



**House Corrections Committee  
House Bill 1243: Drug Use During Pregnancy  
March 22, 2011**

Members, I am Ashley Harris with Texans Care for Children, a statewide nonprofit organization dedicated exclusively to improving the lives of Texas children through policy change. We look to our broad base of community-based experts—our partners and 147 members throughout the state who together represent thousands of Texas children—to inform our work and help us in developing our legislative agenda. We also co-convene various stakeholder groups that bring together a wide range of organizations, families, and advocates around our areas of focus, which are: family economic security; infant, child and maternal health; children’s mental health; child welfare; and juvenile justice.

Texans Care For Children opposes HB 1243 by Representative Miller. The bill would provide a basis for criminally charging a mother who uses drugs during pregnancy and would allow for the fast-track termination of her parental rights, without the opportunity for her to complete rehabilitation services and the child to remain safely at home.

We wholeheartedly share Representative Miller’s concern with the problem of prenatal drug abuse and the lifelong disabilities for the child that substance use during this crucial period can create. However, there are two consequences of this legislation that we believe would cause more harm than good. If this bill became law, it would create a strong incentive for drug-using mothers to avoid seeking prenatal care—where urine tests are routine—or to give birth outside of medical establishments—where toxicology tests are routine—in order to avoid prosecution. Such avoidance of medical settings could result in problematic delivery of the child or delay in the child receiving any necessary medical care. Since drug-positive babies are very likely to be medically fragile to begin with, it is particularly important that they receive medical attention prenatally and at birth.

Currently, the Department of Family and Protective Services can and does pursue removal of parental rights through civil trial when an infant is born with drugs or alcohol in his or her system. This bill would change that process so that, once a child is removed from its mother based on her drug use, the court could fast-track to terminate the mother’s parental rights. This is problematic because family reunification is the default goal in child abuse and neglect cases. Within a family unit, this bill results in a bifurcated system where a baby whose mother is found to have abused substances during the pregnancy can be put in an accelerated process for removal from home, while any remaining siblings will continue to have as default the goal of reunification and standard timeframes. With the infant’s case proceeding separately and on a different timeline than that of siblings, the likelihood is high that HB 1243 would result in babies being removed from both their mother and their siblings without the opportunity for recovery and reunification.

We believe that if this bill became law, the potential for harm outweighs the potential for good when it comes to protecting children. We agree that prenatal substance abuse must be addressed and note that interventions such as drug courts, which target the root behavior, are more effective at reducing the

incidence of drug use during pregnancy without the unintended negative impacts on infant health and wellbeing from HB 1243.

Thank you again for your time and attention regarding our concerns about HB 1243. Texans Care for Children asks you to not vote this bill out of committee. If you have any questions, please feel free to contact me at 512.473.2274.

Thank you,  
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