

# **Testimony for HB 833 (1).pdf**

Uploaded by: Natasha Khalfani

Position: FAV



**NATASHA DARTIGUE**  
PUBLIC DEFENDER

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CHIEF OF EXTERNAL AFFAIRS

**ELIZABETH HILLIARD**  
ACTING DIRECTOR OF GOVERNMENT RELATIONS

## **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 newborn<sup>1</sup>. 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<sup>2 3</sup>. MAT is the use of medication in combination with counseling and behavior therapies to treat substance use disorder<sup>4</sup>. Methadone, suboxone and Buprenorphine and drugs commonly used to treat people undergoing MAT<sup>5</sup>. 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

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

<sup>2</sup> [https://www.azahcccs.gov/Members/BehavioralHealthServices/OpioidUseDisorderAndTreatment/Pregnancy\\_And\\_Opioids.html](https://www.azahcccs.gov/Members/BehavioralHealthServices/OpioidUseDisorderAndTreatment/Pregnancy_And_Opioids.html)

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

<sup>4</sup> [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.)

<sup>5</sup> <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.**

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

# **JPR - HB833 Testimony.pdf**

Uploaded by: Nicole Williams

Position: FAV

NICOLE A. WILLIAMS, ESQ.  
Legislative District 22  
Prince George's County

Judiciary Committee

Chair, Public Safety Subcommittee

Vice Chair, Democratic Caucus

Chair, Prince George's  
County House Delegation



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THE MARYLAND HOUSE OF DELEGATES  
ANNAPOLIS, MARYLAND 21401

March 25, 2024

The Honorable Williams Smith

Chair of the Judicial Proceedings Committee

2 East

Miller Senate Office Building

Annapolis, Maryland 21401

House Bill 833

Good afternoon, Chair Smith, Vice Chair Waldstreicher, and the members of the Senate Judicial Proceedings Committee. I am Delegate Nicole Williams, and I will testify in favor of House Bill 833, also known as **Parents in Substance Use Disorder Treatment - Children in Need of Assistance and Treatment Facilities**. This bill would allow children to be placed with their parents or guardians while they receive specific substance use disorder treatment. Proper placement would be done when a child's parent demonstrates the child's best interest, the child gets proper care and attention, and there is no emergency. This bill also requires social services to file a report with a court if the child is not placed with the parent, describing the difficulties experienced and the efforts taken to find a placement for the child.

When parents are removed from caring for their children, even for as short as three weeks during the postpartum period, parents can develop a sense of detachment from their children. This causes parents not to understand the proper way to treat and care for their babies, which they would have developed if they had been placed together from the moment of birth or if separated after birth. The sense of love and emotional attachment for their child may unintentionally decrease tremendously. The children involved do not deserve to suffer from separation from their parents because the parents and guardians are trying their best to ensure they can show up for their children when they are at their healthiest and to provide their kids with a nourishing future. Keeping children with their parents and guardians, even while undergoing specific substance abuse treatments, will ensure that the detachment feeling does not take place, overall benefitting the child and the parent.

NICOLE A. WILLIAMS, ESQ.  
*Legislative District 22*  
Prince George's County

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THE MARYLAND HOUSE OF DELEGATES  
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Additionally, children who are separated from their mothers at any time within the first two years of their lives show higher signs of aggressive behavior. Because children unintentionally do not receive the same emotional resources from their parents, they can demonstrate signs of aggression starting at the age of three. This negatively affects children's futures as they could then begin to engage in other unhealthy behaviors.

Passing this legislation would be in the best interest of all individuals involved, parents and children. Parents benefit from being able to remain with their children while they overcome their struggles. Having an individual to care for incentivizes parents to better themselves and provide for their youth. Moreover, while this displacement may be a short period, it will benefit children in the long run as they will grow up constantly experiencing the healthy love of their parents.

For these reasons, I urge this committee to give a favorable report on House Bill 833.

Sincerely,

A handwritten signature in blue ink, appearing to read "Nicole Williams", with a long horizontal flourish extending to the right.

Delegate Nicole A. Williams, Esq.

**HB0833 - FAV - DHS.pdf**

Uploaded by: Rachel Sledge Government Affairs

Position: FAV



March 26, 2024

The Honorable Will Smith  
Chair, Judicial Proceedings Committee  
Miller Senate Office Building, 2 East  
Annapolis, Maryland 21401

**RE: TESTIMONY ON HB0833 - Children in Need of Assistance - Parents in Substance Use Disorder Treatment - POSITION: FAVORABLE**

Dear Chair Smith and Members of the Judicial Proceedings Committee:

The Maryland Department of Human Services (DHS) thanks the Committee for the opportunity to provide favorable testimony on House Bill 833 (HB0833). With offices in every one of Maryland's jurisdictions, we empower Marylanders to reach their full potential by providing preventative and supportive services, economic assistance, and meaningful connections to workforce development and career opportunities. The Social Services Administration within DHS implements Child Prevention services, Protective Services, Family Preservation, and Out-of-Home Programs which serves the children and parents impacted by HB0833.

House Bill 833 aims to protect parents' ability to safely maintain custody of and care for their child(ren) when Substance Use Disorder (SUD) is the prevailing reason for shelter of the child(ren) by creating presumptions that a child remains with their parent when the parent is actively participating in family-based residential or outpatient substance use treatment. On average, 8.7 million children in the U.S. live with at least one parent with a substance use disorder. In Maryland caregiver substance abuse is a leading circumstance contributing to removal of children from home. Thirty percent of children removed in 2023 had parental SUD as a primary factor contributing to removal. Children aged 4 and under were particularly impacted by removal for parental substance use (25%), and 38% of the children were under the age of 1. Nationally, children removed from homes where a parental substance use disorder was present spend more time in foster care and are less likely to reunify with family.

House Bill 833 supports the Department's family first, family-centered model of practice with supportive parenting during treatment and recovery while ensuring the safety of children. Family-based residential treatment programs and, where appropriate, outpatient treatment programs, ensure families have necessary services and support to avoid the social, emotional, and developmental trauma children and parents may experience as the result of separation and out of home placement. Research shows family-based residential treatment significantly improves parenting skills, compared to treatment for substance use disorder alone. Parents participating in family-centered



programs reduce substance use more than treatment focused only on substance use disorders. Critically, on-going evaluation of family-based substance use treatment is demonstrating lower risk of child maltreatment.

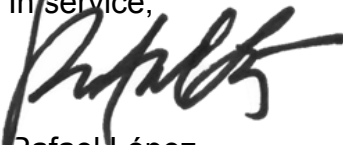
Further, child safety concerns that may arise in particular cases can be addressed by providing a court with information rebutting legislative presumptions in favor of family preservation. Unavailability of family-based substance use treatment may also rebut the bill's family integrity presumptions. House Bill 833 facilitates implementing foster care prevention and child safety goals of the federal Family First Prevention Services Act (FFPSA). Recognizing the importance of keeping children with their parents when safe, FFPSA enables Maryland to draw down federal funding for treatment for parents engaged in eligible evidence-based substance use treatment services when a child can remain safely at home with those services. Maryland can also claim federal Title IV-E foster care maintenance payments to help cover the child's costs when a child in foster care is placed with their parent in a licensed residential family-based treatment program.

House Bill 833 may also help increase cooperation between treatment programs for substance use disorders and the child welfare system. Parents benefit from programs addressing the difficulties of both parenting and recovery. Moreover, the parent-child relationship is often a primary motivator for achieving and maintaining sobriety, and contributes to successful treatment. We are committed to reducing barriers to entering and completing treatment while safely preserving parent-child relationships.

We appreciate the opportunity to provide favorable testimony to the Committee for consideration during your deliberations. We look forward to the decision of the Committee and welcome continued collaboration on HB0833.

If you require additional information, please contact Rachel Sledge, Director of Government Affairs, at [rachel.sledge@maryland.gov](mailto:rachel.sledge@maryland.gov).

In service,



Rafael López  
Secretary

# Written Testimony - HB833-Trivedi.pdf

Uploaded by: Shanta Trivedi

Position: FAV

## Support HB 833

Children in Need of Assistance – Parents in Substance Use Disorder Treatment  
Testimony of Shanta Trivedi, Esq.  
March 25, 2024  
Judicial Proceedings Committee

Senator Smith and Members of the Committee:

I am an Assistant Professor at the University of Baltimore School of Law where I teach courses on Family Law and the Child Welfare System and write on child welfare issues, particularly as it affects low-income, minority and otherwise marginalized parents. I have also represented parents in the child welfare system, who were trying to prevent the removal of their children or were fighting to reunify. In addition, I serve as the Faculty Director of the Sayra and Neil Meyerhoff Center for Families, Children, and the Courts (CFCC). CFCC envisions communities where children and families thrive without unnecessary involvement in the legal system. We engage communities in all that we do to work towards transforming systems that create barriers to family well-being. **We urge you to support HB0833.**

This bill establishes a presumption in favor of placing children with their parents undergoing substance use disorder (SUD) treatment, recognizing that such placement is in the best interest of the child. It acknowledges that familial bonds are crucial to child well-being in most cases and creates an exception when an emergency situation prevents the possibility of the child remaining with the parent. Further, it recognizes that parents who struggle with addiction who are trying to recover, are presumptively capable of providing proper care and attention to their child. Finally, it requires the agency to report to the court when the parent and child are not able to be placed together and to explain why.

HB0833 reflects a deep understanding that the separation of children from their parents, particularly in the delicate context of SUD recovery, can have profoundly detrimental effects. Particularly for newborns, the postpartum period is critical for bonding and attachment. During this time, the presence of a parent is indispensable for the newborn's emotional and cognitive development<sup>1</sup>. Furthermore, newborns suffering from neonatal abstinence syndrome (NAS) face unique challenges. Contrary to our current approach of separation, research demonstrates that keeping babies with their parents helps newborns to recover faster than they do when treated pharmacologically.<sup>2</sup> Thus HB0833 champions a research-based approach that prioritizes keeping children with their parents in treatment, an approach that is proven to mitigate the adverse impacts of NAS.

HB0833 is also what is best for parents struggling with addiction. Studies show that removing children from parents who suffer from substance use disorder can make it even harder for them to recover. Parents suffer from grief and depression after the removal of their children which may lead them to turn to substances to cope. This makes it difficult for parents to engage in treatment or other recommended services and as a result, reunification can be hindered or even permanently stalled.<sup>3</sup>

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<sup>1</sup> Robert Siegel & Joshua Sharfstein, *For Newborns Exposed to Opioids, Health Issues May Be the Least of Their Problems*, NAT'L PUB. RADIO (June 30, 2017, 4:00 PM), <https://www.npr.org/sections/health-shots/2017/06/30/534911289/for-newborns-exposed-to-opioids-health-issues-may-be-the-least-of-their-problems> [<https://perma.cc/W9QQ-7BKD>].

<sup>2</sup> Newman AI, Mauer-Vakil D, Coo H, Newton L, Wilkerson E, McKnight S, Brogly SB. *Rooming-in for Infants at Risk for Neonatal Abstinence Syndrome: Outcomes 5 Years following Its Introduction as the Standard of Care at One Hospital*. 39 Am J Perinatol 897 (2020)

<sup>3</sup> Kathi L.H. Harp, Carrie B. Oser, *A Longitudinal Analysis of the Impact of Child Custody Loss on Drug Use and Crime Among a Sample of African American Mothers*, 77 Child Abuse & Neglect 1 (2018).

Finally, HB0833 requires the Department of Social Services to be accountable to the court when parents and children are not able to be placed together. This is an important enforcement mechanism that would ensure that the Department make the necessary efforts are made to comply with this law, if passed.

HBB0833 is a data-driven, scientifically-backed response to an ongoing health crisis in our community. Because this bill acknowledges the importance of keeping families together during the challenging journey of SUD treatment, thereby supporting not just the recovery of the individual, but the holistic health of the entire family unit, we urge you to **support HB833**.

# **HB833 Testimony 03.25.24.pdf**

Uploaded by: Stephanie Glaberson

Position: FAV

## 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%.<sup>1</sup>

**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.”<sup>2</sup> To the contrary, studies show that it is possible to engage in substance use and still adequately parent children.<sup>3</sup> Across the nation, system actors are recognizing that a drug test is not a parenting test.<sup>4</sup>

**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.”<sup>5</sup> Likewise, parents who lose their children report feeling intense feelings of grief, confusion, and inadequacy.<sup>6</sup> Removal of children may exacerbate “existing trauma and mental health issues such as anxiety and depression, for some leading to post-traumatic stress.”<sup>7</sup> Separation may, in fact, make recovery from substance use disorders far more difficult.<sup>8</sup> 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.”<sup>9</sup>

**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.**

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

<sup>2</sup> 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](http://bit.ly/groundzeroreport)

<sup>3</sup> 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...”).

<sup>4</sup> *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”).

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

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

<sup>7</sup> *Id.* at 10.

<sup>8</sup> *Id.* at 10-12.

<sup>9</sup> 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>.

**hb833.pdf**

Uploaded by: Linda Miller

Position: UNF



HON. STACY A. MAYER  
CIRCUIT COURT  
JUDGE  
BALTIMORE COUNTY  
CHAIR

HON. RICHARD SANDY  
CIRCUIT COURT  
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## MARYLAND JUDICIAL COUNCIL LEGISLATIVE COMMITTEE

### MEMORANDUM

**TO:** Senate Judicial Proceedings Committee  
**FROM:** Legislative Committee  
Suzanne D. Pelz, Esq.  
410-260-1523  
**RE:** House Bill 833  
Children in Need of Assistance – Parents in Substance Use  
Disorder Treatment  
**DATE:** March 20, 2024  
(3/26)  
**POSITION:** Oppose

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The Maryland Judiciary opposes House Bill 833.

The Judiciary opposes the creation of the presumptions for several reasons. The Judiciary notes the difficulty of presuming (at such an early stage of the case, when the court may have little information) that there is no emergency situation. The court also only has limited information about a treatment program's child-specific programming. It is difficult to presume that the child is getting proper care and attention, and that child welfare cases are extremely fact-specific.

cc. Hon. Nicole Williams  
Judicial Council  
Legislative Committee  
Kelley O'Connor