

LEGISLATION TO IMPROVE CHILDREN'S HEALTH AND DECREASE RECIDIVISM AMONG PRIMARY CARETAKERS





PRIMARY CARETAKER LEGISLATION: AN INTRODUCTION

When a child has a parent in prison, the child's health can suffer. To protect children, Tennessee, Massachusetts, Oregon and Washington have passed laws known as Primary Caretaker laws. These laws allow judges flexibility to give community-based sentences to parents who have been convicted of nonviolent crimes.^{1,2,3,4}



WHY PRIMARY CARETAKER LEGISLATION WOULD BE GOOD FOR MISSOURI

In Missouri, the number of parents in prison (known as parental incarceration) is a big problem. As of 2015, 10% of foster care children in Missouri (approximately 1,200 children) had entered foster care due to parental incarceration. By contrast, 8% of foster care children in the U.S. as a whole had entered foster care because of parental incarceration.⁵

The difference may be due to Missouri's high rate of female incarceration. As of 2017, Missouri's rate of female incarceration had experienced net growth over the past 10 years, while the U.S. rate had declined.⁶ Incarcerating mothers places Missouri children at risk of family instability. Children whose mothers are in prison are much more likely to live with extended family members or end up in foster care than children with incarcerated fathers.⁷

"I think about that on a day to day basis now, of what my mother had to go through in order to take care of my children."

- PAM PALACIOS

A Primary Caretaker law would allow Missouri to reduce its prison population and save money. As of 2018, 13,851 of the people in Missouri state prisons were convicted of nonviolent or drug crimes – 11,594 men and 2,257 women.⁸ More than half (55.4%) of all state prisoners in the U.S. are parents to minor children. Before they went to prison, 43.8% of the fathers and 64.3% of the mothers lived with their children.⁷ Diverting even a few of these parents from prison could save Missouri money. Tennessee estimated that if its Primary Caretaker law diverted only 10 people from prison to probation, the state would save more than \$250,000 a year.⁹



HOW INCARCERATING PARENTS HURTS CHILDREN

Having a parent in prison is an Adverse Childhood Experience (ACE). ACEs are childhood traumas that may affect individuals as adults. Health researchers started studying ACEs more than two decades ago. They have found that children who experience ACEs are at greater risk of physical, mental and behavioral health problems later in life.¹⁰

Incarcerating Parents Hurts Children's Physical Health

Having a parent in prison is linked with greater risk of physical health problems for children. These problems can include asthma, migraines and high cholesterol.¹¹ Daughters who have a parent in prison are more likely to become overweight or obese,¹² and sons are more likely to have heart attacks later in life.¹³ At the same time, children who have had a parent in prison are less likely to use primary health care as adults. In particular, children who have a mother in prison are more likely to use emergency departments instead of primary care doctors, if they get help at all.¹⁴

Incarcerating Parents Hurts Children's Mental Health

Children who have a parent in prison are at increased risk for mental health problems such as post-traumatic stress disorder, anxiety and clinical depression.^{11,15,16} Poor mental health can be dangerous — even fatal. In a survey with 122,180 adolescent respondents, more than one in three of the respondents with a parent currently in prison reported engaging in self-harm (e.g., cutting or burning themselves). More than one in five reported a suicide attempt.¹⁷ Individuals who have experienced having any family member in prison during their childhood are 2.5 times more likely than those who have not to attempt suicide at some point in their life.¹⁸

Incarcerating Parents Hurts Children's Behavioral Health

Having a parent in prison harms a child's behavioral health. Young children who have had a father in prison are more likely to repeat grades.¹⁹ Young boys are less likely to develop social and behavioral skills they need to succeed in school.²⁰ Children who have had a parent in prison, especially their mother, are less likely to graduate high school.²¹ They also are less likely to graduate college. Surprisingly, children who just attend schools with a large number of students having parents in prison are less likely to graduate from college. This holds true even when the children have not personally had a parent in prison and researchers control for other factors affecting the students and the schools.²²



Putting parents in prison may increase crime in the long run. Children who have parents in prison are at greater risk for conduct problems²³ and delinquency.²⁴ Adolescents who have had a father in prison are more likely to use illegal drugs, even when researchers control for other risk factors such as substance-abusing family members or peers.²⁵ When children who have had a parent in prison become young adults, they are more likely to have an illegal substance abuse problem, have spent time in jail and have a felony charge.²⁶

HOW INCARCERATING PARENTS HURTS FAMILIES AND COMMUNITIES

Having more people in prison has increased child poverty.²⁷ Having a mother or father in prison can harm families economically. Prior to their arrest, more than half of mothers and fathers in state prisons were their minor children's main source of financial support.²⁸ When fathers are in prison, their young children are at increased risk of food insecurity²⁹ and homelessness.³⁰

The stress of caring for children after their parent goes to prison has negative effects on the rest of the family as well. Mothers of children who have a father in prison are at greater risk for major depressive episodes.³¹ These mothers and their children also are at greater risk of housing insecurity, including eviction and homelessness.³² A common situation when a mother is in prison is that children will live with their grandmother in a "skipped generation" home. Grandmothers in these homes are more likely to report depression and poor health than other grandparents.³³

INCARCERATING PARENTS DISPROPORTIONATELY HARMS BLACK CHILDREN

Incarcerating parents has hurt black children and families in particular. High incarceration rates have increased infant mortality and reduced life expectancy among black Americans.³⁴ Statistical analysis suggests that in the early part of the 21st century, the overall U.S. infant mortality rate would have been 3.9% lower, and the U.S. black infant mortality rate would have been 7.0% lower, if the parental incarceration rate had held steady at 1990 levels instead of increasing.³⁵ In general, young children who have a father







"When you pull the primary caregiver from the home ... you effectively shatter not only the person, but the people that care for them."

- JARED SMITH

in prison are at increased risk of homelessness, but high incarceration rates have increased child homelessness among young black children in particular.³⁰

Black children are also more likely to suffer from the health effects of incarceration on their family members. Incarceration has long-term negative effects on the health of people who have previously been in prison.³⁶ Racial disparities in incarceration have made health disparities between black and white Americans worse.^{37,38,39,40} Due to racial health disparities, which incarceration aggravates, by age 10 black children are three times more likely than white children to have experienced their mother's death and twice as likely to have experienced their father's death.⁴¹ Having a parent die, like having a parent in prison, is an ACE with long-term negative effects on physical and mental health, but black children are less likely than white children to get the physical and mental health care they need.^{42,43}



PRIMARY CARETAKERS WHO SERVED community-based sentences in Washington State were 71% LESS LIKELY to be convicted of a new felony in the 2 years after their conviction than those incarcerated.⁴⁹

MAINTAINING FAMILY TIES CAN IMPROVE OUTCOMES FOR PEOPLE CONVICTED OF CRIMES

People convicted of crimes are less likely to engage in misconduct while incarcerated or commit new crimes after release when they keep strong family ties. In particular, strong family ties protect women from committing new crimes.^{44,45,46} Unfortunately, people often are put in prisons far away from their families. Many families cannot afford to visit their loved ones in prison.⁴⁷

Researchers have started examining the effect of community-based sentences on the likelihood that someone will commit a new crime. A community-based sentence is a punishment or rehabilitation program that does not involve prison or jail time. It allows people convicted of crimes to serve their sentence while remaining with or near their families. In general, people who complete community-based sentences are less likely to commit a new crime than people who served time in prison.⁴⁸ An initial study of Washington State's Parenting Sentencing Alternative, the community-based sentencing program created by the state's Primary Caretaker law, found that participants were 71% less likely than those in a control group to be convicted of a new felony in the two years after their release.⁴⁹



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costs the state more than

per child annually.⁵⁹



"If you keep the mother in the community, it gives her a chance to help herself and a chance to bond with her child."

- APRIL JACKSON

Women convicted of drug offenses make up the greatest percentage of women in Missouri prisons (37.9% of total).⁸ Mothers in residential drug treatment are more likely to complete the programs if their children stay with them.^{50,51,52} However, Missouri has no prison nurseries, so Missouri children cannot live with their mothers as part of prison-based treatment programs. Community-based treatment would work better for Missouri mothers who are struggling with addiction.

COMMUNITY-BASED SENTENCING IS MORE FISCALLY RESPONSIBLE THAN INCARCERATION

Incarcerating parents costs money. The Administrative Office of the U.S. Courts has estimated that it is, on average, eight times more expensive to put someone in prison than it is to supervise someone in the community.⁵³ As of 2017, the Missouri Department of Corrections spent an average of \$21,480 per inmate per year.⁵⁴

Incarcerating parents also increases foster care caseloads. Between 1985 and 2000, foster care caseloads across the United States soared, growing from 276,000 to 568,000. Increases in maternal incarceration caused 31% of that growth.⁵⁵

Finally, health care and social programs are expensive. When parents are in prison, there are increases in costs of health care and social programs. In the U.S., the estimated cost per year to treat health problems that result from having a family member in prison is \$346 million for children under 18. The estimated cost to treat health problems for adults is \$22.5 billion.⁵⁶ When fathers are in prison, their families are more likely to need Medicaid/ CHIP and supplemental nutritional assistance.⁵⁷ In other words, having parents in prison increases costs for corrections agencies directly and other government programs indirectly.

A Primary Caretaker law would allow parents convicted of nonviolent crimes to serve a community-based sentence while continuing to support their children. In the short term, the result would be lower costs and more family unity. In the long term, diverting nonviolent parents from prison and preserving family bonds could help break cycles of incarceration and improve health in our communities.



ENDNOTES

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