



Testimony for the House Judiciary Committee

February 18, 2025

House Bill 837 - Task Force to Study Forced Infant Separation From Incarcerated Individuals

FAVORABLE

AMERICAN CIVIL
LIBERTIES UNION
OF MARYLAND

3600 CLIPPER MILL ROAD
SUITE 200
BALTIMORE, MD 21211
T/410-889-8555
F/410-366-7838

WWW.ACLU-MD.ORG

OFFICERS AND DIRECTORS
COREY STOTTLEMYER
PRESIDENT

DANA VICKERS SHELLEY
EXECUTIVE DIRECTOR

ANDREW FREEMAN
GENERAL COUNSEL

The ACLU of Maryland strongly supports HB 837 – Task Force to Study Forced Infant Separation From Incarcerated Individuals. HB 837 would require the Governor’s Office of Crime Prevention and Policy (GOCPP) to staff the task force, which will be tasked with studying: (1) the number of pregnant and postpartum incarcerated individuals in Maryland’s prisons; (2) the ability of the Division of Correction to create a space within the planned women’s prerelease unit; (3) the impact of forced infant separation from the infant’s mother; (4) best practices of other state correctional systems; and other issues that the task force considers relevant.

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.

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.

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

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>

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 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.

HB 837 is a necessary step towards ensuring that Maryland's carceral system considers the well being of infants whose lives and development are significantly hindered by being separated from their mothers. These infants deserve a better start in life. We urge a favorable report on HB 837.

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

³ Gifford, E. J., Eldred Kozeck, 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>