



# *Keeping Families Together:*

## *Voices from the community.*

### **INTRODUCTION**

Nothing can prepare a mother – or any parent – for the devastating and deeply traumatizing impact that her incarceration invariably has on her children – indeed on all members of her family – and on her. And no one can prepare the children for the trauma of forced separation. The sudden and unexpected removal of a mother from her children causes mental and emotional trauma that is directly linked to a statistically significant increase in the likelihood that a child will herself end up entangled with the criminal legal system as a result of the forced separation. Courts are not required to consider the impact of their actions on this vulnerable population, an oversight that perpetuates the generational trauma that too often marks involvement with our criminal legal system. Testimony from three mothers who had young children when they were incarcerated illustrates the pain and trauma and continuing resonance of parental incarceration on young dependents that often reverberates into their adult lives.

# Maya

Maya is a mother who first went to prison when she was 18 years old and had an infant son. She missed her son's first birthday, which he spent in a foster home. She had no way to contact him and worried about his safety because of the horror stories that she heard about foster care. She also became increasingly worried that she would never get her son back. All of these fears made Maya suicidal and depressed.

Her son's grandmother succeeded in getting him out of foster care, and Maya reunited with him after a year in prison.

*But eleven years later,  
her three children woke  
up one morning and had  
no idea where she was.*

She had returned to prison.

Maya's second incarceration was due to her alcohol addiction and an increasingly toxic relationship with her children's father that only made her drinking problem worse.

Maya had been raising her children alone, so her sudden incarceration was devastating to them. Her youngest son was

two years old when she left and had rarely spent more than one or two days away from her. Maya was not only ripped from her children's lives – the trauma and devastating impact of their separation from their mom intensified when they were placed with different family members and lost the stability and comfort of their siblings as well.

Maya constantly worried about her children while she was incarcerated. She did not know if they were being properly cared for and did the best she could to support her children from prison which was almost impossible. She also attempted to get custody of her children while incarcerated but was unable to do so. All of this took a major toll on her.

While Maya is no longer incarcerated, the consequences of these forced separations continue to plague her children. Her oldest son has anxiety whenever he is not around her and he shows signs of having anger issues. Maya's relationship with him is now very strained and uncomfortable. Maya is now the primary caregiver of only one of her sons while the others continue to live with their relatives. She infrequently sees them because her ex-husband has a restraining order against her and wins his legal battles with her since he does not have a criminal record.

Maya now has trouble providing for the one son in her care. Due to her criminal record, she has struggled to find housing and sufficiently-paying jobs. Burdensome court fines and probation costs only add to her financial strain. Maya is doing everything she can for her children but still feels like she may be setting them up for failure.

A more effective way to address the issues that Maya and her family faced would have been family counseling and treatment in the community for Maya's alcohol addiction. Instead, the children suffered as a result of the forced separations, with relationships deteriorating further due to Maya's incarceration.

# Cendra

Years earlier, Cendra had committed a non-violent crime which would have placed her in prison. Fearing how she would be treated in prison, Cendra crossed state lines traveling all the way to Florida to evade arrest for seven years. During all of this time, Cendra was homeless and had no consistent form of daily support. Nonetheless, she committed no other crimes and was determined to eventually return to a normal life. But one day, she was finally arrested. The courts did not consider that what she had done seven years ago was only a misdemeanor and that she had committed no other offenses. Moreover, the courts completely disregarded the fact that she was a mother. What was a single misdemeanor turned into six felonies and a five year sentence, a punishment to both Cendra and her children.

The first time Cendra faced incarceration was 16 months. Her children were placed in the care of foster parents who did not fully inform them of the safety and well-being of their mother. They did not see each other at all during this time.

The second time Cendra faced incarceration, she found out that she was pregnant. Despite this, she was not given any support that a pregnant mother would need. She instead was subjected to harsh working conditions, having to lift heavy boxes for \$3 a day.

"The guards didn't care. I was punished for little things, like sleeping in a little late. I was punished for not being able to do the things that a pregnant mother isn't supposed to do."

Cendra was released from prison eight months pregnant. Had she given birth to her child while incarcerated, Cendra knew

that she would have had to fight for custody over another child. This was a fight that she certainly did not want to experience again.

"I was the lucky one I feel like. If I didn't get out, my child would be in state care and I would be fighting for her even now."

When she returned to the community, Cendra faced numerous obstacles connecting with her children.

*"My children when they saw me again they didn't remember me... it really impacted their lives."*

Cendra also has been challenged supporting her children since she has had trouble getting an apartment and job due to her record.

Cendra's story demonstrates how separation from family and community, for both parents and expecting parents, is extremely detrimental to the development of important bonds between children and their parents.



# Tracy

Tracy was a mother of two children who didn't have a criminal record when she faced legal charges that her lawyer believed would most likely result in home confinement. She had no idea how to navigate the criminal justice system and depended on her attorney for guidance. So she and her young family were completely unprepared when the judge unexpectedly sentenced her to 10 to 15 years in prison. The court was particularly cruel by starting the sentence immediately instead of delaying the start date so that Tracy could make proper arrangements for her children to be cared for and otherwise prepare them – and herself – for this traumatic transition. That day marked her transition from mother to inmate.

When she pleaded with her judge to consider alternative sentencing for the sake of her two children, one of whom who is disabled, she was told:

*“As a mother, you should have known better.”*

The mental, physical, and emotional health of the children were not a consideration for the judge in choosing this harsh sentence, and for starting Tracy's incarceration in a way that would ensure maximum disruption and traumatization to the children's lives.

During her incarceration, her oldest son had a baby and became addicted to synthetic marijuana. The stress of being a

new father and struggling with addiction made her son act out in worrisome ways. From where she sat in prison, Tracy had no way to support her son or help him and her grandchild.

Her younger son with learning disabilities was violently attacked with an axe at the age of sixteen which led to a traumatic brain injury that requires medication. Without his mother's supervision, he became addicted to this medication. Again, Tracy was helpless to support her son while she was behind bars through this very difficult period of his life.

While she entered prison, Tracy herself faced serious depression but was denied access to antidepressants for the first six months of her internment.

Incarcerating a parent or other caregiver is devastating for all parties involved. When dependent children are separated from a primary caregiver, the results are often life-changing. The children have much greater chances of involvement in the criminal legal system as a result of this serious adverse childhood event. A court must be obligated to consider the well-being and mental and emotional health of all dependents, particularly young children, when weighing the sentence that it will visit on a defendant and her family. What Tracy and her children needed most while she was serving her sentence was the opportunity for her to care for her children in a community setting, including regular family counseling for them all.

**H 7048 is an effective, balanced bill that would require courts, when making a sentencing decision, to consider the impact of a parent's incarceration on the health and long-term well-being of dependent children. This would be a powerful way to break cycles of incarceration and violence in our communities that too often result from a parent's incarceration, and would prevent families like Tracy's, Maya's, and Cendra's from passing the trauma of incarceration from generation to generation.**

**Maya is one of the mothers who was interviewed. I would like to share some excerpts from her story**

- Maya is a mother who first went to prison when she was 18 years old and had an infant son. She missed her son's first birthday, which he spent in a foster home. She had no way to contact him and worried about his safety because of the horror stories that she heard about foster care. She also became increasingly worried that she would never get her son back. All of these fears made Maya suicidal and depressed.
- Maya reunited with him after a year in prison. But eleven years later, her three children woke up one morning and had no idea where she was. She had returned to prison.
- Maya's second incarceration was due to her alcohol addiction and an increasingly toxic relationship with her children's father which only made her drinking problem worse.
- Maya had been raising her children alone, so her sudden incarceration was devastating to them.
  - Her youngest son was two years old when she left and had rarely spent more than one or two days away from her.



- Maya was not only ripped from her children's lives – the trauma and devastating impact of their separation from their mom intensified when they were placed with different family members and lost the stability and comfort of their siblings as well.
- Maya constantly worried about her children while she was incarcerated. She did not know if they were being properly cared for and did the best she could to support her children from prison which was almost impossible. She also attempted to get custody of her children while incarcerated but was unable to do so. All of this took a major toll on her.
- While Maya is no longer incarcerated, the consequences of these forced separations continue to plague her children.
  - Her oldest son has anxiety whenever he is not around her and he shows signs of having anger issues. Maya's relationship with him is now very strained and uncomfortable. The bond they once had is not the same.
  - Maya is now the primary caregiver of only one of her sons while the others continue to live with their relatives. She infrequently sees them because her ex-husband has a restraining order against her and wins his legal battles with her since he does not have a criminal record.
- Maya now has trouble providing for the one son in her care. Due to her criminal record, she has struggled to find housing and sufficiently-paying jobs.

Burdensome court fines and probation costs only add to her financial strain. Maya is doing everything she can for her children but still feels like she may be setting them up for failure.

- A more effective way to address the issues that Maya and her family faced would have been family counseling and treatment in the community for Maya's alcohol addiction. Instead, the children suffered as a result of the forced separations, with relationships deteriorating further due to Maya's incarceration.

Thank you for your time.

Parent-child separations are detrimental to children's health and wellbeing. Firstly, children with incarcerated parents are more likely to experience difficulty in school.

- **Difficulty in school:**

- Children with an incarcerated parent are seven times likelier to not complete high school and are 25% less likely to be college graduates
- Perform worse academically, on average, and have a higher dropout rate.
- Children with incarcerated fathers are over five times likelier to be expelled or suspended from school.
  - Have higher discipline problems and antisocial behaviors
- Children with an incarcerated parent are at least twice as likely to have a learning disability or ADD/ADHD.
- 1 in 6 children of incarcerated parents do not meet "school readiness" benchmarks in socioemotional development, physical health, ability to follow instructions, and early learning skills
- Children of incarcerated parents...
  - Face social stigmatization and exclusion from peers
  - Experience stigmatization and lowered expectations from teachers
  - Are more likely to report unhappiness in school

In addition to difficulty in school, children of incarcerated parents are also more prone to other mental health issues.

- **Mental health issues:**

- Children with an incarcerated parent are over three times likelier to have behavioral problems or depression, and at least twice as likely to have anxiety.
- Depression, anxiety, post-traumatic stress disorder, attention deficit and attention deficit hyperactivity disorder (ADD/ADHD), learning disabilities, developmental delays, poor sleeping patterns, and eating disorders.
  - It is also important to note that the stigma associated with having an incarcerated parent can cause children to socially isolate themselves which can result in self-esteem issues and also contribute to the increased risk for these conditions.
- A study from Duke University found that children of incarcerated parents were six times more likely than other children to develop substance use disorders.
- **Parental incarceration is considered one of ten adverse childhood experiences (ACE)** alongside exposure to physical abuse or neglect, sexual abuse, and having a parent with a substance use disorder.
  - A growing body of literature is revealing a link between ACEs and a greater chance of lifelong physical, mental, and behavioral health issues.

- **Physical health issues:**

- o Separation from a parent due to incarceration has been associated with a variety of physical health outcomes including asthma, obesity, migraines, HIV/AIDS, and high cholesterol
- **Employment:**
  - o A study found that Latino children who experienced parental incarceration are more likely to experience lower wages and lower-quality jobs than their peers.
  - o Children who experience traumatic events, like parental separation, are more likely to not be employed and to live in poverty, regardless of sex, race, and ethnicity.
  - o They have lower annual income later in life

Having an incarcerated parent clearly has detrimental effects on children's education, mental and physical wellbeing, and success and opportunity later in life. Considering the impacted children when sentencing the parent may help mitigate some of these adverse effects of parental incarceration. Thank you for your time.

**(if you have time) This bill would make Rhode Island safer.**

- **It can reduce recidivism rates among parents.**
  - o A version of this bill was implemented in Washington. Parents who participate in its diversion program have a 67 percent lower recidivism rate.
- **It can prevent the children from committing crimes themselves.**
  - o Children with incarcerated parents are 4.9 times likelier to have a felony charge. (According to Clearvue Health)
  - o A parent's incarceration can cause children to enter the foster care system which is a predictor of involvement in crime.

## Quotes from Formerly Incarcerated Parents

- “I was severely depressed while incarcerated; I really do have PTSD, whenever I smell something that reminds me of prison I get panicky, **I still have dreams of being in there, I see cops on the street and I get scared I'm going to go back in. I get scared they're going to take my kids from me.**”
- “When a mother's child is taken, it is incredibly damaging to the soul. And there is this little gut reaction that comes out and you're just not good enough. You're not good enough.”
- “The worst thing that I've ever experienced is I had to leave my daughter...nothing can compare to that pain.”
- “To even imagine what my children have gone through without me, it's terrible.”
- “My children when they saw me again they didn't remember me... it really impacted their lives.”
- “If I didn't get out, my child would be in state care and I would be fighting for her even now.”
- “It's a total waste of human life...Right there at the beginning of life, there's a separation. Right there that's when you're interrupting what potential a child could have”
- “My kids didn't deserve to have my one mistake ruin their lives”
- “My incarceration has started a cycle - who knows how far down generationally this effect will go?”



April 2024

## Community-Based Sentencing for Primary Caregivers Improves Health in Rhode Island

Providing safe, stable, and nurturing environments for children, the elderly, and families is a value most of us can agree on. However, criminal justice practices that separate children, elderly, disabled and chronically ill individuals from their caretakers are harmful. The justice system's default approach tears apart families, hurts caregivers and those dependent on them for care, their relationships, and harms overall health. Instead, increasing judges' discretion to authorize alternatives to incarceration that include treatment instead of prison or jail where appropriate can keep families intact.

H 7048 would allow judges to determine when to sentence parents and other primary caretakers of dependent children and dependent adults into community-based solutions, where they can care for their families while healing and advancing their lives in addition to dealing with the consequences of their conviction. Rhode Island Department of Corrections reported that as of June 30, 2020, 55% of male sentenced individuals in RI are fathers with an average of 2 children and based on the Rhode Island Department of Corrections report June 30, 2021, 66% of female sentenced offenders in RI are mothers with an average of 2 children.<sup>1</sup> A large proportion of these individuals would be eligible for community-based sentencing under this law. Legislators would drastically improve these families' lives by passing this bill.

### Community-based sentencing is better for families than incarceration.

The benefits of non-custodial sentencing options under Senate Bill S2398 include:

- **Avoiding trauma:** Parental incarceration is classified as an Adverse Childhood Experience (ACE). Multiple peer-reviewed studies connect ACEs, a set of specific traumatic events that occur during childhood, to poor mental and physical health outcomes such as chronic diseases, certain cancers, sexually transmitted infections, depression, and other mental health conditions.<sup>2</sup>
- **More secure parental attachment:** Allowing parents and their babies to cohabitate during the baby's first year of life leads to babies having more secure attachments to their parents when compared to those who have not cohabitated for a full year.<sup>3</sup>
- **Healthier child development:** Community-based residential parenting programs, where parents can serve their sentences with their infants in a non-prison setting<sup>4</sup> that offers housing and social services, increase parent-child bonding<sup>5</sup> and foster healthy child development.<sup>5</sup>
- **Improved parenting skills:** Family-based substance treatment programs, that offer parenting skills training and home-based case management services, are successful in reducing parental and caretaker substance use and improving parenting and caregiving skills. Parenting classes for fathers improve parent-child relationships and attachment, children's self-concept and behaviors, and feelings of competence among fathers.<sup>6,7</sup>
- **Reduced substance abuse:** Among women who participate in residential substance treatment, those who have their children with them are far more likely to complete the program when compared to those who are separated from their children.<sup>8</sup> Children of parents who participate in family-based substance treatment are less likely to develop a substance use disorders.<sup>9</sup>



## Children separated from their families due to a parent being incarcerated experience...

### Higher rates of physical health problems<sup>10</sup>

- Migraines
- Asthma
- High cholesterol
- HIV/AIDS

### Higher rates of mental health problems

- Depression and anxiety<sup>10</sup>
- Posttraumatic stress disorder (PTSD)<sup>10</sup>
- Self-esteem issues<sup>11</sup>
- Emotional withdrawal<sup>12</sup>
- Feelings of guilt, embarrassment, and shame<sup>12</sup>

### More behavioral issues<sup>11</sup>

- Aggression
- Substance use disorder<sup>9</sup>
- Delinquency

### Poorer performance in school<sup>9 13</sup>

- Truancy
- Lower standardized test scores
- Dropping out<sup>11</sup>
- Suspension and expulsion<sup>14</sup>

### Higher likelihood of placement in foster care<sup>15</sup>

- Mental health problems<sup>16 17</sup>
- Developmental problems<sup>16 17</sup>

### Higher likelihood of other social challenges<sup>11</sup>

- Being sexually trafficked<sup>18</sup> and sexually abused<sup>10</sup>
- Incarceration
- Being uninsured
- Homelessness
- Having a lower income
- Feeling powerless

### Feelings putting them at risk for other mental health issues

- Abandonment<sup>12</sup>
- Insecure attachment to their parent<sup>3</sup>

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# KEEPING FAMILIES TOGETHER

LEGISLATION & POLICY  
TO PROTECT THE WELL-BEING OF  
CHILDREN  
2024

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**PREPARED BY**  
FORMERLY INCARCERATED  
UNION OF RHODE ISLAND

## RECOGNIZING CHILD SEPARATION

Keeping families together requires family-centered legislation

Parent-child separation as a result of criminal-legal-system involvement is a traumatic experience for both parents and children alike.

One study found that separation from a parent through imprisonment was more detrimental to a child's well-being than divorce or even death of a parent.

Currently, more than 800,000 parents are incarcerated across the US.

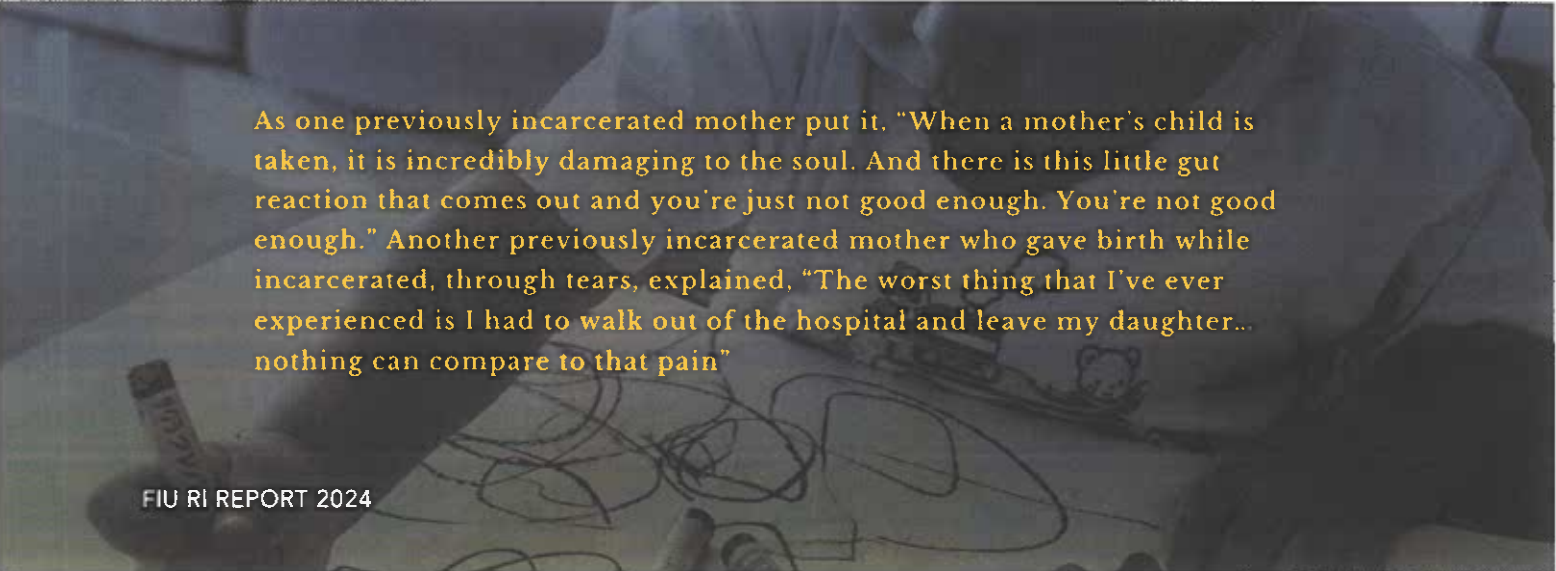
Between 1980 and 2012, the number of children with a parent in prison or jail grew five times from 500,000 to 2.5 million.

Today, 1 in every 25 children younger than 18 in the US is separated from a parent due to incarceration.

In RI, roughly 1 in 50 children had an incarcerated parent in 2019. On September 30, 2019, 60% of incarcerated individuals awaiting trial or serving a sentence in RI were parents. Of these 1,600 incarcerated parents, 93% were fathers and 7% were mothers. Combined, these two groups are the parents of 3,739 children.

Child separation also falls along racial and gender lines. In the US, 24% of Black children can expect to see a parent incarcerated in their lifetime.

There is a notable difference in the rates of maternal versus paternal incarceration in the US. Despite fathers accounting for 90% of incarcerated parents, the number of mothers in prison has increased 87% compared to an increase of 62% for fathers across the decade of 1991-2000.



As one previously incarcerated mother put it, "When a mother's child is taken, it is incredibly damaging to the soul. And there is this little gut reaction that comes out and you're just not good enough. You're not good enough." Another previously incarcerated mother who gave birth while incarcerated, through tears, explained, "The worst thing that I've ever experienced is I had to walk out of the hospital and leave my daughter... nothing can compare to that pain"



# GENDER-BASED INEQUALITY

Women are the fastest-growing population in American jails and prisons.

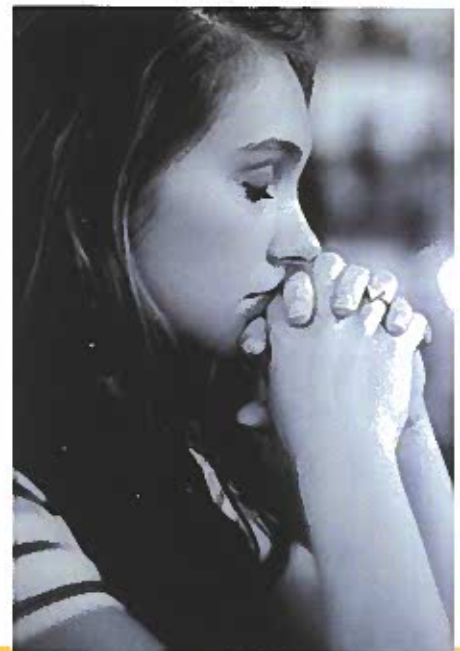
Incarceration is more likely to lead to the termination of parental rights for mothers than fathers, and it is estimated that the rise in female incarceration accounted for 31% of the increase in foster care caseloads from 1985 to 2006.

**"When fathers are incarcerated, mothers assume caregiving responsibilities 90% of the time. But when mothers are incarcerated, fathers only assume this role 30% of the time"**

## SEPARATED CHILDREN EXPERIENCE CHILD ABUSE AND TRAUMA

Studies show that children who live without their mother are three times as likely to experience sexual abuse.

Moreover, parental incarceration is considered one of ten adverse childhood experiences (ACE) alongside exposure to physical abuse or neglect, sexual abuse, and having a parent with a substance use disorder.



## CHILD SEPARATION LEADS TO JUVENILE DETENTION

**50%**

Half of incarcerated youth reported a family member having served time in jail or prison

There is a direct connection between family separation and juvenile incarceration. Children with incarcerated parents have greater risks for arrests in their lifetime

## SEPARATED CHILDREN EXPERIENCE HOMELESSNESS AFTER FOSTER CARE

**12%**

12% of homeless children have been in foster care at some point in their lives, and foster care placement during childhood is a predictor of adult homelessness

As youth “age out” of foster care, many enter the foster care-to-homelessness pipeline

# SEPARATION IMPACTS FAMILIES BY RACE

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The effects of parental incarceration are not distributed equally

The criminal legal system disproportionately affects people of color compared to white families, and this is reflected in the rates at which children of differing races are impacted by parental incarceration

## 7.5X

### BLACK CHILDREN

Black children are seven and a half times more likely to have a parent in prison than white children

## 11%

### LATINO CHILDREN

11% of Latino children will experience parental incarceration compared to only 4% of white children

## 10%

### WHITE CHILDREN

White children were 10% less likely than Black children to be placed into group homes or congregate care centers





## LEGISLATION AND POLICY CHANGES FOR OUR STATE

Courts in California, Illinois, Louisiana, Maine, Massachusetts, Missouri, Tennessee and Washington provide parents with community-based alternatives



### Legislative language in other states

In order to successfully introduce and pass this legislation, there are important recommendations to consider based on model legislation in California, Illinois, Louisiana, Maine, Massachusetts, Missouri, Tennessee, and Washington.

Successful bills guide judges and rely on nonprofits. Passing legislation which requires judges to consider community-based alternatives to sentencing reduces child separation.

Key language that worked in the Massachusetts and Tennessee bills included: “common sense and compassionate,” “keep parents and children together,” “keep parents out of cages,” “Hold parents accountable while allowing them to advance their lives,” and “Primary Caretakers legislation protects kids.”

### Courtrooms enforce legislative changes

In addition to incorporating key language, courtroom policy should be considered.

The practice of revocation undermines participation and completion in community-based programming. Remanding often functions as a setback because women experience decreased odds of participating and completing court-ordered programs.

Remanding women interferes with their ability to maintain or regain child custody. Although some judges may enforce remanding as a last resort in order to incentivize participation, studies suggest that revocation, even for brief periods, limits participation in rehabilitative programming. Remanding sets women back and decreases the completion of court-ordered programs.

# "PRIMARY CAREGIVER LEGISLATION PROTECTS KIDS"

Familial disruptions and separations as a result of traditional sentencing practices pull caregivers away from their roles as providers, and outdated reentry policies related to parole and probation make it even harder for individuals to get back on their feet so they can support their families.

Though Rhode Island has a lower incarceration rate than most other states, its probation rate is the third highest in the country, with one in thirty-four adult Rhode Islanders currently under supervision. Single mothers in particular may struggle to avoid probation violations as a result of conflicts between their probation requirements and parenting and employment responsibilities, resulting in potential imprisonment and child protective services involvement.

Keeping families together requires a concerted effort by judges, community based organizations, child welfare, and when necessary, parole and probation departments to divert primary caregivers away from probation or incarceration, avoid revocation, and limit trauma incurred due to past separation and imprisonment.

"Equating court involvement with bad parenting is inaccurate, outdated, exclusionary, and immensely harmful"

Due to the systemic injustice and mass incarceration of those who are already vulnerable, marginalized, and suffering from poorer overall health, this legislation presents an opportunity for families to get the help and support they need.

The legislation would allow caregivers to provide for their children instead of moving through prisons and jails, ensuring healthier and more stable lives.

There is a need for this country to address the widespread systemic damages the carceral system imparts on millions of children and their families year after year. This has become a pressing public health issue.