

Support HB 0454

Correctional Services - Pregnancy and Postpartum Support (Prevention of Forced Infant Separation Act)

Testimony of Shanta Trivedi, Esq.

Tuesday, February 8, 2022

House Judiciary Committee



Dear Del. Clippinger and Members of the House Judiciary Committee:

I am an Assistant Professor of Law at the University of Baltimore School of Law. I teach courses on Family Law and the Child Welfare System and have written extensively on family separation, particularly as it affects low-income and minority families. I have also represented hundreds of parents who have been separated from their children. In addition, I serve as the Faculty Director of the Sayra and Neil Meyerhoff Center for Families, Children and the Courts (CFCC). CFCC's mission is to create, foster, and support a national movement to integrate communities, families, and the justice system in order to improve the lives of families and the health of the community. I believe that HB 0454 is necessary to ensure that parents and their newborns are able to develop healthy and secure attachments that are critical for favorable child development and to honor the constitutional right to family integrity. **I urge you to issue a favorable report on HB 0454.**

HB0454 would allow infants to stay with their mothers for the first year of the infants' lives and have liberal visitation thereafter with both the mother and with the other parent. This is a crucial period of infant-parent attachment, and keeping babies with their mothers has significant positive impacts on the child. Studies show that newborns can identify and prefer the sounds of their mothers' voice over that of other females, which doctors regard as evidence that this is critical for bonding. Further, it is widely accepted that skin-to-skin contact in the hours after birth has positive health benefits for the infant. There is also evidence that interfering with this bonding process can disrupt early attachment development and lead to emotional distress and later behavioral and mental health problems. Allowing liberal visitation between both parents and the child allows this bond to continue to develop and these children to develop a secure attachment to their caregivers which has long-term benefits.

Further, separating an infant from their parent arguably violates the both parties' constitutional right to family integrity. Parents have a fundamental right to the care, custody, and control of their children, unless proven unfit. Many incarcerated women are accused of crimes that are completely unrelated to their children. Many have not even been accused of parental unfitness, much less been adjudicated unfit. Children *also* have a constitutional right to remain with their parents, unless the state has a compelling interest and uses narrowly tailored means to effectuate it. While the state interest in public safety may be compelling in some criminal cases, less restrictive alternatives to incarcerating a parent separate from their child exist. HB0454 is one such alternative.

For many infants whose mothers are incarcerated, if there is no other caregiver available, the alternative is foster care. Foster children have worse outcomes than their peers on nearly every metric, from education to poverty to behavioral and mental health. They are also more likely to become incarcerated themselves, furthering a vicious cycle. And given that half of Maryland's prison population is Black,¹ and nationally, the fastest growing prison population is women, this bill will have the most positive impacts on Black children.² **Because it would promote the healthy development of some of Maryland's most vulnerable children, I urge you to support HB 0454.**

¹ <https://www.sentencingproject.org/publications/color-of-justice-racial-and-ethnic-disparity-in-state-prisons/>

² Nazish Dholakia, Women's Incarceration Rates Are Skyrocketing. These Advocates Are Trying to Change That, May 17, 2021 <https://www.vera.org/blog/womens-voices/womens-incarceration-rates-are-skyrocketing>