



## Testimony for the Senate Judiciary Proceedings Committee

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### SB 21 - Criminal Procedure - Sentencing - Primary Caretaker

#### FAVORABLE

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The ACLU of Maryland supports SB 21 - Criminal Procedure - Sentencing - Primary Caretaker, which would allow people convicted of non-violent offenses to file a motion post-conviction to request that their primary caretaker status to a dependent be considered in sentencing. The judge would determine whether or not an alternative community-based placement or program — such as a substance abuse treatment facility, mental health program, or home confinement — is suitable for the caretaker who has been convicted. The primary goal of the bill is to lessen the significant harm that is done to children and vulnerable adults when they are separated from their primary caretakers.

Maryland can improve economic and community and public health outcomes — especially for Black and Brown communities — by taking steps to reduce mass incarceration and invest in community-based alternatives where it makes sense. This bill prioritizes public safety as it would only apply to caretakers convicted of nonviolent offenses, which are crimes that do not involve the use or threat of physical force or a deadly weapon against another person, and is not burglary, extortion, arson, or kidnapping. Further, SB 21 has longer term public safety implications as the overall outcomes for both incarcerated individuals and their children would improve.

At any given time, an estimated 90,000 children in Maryland have a parent under some form of correctional supervision<sup>1</sup>. More than half of women incarcerated and approximately half of incarcerated men reported that they have at least one child<sup>2</sup>. Children who are separated from their caregiver are more likely to have negative health outcomes including higher rates of infant mortality, child mortality and perterm births<sup>3</sup>. These children also experience

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<sup>1</sup> Governor's Office of Children, Children and Families Affected By Incarceration. <https://goc.maryland.gov/incarceration/>. Accessed 25, Jan. 2022.

<sup>2</sup> Maruschak, Laura M., Bronson, Jennifer, Ph.D., and Alper, Mariel, Ph.D. "Parents in Prison and Their Minor Children," U.S. Department of Justice, Bureau of Justice Statistics. March 2021. <https://bjs.ojp.gov/content/pub/pdf/pptmcspi16st.pdf>. Accessed 25, Jan. 2022.

<sup>3</sup> Martin, Eric. "Hidden Consequences: The Impact of Incarceration on Dependent Children," NIJ Journal 278. March 2017. <https://nij.ojp.gov/topics/articles/hidden-consequences-impact-incarceration-dependent-children>

higher rates of incarceration themselves, academic failure, school suspensions and dropping out, drug use, poverty, homelessness, and personal health and mental health issues. Parental incarceration is also correlated with family instability, higher rates of child welfare involvement, and PTSD<sup>4,5</sup>.

SB 21 can help mitigate these deleterious outcomes by allowing more primary caregivers to participate in community-based sentencing alternatives instead of incarceration. This would allow children and dependent adults to benefit from staying connected to their primary caretaker.

SB 21 also makes economic sense. Maryland spends approximately \$46,000 on average annually for each incarcerated individual<sup>6</sup>. While the cost of community-based programs vary depending on the type of service and the length of time the service is used, these alternatives are much less costly than incarceration. Further, expanding the use of alternative community-based programs can lead to longer term cost savings as they have been proven to reduce recidivism and help people access housing and employment.

Maryland can play a significant role in keeping families together and improving the lives of those who are incarcerated for nonviolent offenses, and for the children and adults who depend on them. This committee has an opportunity to take a significant step forward to address mass incarceration while expanding a system of community-based services for nonviolent offenders, which are more effective for families and more economical for the state. We urge you to give a favorable report to SB 21. Thank you.

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<sup>4</sup> Lee, Rosalyn D., PhD, MPH, MA, Fang, Xiangming, PhD, and Luo, Feijun, PhD. "The Impact of Parental Incarceration on the Physical and Mental Health of Young Adults," *American Academy of Pediatrics*. April 2013. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3608482/>

<sup>5</sup> Berger, Lawrence M., et al. "Families at the Intersection of the Criminal Justice and Child Protective Services Systems," *The American Academy of Political and Social Science*. April 2016. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6044461/>

<sup>6</sup> "Building on the Unger Experience: A cost-benefit analysis of releasing aging prisoners," *Open Society Institute*. January 2019. <http://goccp.maryland.gov/wp-content/uploads/Unger-Cost-Benefit3.pdf>

