undergoing MAT⁵. Many women who are engaged in MAT and have these drugs in their system at birth are still reported to Child Protective Services and are

¹ <https://store.samhsa.gov/sites/default/files/pep20-06-04-002.pdf>

² https://www.azahcccs.gov/Members/BehavioralHealthServices/OpioidUseDisorderAndTreatment/Pregnancy_And_Opioids.html

³ <https://ncpoep.org/guidance-document/north-carolina-guidelines-medication-assisted-treatment-mat-in-pregnancy/mat-in-pregnancy/>

⁴ [https://www.azahcccs.gov/Members/BehavioralHealthServices/OpioidUseDisorderAndTreatment/MAT.html#:~:text=Medication%2Dassisted%20treatment%20\(MAT\),when%20they%20stop%20taking%20opioids.](https://www.azahcccs.gov/Members/BehavioralHealthServices/OpioidUseDisorderAndTreatment/MAT.html#:~:text=Medication%2Dassisted%20treatment%20(MAT),when%20they%20stop%20taking%20opioids.)

⁵ <https://www.samhsa.gov/medications-substance-use-disorders>

still at high risk of having their children removed even when they can provide a prescription and proof of participation in treatment. This should not be the case.

This bill would create a presumption that, if a mother is enrolled in a licensed Mother-Baby treatment program, her baby should be placed with her so long as she remains in treatment. This would result in more mothers and babies remaining together, and likely incentivize more mothers to enter and stay in treatment, knowing they can have their baby with them if they do.

For these reasons, the Maryland Office of the Public Defender urges this Committee to issue a favorable report on House Bill 0833.

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