

Support (FAV) HB833

Children in Need of Assistance - Parents in Substance Use Disorder Treatment

Testimony of Stephanie K. Glaberson, JD, LLM, 500 1st St. NW, Washington, DC 20001

Monday, March 25, 2024

Senate Judicial Proceedings Committee

Dear Sen. Smith and Members of the Senate Judiciary Committee:

I am a Maryland resident, voter, and parent. I am also an attorney and researcher on data, privacy, civil rights, and child welfare, among other issues, and I previously worked as a staff attorney with Brooklyn Defender Services' Family Defense Practice in New York representing parents in New York's equivalent to Child in Need of Assistance (CINA) proceedings. As part of my work, I have studied Maryland's CINA legal scheme. **I submit this testimony in support of HB833**, because I believe it represents a huge step forward for Maryland families.

Every year, more and more families are torn apart due to allegations of parental drug use. In the period from 2000 to 2020, the percentage of cases nationwide in which parental alcohol or substance use was identified as a condition of child removal more than doubled, from 18.5% to 39%.¹

HB833 recognizes that substance use alone is not a reason to separate loving families. Research has never "conclusively draw[n] any causal connection between drug use and inferior parenting."² To the contrary, studies show that it is possible to engage in substance use and still adequately parent children.³ Across the nation, system actors are recognizing that a drug test is not a parenting test.⁴

Separating parents and their children because of a parent's substance use is harmful to the children and parents alike. Children experience "acute short- and long-term adverse health consequences" when separated from their parents, "literally affecting brain architecture and triggering a proliferation of toxic stress."⁵ Likewise, parents who lose their children report feeling intense feelings of grief, confusion, and inadequacy.⁶ Removal of children may exacerbate "existing trauma and mental health issues such as anxiety and depression, for some leading to post-traumatic stress."⁷ Separation may, in fact, make recovery from substance use disorders far more difficult.⁸ And policing parental substance use turns sources of support, like health care and treatment providers, into extensions of the law enforcement apparatus. It "erodes trust in the medical system, making people less likely to seek help when they need it."⁹

HB833 protects Maryland children, parents, and families from these dire outcomes, establishing a presumption that is in accord with modern understanding of substance use and parenting that, where a parent is receiving certain substance use disorder treatment, placement with a child's parent is in the best interest of the child, the child is receiving proper care and attention, and there is not a certain emergency situation.

For these reasons, **I urge you to issue a favorable report on HB833.**

¹ Child Welfare and Substance Use Disorder Treatment Statistics, <https://ncsacw.acf.hhs.gov/files/statistics-2020.pdf>

² Movement for Family Power, *Whatever They Do, I'm Her Comfort, I'm Her Protector: How the Foster System Has Become Ground Zero for the U.S. Drug War*, at 30 (June 2020) ("Ground Zero"), bit.ly/groundzeroreport

³ Susan Boyd, *Gendered drug policy: Motherisk and the regulation of mothering in Canada*, Int'l J. Drug Pol'y (June 2019) at 109, 114 ("Research findings conclude that many women who use illegal drugs are adequate parents and, like non-drug using parents, adopt strategies to mitigate harm... [M]ost drug use is unproblematic...").

⁴ *See, e.g., In re N.R.*, 15 Cal. 5th 520, 558 (2023) (invalidating California's "Tender Years" presumption and finding that "it is inappropriate to regard a parent's or guardian's excessive use of alcohol or an addictive drug as always being sufficient, by itself, to show that the parent or guardian is unable to provide regular care for a young child and that the child is therefore at substantial risk of serious physical harm").

⁵ *Ground Zero* at 31. *See also* Shanta Trivedi, *The Harm of Child Removal*, 43 N.Y.U. Rev. L. & Soc. Change 523 (2019).

⁶ Shanta Trivedi, *Am I Still a Parent? The Devastating Effects of Family Policing on Parents* (forthcoming).

⁷ *Id.* at 10.

⁸ *Id.* at 10-12.

⁹ American College of Obstetricians and Gynecologists, *Opposition to Criminalization of Individuals During Pregnancy and Postpartum Period* (2020), <https://www.acog.org/clinical-information/policy-and-position-statements/statements-of-policy/2020/opposition-criminalization-of-individuals-pregnancy-and-postpartum-period>.