



MONTGOMERY COUNTY, MARYLAND
WOMEN'S DEMOCRATIC CLUB

P.O. Box 34047, Bethesda, MD 20827

www.womensdemocraticclub.org

**Senate Bill 776– Correctional Services - Pregnancy and Postpartum Support
(Prevention of Forced Infant Separation Act)
Judicial Proceedings Committee – March 9, 2022
FAVORABLE WITH AMENDMENTS**

Thank you for this opportunity to submit written testimony concerning an important priority of the **Montgomery County Women's Democratic Club (WDC)** for the 2022 legislative session. WDC is one of Maryland's largest and most active Democratic Clubs, with hundreds of politically active women and men, including many elected officials.

WDC urges the passage of SB776. The goal of this legislation is to allow women who give birth while incarcerated to keep their newborns with them for one-year post-partum. SB776 is patterned after Minnesota's Healthy Start Act, a first-in-the nation law, passed on a bi-partisan basis, that allows an incarcerated woman to be placed in a community-based setting with her baby for the first year of the baby's life. Separation of infants from their mothers during the first year of life is bad for the baby and bad for the mother. SB776 is good policy and should be passed without delay.

Pregnant Women in Maryland's Jails and Prison: In the State of Maryland, pregnant women who go into labor while incarcerated in a Department of Public Safety and Correctional Services (DPSCS) correctional facility will be transported to a hospital but are required to return to their facility as soon as they are discharged¹. For a standard vaginal delivery, this is generally 1-2 days after giving birth². This means that most incarcerated women have less than 48 hours with their newborns before the baby is forcibly separated from the mother. Among incarcerated women in Maryland, 10% are pregnant and 64% of these women will give birth while incarcerated.³ The majority of incarcerated women are the sole caregivers of their children, therefore, many of these newborns will enter the Maryland Department of Human Services (DHS) foster care program just days after they are born⁴. We can only expect those numbers to rise as the number of women in Maryland's prisons and jails continues to rise. Since 1980, Maryland's population of women in jail has increased 462 percent, and the percentage of women in prison has increased 264 percent.⁵

¹ <https://casetext.com/statute/code-of-maryland/article-correctional-services/title-9-state-and-local-correctional-system-inmates/subtitle-6-miscellaneous/section-9-601-pregnant-inmates>

² <https://www.acog.org/womens-health/faqs/a-partners-guide-to-pregnancy>

³ <https://ajph.aphapublications.org/doi/10.2105/AJPH.2019.305006>

⁴ <https://www.apa.org/pi/ses/resources/indicator/2019/04/incarcerated-women>

⁵ <https://www.vera.org/downloads/pdfdownloads/state-incarceration-trends-maryland.pdf>



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Forced Separation Leads to Negative Outcomes for Baby and Mother. The forced separation of infants from their incarcerated mothers leads to a myriad 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 development⁶. This means that when babies are forcibly separated from their mothers just days after birth, there can be lifelong developmental consequences. Not only does separation immediately cause a permanent increase in a baby's stress levels, but separated babies are more likely to develop post-traumatic stress and substance use disorders as adults⁷. For mothers, the psychological consequences of forced separation can be just as severe. Mothers forcibly separated from their newborns are more likely to experience post-partum depression, feelings of extreme powerlessness, grief, and feelings of detachment.

A central tenet of attachment theory is the notion that caregivers must be physically present and accessible for children to become attached to them. Research has shown that maternal availability is particularly important within the first two years of a child's life because of a baby's limited understanding of the reasons for maternal absence. As a result, experiences of separation during the first year of life may be particularly determinant of negative outcomes for the child throughout his or her life. For one example, studies examining the impacts of even minor separations of a week or more from a caregiver found adverse consequences associated with children's reading achievement by age 8.⁸ And, that is just the tip of the iceberg. Given that all incarcerated women in Maryland must serve their sentences in the Maryland Correctional Institute for Women (MCI-W), which is in Jessup and is not served by public transit, opportunities for mother-baby visitation are limited.

Minnesota's Healthy Start Act. In 2021, Minnesota became the first state to prevent the forced separation of infants from incarcerated mothers after the passage of the Healthy Start Act. The Healthy Start Act allowed the Minnesota Commissioner of Corrections to place pregnant individuals into community alternatives up to one-year postpartum, giving babies and caregivers support they need during that first critical year of infancy⁹. The Healthy Start Act received strong bipartisan support in the Minnesota legislature. Through the passage of the

⁶ <https://www.uofmhealth.org/health-library/hw251065>

⁷ <https://theconversation.com/a-sudden-and-lasting-separation-from-a-parent-can-permanently-alter-brain-development-98542>

⁸ Kimberly Howard, Anne Martin, Lisa J. Berlin & Jeanne Brooks-Gunn (2011) Early mother-child separation, parenting, and child well-being in Early Head Start families, *Attachment & Human Development*, 13:1, 5-26, DOI: [10.1080/14616734.2010.488119](https://doi.org/10.1080/14616734.2010.488119)

⁹ https://www.senate.mn/committees/2021-2022/3099_Committee_on_Judiciary_and_Public_Safety_Finance_and_Policy/Healthy%20Start%20Act%20Fact%20Sheet%20-%20SF%201315.pdf



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Prevention of Forced Infant Separation Act, Maryland can join Minnesota in keeping mothers and babies together during incarceration.

Proposed Amendments. SB776 applies to pregnant women in prerelease status and envisions that those women would be housed with their infants at the Women's Prerelease Center which SB684/HB801, legislation passed in 2020, required DPSCS to build and operate. However, despite a statutory deadline requiring the commencement of operations of the center by December 31, 2023, DPSCS Secretary Robert Green and others testified at a January 25, 2022, hearing before the Senate Judicial Proceedings Committee, that DPSCS does not even plan to request capital funding for the Women's Prerelease Center until the 2024 budget cycle. Therefore, there is currently no prerelease center to house incarcerated women and infants, nor will there be one any time soon. SB776 should be amended to require the Department of Corrections to find suitable community-based programs for incarcerated mothers and their newborns until the Women's Prerelease Center is operational.

Moreover, WDC believes that other incarcerated women in Maryland should be eligible to keep their infants with them for the first year of life. Therefore, WDC proposes that SB776 be amended to track the Healthy Start Act and allow all women in Maryland's jails and prisons to be eligible for placement in community-based programs with their infants during the first year of the infant's life. It is unclear why a woman who is incarcerated for a non-violent crime, is in minimum security status, and has exhibited good behavior but has not yet reached prerelease status should be denied the opportunity to be with her baby in infancy.

All mothers in community-based housing will have access to the Healthy Start Program, which will be developed by professionals in child development and ensure that mothers get the resources they need to form strong and lasting bonds with their infants. Although the Fiscal Note estimated that the costs associated with the implementation could be "significant," we note that in Minnesota, it is estimated that such programming would cost \$200,000 per year.¹⁰ Given the cost of foster care and the lifelong costs of remedying mother-infant separation, regardless of the amount, the money is well spent.

Despite the rapid growth of the population of women in Maryland's prisons and jails, Maryland's carceral system has not adapted to a model that meets women's needs as caregivers and recognizes children's need for their mothers' continued physical presence. Like prison systems throughout the country, Maryland's prison system is based on a male-centered model in which men are not assumed to be responsible caregivers for children. It is time for Maryland to rethink corrections and incarceration to develop programs and housing that meet

¹⁰ https://mn.gov/doc/assets/2021_Healthy%20Start%20Act_tcm1089-466712.pdf



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the needs of incarcerated women and their children. This is especially true for those women who are pregnant and give birth while incarcerated. SB776 is a step in that direction.

There is a clear need for Maryland to prevent the cruel and harmful separation of mothers and their infants, days after birth. SB776 will help incarcerated mothers and their infants form strong attachments, leading to better health outcomes for the women and their children and create a strong incentive against recidivism. It is time for Maryland to show the leadership that Minnesota has shown and to commit to keep families together and end forced infant separation.

We ask for your support for SB776 with the amendments proposed above and strongly urge a favorable Committee report.

Respectfully,

Leslie Milano
President