Opposition Testimony to the Ohio Senate Judiciary Committee

Spencer J Cahoon

Senate Bill 216

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Thank you to Chairman Manning, Vice Chair McColley, Ranking Member Thomas, and Members of the Senate Judiciary Committee for taking the time to consider this opposition testimony to SB 216.

My name is Spencer Cahoon. I'm an Ohio resident and prior social worker with experience working with families and children and people addressing substance-use disorders. In preparing this testimony, I also reached out to a social-work colleague who has spend over a decade working for Franklin County Children's Services at both the case management and supervisory levels addressing exactly the sort of cases contemplated in this bill.

Dylan's death was a tragedy. No child should have to suffer such a fate. This bill, however, risks compounding that tragedy by overwhelming the limited resources of the overburdened children services system, misunderstanding substance use disorders and treatment, disparately impacting poor communities and communities of color, and creating unnecessary trauma for children and families while undermining Ohio's family-unification-focused approach.

Other targeted changes would better address the concerns raised by Dylan's death.

> 1 - Requiring pre-placement, <u>monitored</u> drug testing for substance-exposed infants already removed from the home
>
> 2 – Authorizing/Empowering PCSAs to engage with pregnant women for proactive supportive services and treatment prior to delivery.

System Resource Impact

Ohio's children services system currently struggles to recruit and train enough foster placements. Many substance-exposed infants are not currently placed into the foster care system. The decision to place a substance-exposed infant into foster care is based on multiple factors including the severity of the substance use disorder, the additional supports available and utilized by the parent, and the parent's previously demonstrated level of functioning. Substance use disorders are differentiated by the DSM-V (Diagnostic & Statistical Manual of Mental Disorders, Fifth Edition) into three levels of severity – mild, moderate, and severe. Parent needs and infant risk can vary significantly between a new mother with a mild marijuana use disorder to one with a severe heroin/oxycodone use disorder.

Current practice allows for supportive services in the home or community, voluntary safety plans for new mother who recognize their use disorder and seek treatment, and, in

the cases of higher risk, removal of the child. Mandatory removal for any substance-exposed infant under this bill will remove significantly more children to foster care. Local PCSAs lack the families for placement or the amount funding necessary to address this mandate. Perhaps more importantly, it will be a significant increase in foster placements for the children least in need of that high level of service.

Substance Use Disorder

Substance use disorders remain a pervasive problem in our society. We have many treatment programs and resources to help people overcome them. Relapse is a normal part of the recovery process. The Center for Disease Control (CDC) has noted that "relapsing is not a sign of failure" it is best understood as "a sign that more treatment or a different method is needed."[1] This bill, by requiring ongoing negative drug tests, unintentionally stigmatizes relapse and prohibits timely reunification. Because of the harsh consequences of relapse under this bill – lack of reunification – it strongly incentivizes a relapsing parent to lie about the relapse or attempt to trick the system.[2]

To ensure child safety, we need a system where parents undergoing treatment can safely report a relapse so that treatment can be adjusted. That can only happen in a system where relapse is not an automatic disqualifier to reunification. Reunification should be based on a comprehensive, evidence-based assessment of the parent and overall home instead of a one-size-fits-all rule.

Disproportionate Impact

Based on my colleague's experience speaking with hospital staff at various locations, testing for drugs of abuse is not routinely done at delivery. It's performed on a discretionary basis when a doctor or nurse has suspicion/concern. That informal process means that doctors' and nurses' biases factor into the testing decision, which will result in both poorer mothers and mothers from communities of color being tested at higher rates. We already know that doctors and medical student treat Black patients differently regarding pain[3] and that racial disparities continue in pregnancy-related mortality[4]. The CDC has identified addressing "bias in healthcare" as an important step forward.[5]

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[1] https://www.cdc.gov/stopoverdose/stigma/ (referenced 2/7/22); See also, Why Relapse Isn't a Sign of Failure, David Sack M.D., Psychology Today, Oct. 19, 2012 (https://www.psychologytoday.com/us/blog/where-science-meets-the-steps/201210/why-relapse-isnt-sign-failure).

[2] See Testimony of Andrea Tackett regarding SB 216, 11/9/21 (https://www.legislature.ohio.gov/legislation/legislation-committee-documents?id=GA134-SB-216) (noting that Dylan's father's use of someone else's urine to trick an unmonitored drug test was one of the facts surrounding Dylan's tragic death).

[3] https://www.aamc.org/news-insights/how-we-fail-black-patients-pain (referenced 2/7/22).

[4] https://www.cdc.gov/media/releases/2019/p0905-racial-ethnic-disparities-pregnancy-deaths.html (referenced 2/7/22)

[5] See F.N. 5.

This bill's requirement to remove a substance-exposed infant, upon reporting, takes away the discretion of local PCSAs to make case-specific determination that can ameliorate healthcare testing bias.

Targeted Alternatives

The type of tragedy that claimed Dylan's life could be averted by less severe changes such as requiring pre-placement, monitored drug testing in cases regarding substance-exposed infants removed from the home.[6]

Similarly, our PCSAs are unable to provide services to expecting mothers who do not already have children in the home. Expanding their service provision to expecting mother would allow our PCSAs to act a resource to get pregnant women treatment and supportive resources early on in their pregnancy to help prevent the need for later removal. Early treatment, support, and better pre-placement testing can help prevent tragedies like Dylan's death and support the welfare of all our children.

This bill in its current form creates unnecessary trauma for families and is a departure from Ohio's family-unification-focused approach. Please consider a change to some of the targeted alternatives to address the needs underlying the bill while still acting in keeping with Ohio's family-unification approach.

Thank you for your time.

[6] See F.N. 3 (noting that monitored testing would have prevented placement with the father).