

HB553

WRITTEN COMMENTS:

Dear Chair and Members of the Committee:

My name is Heather Corday Allard

I am a Birth Center Social Worker at a local community hospital. I have been working in this field for five years. I specialize in Women and Children. I am a member of the perinatal substance exposure collaborative.

I oppose HB 553 and urge the committee to vote this bill Inexpedient to Legislate or ITL.

I have significant concerns about changes to the definitions of neglect and terms that underly the rebuttable presumption of harm of in RSA 169 C.

To highlight a few items, these changes appear to:

- make in-utero exposure to drugs or alcohol alone – without any concrete confirmation that the exposure harmed the child - grounds for a report of neglect to DCYF; (see lines 31-35 page 5, paragraph (e))
- potentially make it grounds for neglect to permit a child to be babysat by someone who has had alcohol or controlled substances (see lines 22-30, page 5, paragraph (d) and lines 16-30 page 7),
- dramatically expands the ability of the state to take children away from their families by suggesting that any single event that adversely impacts a child can be grounds for a report of neglect – and that that event doesn't need to be observed, but could be merely predicted. (see lines 16-30, page 7)

HB553 will increase the perception by expectant women that getting prenatal care while addicted will mean having your child taken away from you.

The average person isn't aware of the nuances of DCYF proceedings about the differences between a report of neglect to DCYF and a finding of neglect by DCYF. They will only hear that if you ever used while pregnant, they automatically will take your children away. These outcomes will be worse for women from marginalized and underserved communities.

Punitive policies and practices are disproportionately applied to and disparately affect pregnant and postpartum people of color. Despite similar rates of substance use and professional medical society recommendations that screening for substance use be universal, Black parents and their newborns are 1.5 times more likely to be tested for substances as compared to non-Black parents. Black parents and their newborns are also 4 to 10 times more likely than White parents

and their newborns to be reported to the child protection system at delivery. Black and Native American children are overrepresented in foster care at 2 to 11 times the rate of White children in the setting of parental substance use.ⁱ

These proposed policies will increase the likelihood that women will conceal addiction struggle during pregnancy and avoid prenatal care, leading to worse outcomes for both parents and children.

These proposed changes run counter to best practices in maternal and child health. The American College of Obstetricians and Gynecologists has found that seeking obstetric care should not expose a woman to criminal or civil penalties including loss of custody of her children.ⁱⁱ The American Society of Addiction Medicine asserts that equating a positive toxicology test with child abuse or neglect is scientifically inaccurate and inappropriate, and can lead to an unnecessarily punitive approach, which harms clinician-patient trust and persons' engagement with healthcare services.ⁱⁱⁱ

Pregnant women who do not receive treatment for drug dependence cannot be assumed to have rejected treatment. Few in-patient facilities provide childcare, or account for the woman's family responsibilities, or offer affordable care. A woman dealing with addiction who is pregnant and already has children at home may refuse treatment in order to stay with her children to fulfill her existing obligations.

We do know that substance abuse treatment programs integrated WITH prenatal care have proved to be effective in reducing maternal and fetal pregnancy complications and costs.^{iv}

There are many more services and supports available for women who pregnant and parenting with addiction now than ever. The priority should always be on connecting the family to treatment and prioritizing maintaining the mother and child unit (often referred to as a dyad). Separating a child from its parent is in and of itself an adverse childhood event and causes much more harm than it prevents. Children impacted by family separation have worse long-term outcomes in areas including education, employment, income, housing, health, substance use, and involvement with the criminal legal system, compared to their peers in the general population. Furthermore, child removal is associated with return to substance use among the affected parent, parental overdose, and higher rates of parental post-traumatic stress disorder (PTSD).^v

I have significant concerns about the consequences of this bill. I oppose HB553 and urge the committee to vote it ITL or inexpedient to legislate.

TALKING POINTS:

1. Unintended consequences
 - a. Increased likelihood that women will conceal drug use to avoid allegations of neglect or harm and separation from their child.
 - b. Avoidance of prenatal care due to above
 - i. Drug enforcement policies that deter women from seeking prenatal care are contrary to the welfare of the mother and baby. (ACOG, Number 473)
 - c. Potential damage to provider/patient relationship
 - i. In one study, women who abused drugs did not trust health care providers to protect them from consequences of identifying as needing addiction help and avoided or emotionally disengaged from prenatal care.
 - d. Women trying to detox on their own increase risk of fetal harm and preterm delivery
2. Creates additional barriers to treatment
 - a. Any perceived increase in contact with DCYF is a direct disincentive to seeking treatment
 - b. Lack of treatment increases risk for harm to the parents and the children.
3. Separation of mother and baby is an adverse childhood event in itself
 - a. This legislation claims to be trying to prevent an adverse event for a child. Although some children may benefit from foster care services, research reveals that young adults with a history of foster care placement experienced disproportionate rates of psychiatric problems associated with cumulative adversities such as maltreatment, numerous foster care placements, and interpersonal losses.⁵⁶ Researchers noted that the rate of post-traumatic stress disorder was higher in this population compared with the general population and close to twice the rate of US war veterans.^{57,58}
 - b. Engagement in treatment during pregnancy allows time for assessing readiness for parenting and the development of necessary supports.
 - c. Best practice for mothers who are not stable in recovery is supportive and supervised care for mother and baby, not the separation of them.
 - d. This policy – by appearing to encourage separation of a mother and child - promotes rather than interrupts the multigenerational cycle of child abuse/neglect /ACES, leading to more substance use disorders.
4. Better approaches exist: Excellent perinatal outcomes are being demonstrated right now in addiction treatment programs for women who are pregnant and have children.

ⁱ American Society of Addiction Medicine. Advancing Racial Justice in Addiction Medicine. Default. Published February 25, 2021. Accessed March 2, 2022. <https://www.asam.org/advocacy/public-policy-statements/details/public-policy-statements/2021/02/25/public-policy-statement-on-advancing-racial-justice-in-addiction-medicine>

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ⁱⁱ At-risk drinking and illicit drug use: ethical issues in obstetric and gynecologic practice. ACOG Committee Opinion no. 422. ACOG. *Obstet Gynecol* 2008; 112: 1449-60

ⁱⁱⁱ Faherty LJ, Kranz AM, Russell-Fritch J, Patrick SW, Cantor J, Stein BD. Association of Punitive and Reporting State Policies Related to Substance Use in Pregnancy With Rates of Neonatal Abstinence Syndrome. *JAMA Netw Open*. 2019;2(11):e1914078. doi:10.1001/jamanetworkopen.2019.14078

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^{iv} Armstrong MA, Gonzales Osejo V, Lieberman L, Carpenter DM, Pantoa PM, Escobar GH. Perinatal substance abuse intervention in obstetric clinics decreases adverse neonatal outcomes. *JPerinatol* 2003; 23:3-9.

^v Gypen L, Vanderfaeillie J, De Maeyer S, Belenger L, Van Holen F. Outcomes of children who grew up in foster care: Systematic-review. *Child Youth Serv Rev*. 2017;76:74-83. doi:10.1016/j.chilyouth.2017.02.035

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