

SB 216  
Opponent Testimony

Sarah Gatti

2/7/2022

Dear Chairman Manning, Vice-Chair McColley, Ranking Member Thomas, and members of the Senate Judiciary Committee:

Thank you for the opportunity to offer opponent testimony for SB 216.

I am a licensed Ohio attorney who has worked defending parents in Cuyahoga County Juvenile Court for over seven years. Before attending law school, I obtained my undergraduate and graduate degrees in Social Work. As a result, I have more than ten years of experience providing direct services to parents who are subject to involvement with the child welfare system. As an attorney who represents parents in child welfare proceedings, this bill makes me cringe. I believe it will devastate families without making any meaningful changes to improve service provision. S.B. 216 will create unnecessary red tape that will overly burden an already-stretched child welfare system and make reunification nearly impossible to achieve.

When I first read this law, there was one provision that stuck out to me immediately. Under this law, if a child is determined to be a “substance-exposed infant,” a juvenile court must issue a mandatory no-contact order between the mother and the child. This order must remain in place until a parent completes specific tasks that are likely to take several months, and applies regardless of which drug was used by the parent. For a newborn baby, this dramatically affects attachment and bonding and can lead to attachment disorders. For a new mother, the trauma of losing contact with a child can make it even more difficult to fully engage in treatment for substance use. This provision of the law is cruel and counterproductive. In my experience, my clients that are most successful in substance abuse treatment are the clients who are able to have regular, close contact with their children. When clients don’t worry about where their children are or how they are doing, they have more capacity for success in treatment.

Secondly, this bill removes any discretion from either the court or the local PCSA (Public Children’s Service Agency), thus eliminating a number of legal options that PCSAs regularly pursue in order to keep families safely together. S.B. 216 requires a PCSA to file a complaint in juvenile court when a parent or newborn tests positive for alcohol or any controlled substance at delivery. The bill does not specify what kind of test should be performed, which is problematic because different types of tests have different accuracy rates. Sometimes, additional testing and investigation is necessary before a PCSA can come to a conclusion about a case. This requirement that a complaint *must* be filed eliminates the possibility of safety plans or pre-petition representation programs, both of which have been used successfully for years while PCSAs further investigate cases and offer services to parents. My office is currently working in collaboration with our local PCSA to provide pre-petition services to families, and we have been incredibly successful at helping families resolve their issues safely and without court involvement. This bill could jeopardize this program. Additionally, H.B. 216 also eliminates the possibility that a mother might be able to enter a residential treatment program with her child.

There are numerous facilities across Ohio that currently allow new mothers to safely reside with their children in a supervised setting while they receive treatment.

Finally, it is concerning to me as someone who frequently represents mothers, that in the case of a substance-exposed infant whose father the PCSA “deems fit to care for the child,” the law completely forecloses any possibility of either reunification with a mother or shared parenting. This is because the law requires the court to grant legal custody to that father at the initial disposition—even if the father wants to give the mother a chance to complete treatment first. In my experience, many young fathers want to see their child’s mother recover from substance abuse and be healthy, active parent. To me, this bill reads as something designed to punish women for drug abuse and not as a bill designed to move families towards a place of wholeness and healing.

While Ohio’s child welfare system is in desperate need of reform, this bill will not address any of the underlying issues that compound risks for children. In many jurisdictions in Ohio, particularly in larger counties, PCSAs are routinely understaffed due to a lack of funding. This, combined with widespread poverty, creates intolerable working conditions at these PCSAs. Case workers are required to carry heavy caseloads. Workers must perform a very difficult and often dangerous job without sufficient support or supervision. This leads to endless turnover, mistakes, ineffective service provision, and low hiring and training standards at PCSAs. The Ohio Administrative Code has requirements for the type of training that caseworkers must have, but these rules are routinely ignored in some jurisdictions because the local PCSA does not have the resources to implement them.

The Ohio Legislature could more effectively protect children and families by making sure that PCSAs have the resources to staff their agencies with an adequate number of well-trained, properly qualified case workers.

I urge you not to move this bill forward. Thank you for reading.

Respectfully Submitted,

Sarah Gatti, MSW/Esq.

sarahgatti@gmail.com