



**Senate Committee on Public Health and Welfare
February 19, 2024**

**Senate Bill 489
Testimony of the BIDS Legislative Committee
Presented by Kelson Bohnet
PROPONENT**

Chairperson Gossage and Members of the Committee:

I am writing on behalf of the Board of Indigents' Defense Services' Legislative Committee in support of S.B. 489, a bill to establish a nursery program for incarcerated mothers. By way of personal background, I am a Capital Public Defender in the Kansas Death Penalty Defense Unit. I have been a public defender for my entire legal career, and my practice is solely devoted to the trial-level representation of those facing the death penalty in our state.

There is a litany of obvious reasons to support this legislation. It will undoubtedly support the rehabilitation of women in a way that will reduce recidivism, prison violence, and substance abuse relapse. It will doubtlessly improve maternal physical health. It will also reduce the ultimate financial burden to our state government, and will also reduce the resource burden that inures to our state foster care system when mothers and children would be separated in these circumstances. Our agency's clients and former clients will benefit, and so will the larger communities that public defenders serve.

However, my hope is that, because of my very unique professional perspective, I can convey a more basic, fundamental human reason why the togetherness of mother and child is so important.

One of the tragedies of the death penalty is that it never falls on 'the worst of the worst.' What so often unites the people I represent is not sheer evil or cruelty, but instead the shared experience that their child development was shaped by family trauma. Many of my clients never knew one or both of their parents. The unconditional love and care that almost every infant and toddler receives was not there for them. Often, one or both parents had their rights terminated early in the client's life. Even in cases that did not involve permanent separation, many of my capital clients were apart from their parents for long periods of time due to parental incarceration. This creates what is often called, at least in the adoption context, "the primal wound."¹

¹ See generally NANCY NEWTON VERRIER, *THE PRIMAL WOUND* (2003).

For those clients that did grow up with biological or adopted parents, they often experienced horrific violence and abuse. Many watched as their parents brutalized or even killed each other. Even more were emotionally, physically, or sexually abused. Still more were exposed to parental drug and alcohol use of immense proportions. They near-uniformly experienced the mental health struggles of at least one parent. They virtually all felt the sting of poverty because of their parents' inability to provide things like food, toys, and medicine.

Researchers have well-documented the struggles that children with incarcerated or condemned parents face.² Children in such situations are extraordinarily likely to feel intense anger, depression, anxiety, and uncertainty. They are more likely to have behavioral problems in school and experience academic difficulties. They are more likely to interact with the criminal justice system in a negative way and experience their own poverty, substance abuse, and mental health crises.

To me, S.B. 489 is a small but important step in breaking this cycle for some children and their families. For a capital client who never had his mother because of her prison sentence, I wonder what three years of love and affection would have meant to his life trajectory. For a capital client who did have his mother but watched as she came and went, struggling with all sorts of destabilizing situations, I wonder what additional resources and guidance would have meant to her, and consequently, to him. Just as poignantly, I wonder what all of these things would have meant to the other people's lives that my clients intersected with, and to our community as a whole.

We as a society have so much more to do to support parents and end the cycle of poverty and incarceration that plagues so many. However, S.B. 489 is a positive step in that direction. Women deserve the opportunity this bill presents because their criminal record should not define them as a parent. Children deserve this opportunity because children deserve love, and the love of a mother is perhaps the purest and most meaningful that we can imagine.

Please support S.B. 489. Thank you for your time and consideration.



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² See, e.g., ERIC MARTIN, HIDDEN CONSEQUENCES: THE IMPACT OF INCARCERATION ON DEPENDENT CHILDREN (2017), available at <https://nij.ojp.gov/topics/articles/hidden-consequences-impact-incarceration-dependent-children>; Sandra J. Jones & Elizabeth Beck, *Disenfranchised Grief and Nonfinite Loss as Experienced by the Families of Death Row Inmates*, 54 OMEGA 281 (2006).