Written Testimony of the
Child and Family Wellbeing Fund Working Group

Presented to the Senate Standing Committee on Women's Issues, Senate Standing Committee on Health, Senate Standing Committee on Social Services, and Senate Standing Committee on Mental Health

Hearing Date: February 24, 2025

Subject: An Examination of Maternal Mortality and Morbidity Rates in New York State & An Opportunity for Grassroots Community Investment to Improve Health

This testimony is submitted by the Child and Family Wellbeing Fund Working Group, a statewide collective of experts in child welfare, including people impacted by the child welfare system, organizers, doulas, social workers, and representatives of children's and parents' rights organizations:

- Children's Defense Fund-New York
- Black Child Development Institute - New York State
- NYC Family Policy Project
- Families Together in New York State
- Narrowing the Front Door to New York City's Child Welfare System
- JMAC (Just Making a Change) For Families
- Parent Legislative Action Network (PLAN)
- Justice For Families

We use this testimony to provide information to this committee about the Child and Family Wellbeing Fund (A.63 Hevesi / S.– Brisport), which is a response to the decades of disinvestment in communities and the corresponding investment in practices and systems that have eroded families, dissuaded people from seeking support, and led to troubling rates of maternal mental health and mortality, particularly among Black and Brown communities. We submit this testimony to recommend that the Legislature fully fund the Child and Family Wellbeing Fund at $30 million in the final enacted budget to help combat maternal mortality and morbidity rates in New York State.

I. Maternal Mortality and Morbidity is a Crisis in New York State, particularly for Black Women

New York State faces a maternal mortality crisis. From 2018 to 2020, New York had a maternal mortality rate of 19.3 deaths per 100,000 live births.[1] The New York Department of Health determined that 73.6 percent of pregnancy related deaths in 2018-2020 had at least some chance of being prevented.[2] Furthermore, this maternal mortality crisis disproportionately impacts Black women who are dying at a rate over four times higher than white women.[3]

There are immediate steps this legislature can take to protect New Yorkers against preventable maternal fatalities and ensure safer outcomes for families statewide. First, policymakers must view maternal health holistically. Maternal health is not only about safe, equitable access to pre and postnatal care but opportunities to live healthy and sustainable lives before, during, and after pregnancy. Poverty, divestment from communities, criminalization, and other structural factors contribute to the troubling health disparities among birthing, pregnant, and parenting people.[4] Unfortunately, when families experience these structural inequities, they are rarely met with support. Instead, they are met with traumatic and unhelpful interventions like those by the child welfare system.

The child welfare system's harmful impacts on children, parents, and families are well-documented, earning it the moniker of "the family policing system." Scholars have argued for the child welfare system to be considered a social determinant of health due to traumatic family disruptions, foster home overcrowding, multiple foster placements, and the day-to-day experience of child welfare.[5] Worse yet, fear of family separation deters people from accessing support and necessary medical care. This is especially the case for Black women who are disproportionately impacted by medical violence, mandated reporting or the legal requirement of most people in "helping" professions to report "suspected" child neglect or abuse, and family separation.

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[1] Office of the New York State Comptroller: Division of State Government Accountability Audit Highlights (July 2024), https://www.osc.ny.gov/files/state-agencies/audits/pdf/sga-2024-22s25.pdf.
[2] New York State Department of Health, New York State Health Department Releases Maternal Mortality Reports Detailing Stark Racial, Ethnic Disparities (March 14, 2024) https://www.health.ny.gov/press/releases/2024/2024-03-14_maternal_mortality.htm#:~:text=The%20overall%20pregnancy%2Drelated%20mortality,deaths%20per%20100%2C000%20live%20births)
[3] *Id.*
[4] The Global Maternal Mortality Crisis Is a U.S. Child Welfare Crisis. https://www.asecondchance-kinship.com/the-global-maternal-mortality-crisis-is-a-u-s-child-welfare-crisis/
[5] Loewen Walker, Rachel & Henry, Bobby & Tait, Caroline. (2013). Child Welfare: A Social Determinant of Health for Canadian First Nations and Metis Children. Pimatisiwin. 11. 45-60.

In New York City, overdose is the leading cause of death for pregnant people.[6] Despite this crisis, pregnant people who use drugs still face significant barriers to accessing care. Criminalization only heightens these barriers. For example, medical providers continue to stigmatize pregnant people who use substances or who are taking Medication for Opioid Use Disorder (MOUD) through a practice called "test-and-report," where pregnant people and their newborns are non-consensually screened or tested for drugs, and reported to child protective services (CPS) by mandated reporters. Studies show that Black and Latine pregnant people use substances at the same rate as white pregnant people[7] yet are dramatically and disproportionately targeted for non-consensual drug tests. The test-and-report process pushes perinatal people away from seeking vital prenatal and postpartum care.[8] This is a critical gap in care, since according to the U.S. Department of Health and Human Services' Office of Women's Health,[9] newborns whose parents do not receive prenatal care are three times more likely to have a low birth weight and five times more likely to die than newborns whose parents do get care.

In recognition of these deathly impacts, New York State's own Department of Health published clinical guidelines[10] to encourage medical providers to obtain written and verbal informed consent before drug testing and screening both pregnant person and newborn. However, our Legislature has yet to codify these guidelines–limiting their effectiveness. And while doulas and other advocates can help mitigate the harms of this practice, they are not equally accessible to all New Yorkers.

After a CPS report is made for prenatal substance use, CPS is likely to separate the newborn from their birthing parent–often immediately after birth. Forced separation by CPS during this critical time of maternal-infant bonding disrupts postpartum care for both the parent and newborn. For substance-exposed

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[6] NYC Department of Health and Mental Hygiene, 2024 Health Advisory #31 (December 13, 2024). https://www.nyc.gov/assets/doh/downloads/pdf/han/advisory/2024/han-advisory-31.pdf

[7] *See* e.g., The Guttmacher Report on Public Policy, State Responses to Substance Abuse Among Pregnant Women, (Dec. 1 2000, Vol. 3, No. 6), https://www.guttmacher.org/gpr/2000/12/state-responses-substance-abuse-among-pregnant-women.

[8] Nguemeni Tiako MJ, Sweeney L. The Government's Involvement in Prenatal Drug Testing May Be Toxic. Matern Child Health J. 2022 Apr;26(4):761-763. doi: 10.1007/s10995-020-03110-2.

[9] Womenshealth.gov. (2009, March 6). Publications: Prenatal care fact sheet. Retrieved April 12, 2012, from http://www.womenshealth.gov/publications/our-publications/fact-sheet/prenatal-care.html

[10] New York State Department of Health AIDS Institute: Substance Use Screening, Risk Assessment, and Use Disorder Diagnosis in Adults. (May 2024), https://www.ncbi.nlm.nih.gov/books/NBK565474/pdf/Bookshelf_NBK565474.pdf

infants, studies show that the practice of rooming-in[11] and "Eat, Sleep, Console,[12] both of which require closeness between newborn and parent, are associated with a significant decrease in need for treatment of neonatal abstinence syndrome and with a shorter newborn hospital length of stay. Then, mere days after giving birth and having their child removed from their custody, CPS requires parents to show up to family court to fight for custody of their own child.

Unsurprisingly, child welfare involvement and family separation is detrimental to maternal mental health. Having your child ripped from your arms is a pain like no other. Losing custody of a child to CPS is associated with significantly poor maternal mental health.[13] Women who have a child removed from their custody experience higher odds of overdose.[14] And overdose rates are only worsening. From 2018 to 2021, late postpartum overdose mortality ratios doubled.[15] And we know that, for a birthing person whose newborn is taken at birth, the child welfare system often also moves to terminate parental rights in the same time frame while they are at highest risk for mortality from late postpartum overdose.

The research is clear: the child welfare system and its practices employed by those in "helping" professions is not working to keep children, parents, and families safe and well. New York State must invest in family and community wellbeing to promote maternal health and positive family outcomes. The Child and Family Wellbeing Fund is a critical part of those investments that New York must make.

In low-resourced communities, people are given access to "services" only after being criminalized by the child welfare or criminal legal system. And all too often, these "services" involve surveillance, monitoring and prison-like settings, and can push families deeper into harmful systems through practices like mandated

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[11] Abrahams RR, Kelly SA, Payne S, Thiessen PN, Mackintosh J, Janssen PA. Rooming-in compared with standard care for newborns of mothers using methadone or heroin. Can Fam Physician. 2007 Oct;53(10):1722-30. PMID: 17934036; PMCID: PMC2231437.

[12] Young LW. *et al.*, Eat, sleep, console approach or usual care for neonatal opioid withdrawal(link is external). *New England Journal of Medicine* DOI: 10.1056/NEJMoa2214470 (2023)

[13] Wall-Wieler E, Roos LL, Bolton J, Brownell M, Nickel N, Chateau D. Maternal Mental Health after Custody Loss and Death of a Child: A Retrospective Cohort Study Using Linkable Administrative Data. Can J Psychiatry. 2018 May;63(5):322-328. doi: 10.1177/0706743717738494. Epub 2017 Oct 29. PMID: 29082774; PMCID: PMC5912297.

[14] Thumath M, Humphreys D, Barlow J, Duff P, Braschel M, Bingham B, Pierre S, Shannon K. Overdose among mothers: The association between child removal and unintentional drug overdose in a longitudinal cohort of marginalised women in Canada. Int J Drug Policy. 2021 May;91:102977. doi: 10.1016/j.drugpo.2020.102977. Epub 2020 Oct 29. PMID: 33129662; PMCID: PMC8081759.

[15] Han B, Compton WM, Einstein EB, Elder E, Volkow ND. Pregnancy and Postpartum Drug Overdose Deaths in the US Before and During the COVID-19 Pandemic. *JAMA Psychiatry.* 2024;81(3):270–283. doi:10.1001/jamapsychiatry.2023.4523

reporting and mandatory "supports" which generate penalties for noncompliance. The Child and Family Wellbeing Fund supports families by investing resources in communities that have been historically disenfranchised and targeted for government intervention through the child welfare system. The Fund uses a participatory grantmaking process that draws on the assets already in communities while keeping them away from coercive contact with the child welfare system. Centering community decisions on how to spend the allocated funds leads to smaller, grassroots organizations led by people in the community receiving funding, as opposed to traditional outsider "service" providers; this can lead to more responsive services delivered by trusted community-based organizations, more positive experiences, and improved satisfaction, and better outcomes. This can also alleviate the system-aligned consequences of poverty which result in families being punished for not having what they need.

The structure of the Fund allows for a wide range of supports to be funded, including doula services (which greatly improve maternal and birth outcomes, supports accessing perinatal care,[16] and can interrupt harmful practices like test-and-report), harm reduction programs (which reduce the risks associated with substance use during pregnancy[17]), and the provision of concrete economic supports (which lead to fewer reports of child maltreatment[18]).

The Child and Family Wellbeing Fund's Structure

- Community-driven Investment: The Fund would direct state dollars to groups that are deeply embedded in communities and responsive to local needs. Grantees are determined by a local advisory committee who have been identified by the community, composed of individuals with lived experience and individuals with professional experience in relevant public system policy and community engagement.

- Operational Accountability: Since the vision is to prioritize small, local groups and organizations that may not have capacity to seek out and apply

[16] New York State Department of Health Continues Support of Doula Services (January 2024). https://www.health.ny.gov/press/releases/2024/2024-01-30_doula_services.htm

[17] Nina Shields. Harm Reduction Policies for Perinatal Substance Use Instead of Criminalization: Better Outcomes for Families. The Network for Public Health Law. https://www.networkforphl.org/news-insights/harm-reduction-policies-for-perinatal-substance-use-instead-of-criminalization-better-outcomes-for-families/

[18] Heaton, L., Cepuran, C., Grewal-Kök, Y., and Anderson, C. (2023). *The role of concrete and economic in prevention of maltreatment: Findings from a national study of child welfare leaders.* Chapin Hall and American Public Human Services Association, Chicago, IL, and Washington, DC.

for state grants, the Fund will operate through a "backbone" organization, which will provide technical assistance and support for communities to determine which kinds of community investments they want, support local advisory committees in soliciting and evaluating grant proposals, and distributing funding according to local decisions.

· Reporting and Evaluation: The backbone organization would be responsible for documenting the grants, collecting information for evaluation and producing reports to the Legislature and the public that demonstrate the process, impact, and effects of the Fund's community-led grant-making process and state-funded investments.

The Child and Family Wellbeing Fund is an opportunity to resource local and grassroots organizations that families trust. In this way, the Fund would strengthen family structure through community-based groups that are responsive to the particular needs, desires, and aspirations of the children and families they serve, providing much needed relief without the harmful interventions of the child welfare system

By alleviating the burdens associated with funding and providing technical support and capacity-building resources, the Fund will reduce disruptive administrative burdens while strengthening and multiplying the impact of community assets. The ultimate goal of the Fund is to facilitate and normalize a caring, community-driven resource allocation approach that ensures families and birthing people–especially Black and Brown birthing people– can seek support and access care without risking criminalized contact with the child welfare system. One powerful result of the kind of community and care driven investment strategy modeled by the Fund will be the promotion of conditions that support the well-being of birthing people and their children, keep families resourced and together, and help families flourish in their own communities independently of the child welfare system. Families deserve to live in healthy communities with increased access to the kinds of supports that are often already provided by their community members who, with targeted funding and capacity building assistance from the Fund, can ensure those supports continue to be available for the families who need them. Ensuring that the Child and Family Wellbeing Fund is part of the enacted budget this year is critical to promoting maternal health and our shared vision for healthy children, families and communities across New York State.

The Child and Family Wellbeing Fund Working Group urges the Legislature to stand up for birthing New Yorkers against the crisis of rising maternal mortality rates and include the Child and Family Wellbeing Fund in the enacted budget this year, establishing a 5-year pilot for grassroots investment in 10 communities across New York State, with an annual cost of $30 million.