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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: 02/13/2024**

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 or Out-Patient 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 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.

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.**

