

Children of imprisoned parents get bill of rights

The first state law of its kind, Oregon's new policy is intended to minimize the trauma children experience when a parent is incarcerated

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Gov. Kate Brown signed a “bill of rights” for the children of parents serving prison sentences into law on Tuesday, Sept. 19, making Oregon the first state in the country to have such a law.

Advocates hope that by establishing a bill of rights for the children of incarcerated parents, Oregon’s state agencies – human services, the criminal justice and foster care systems, especially – will create policies that reduce trauma experienced by children and allow them to maintain stronger ties with their imprisoned parents.

“We know that a large part of what helps with reentry is having families that are intact,” Sen. Michael Dembrow (D-Portland), a chief sponsor of the legislation, told Street Roots. “Children of incarcerated parents are victims, as well, of what happens. Their needs are rarely taken into consideration by the courts, by the police.”

The new law requires the Department of Corrections to develop policies and procedures that reflect the needs of children when their parents are imprisoned. The law asserts that these children have nine “essential” rights, which include protection from further trauma and harm after the arrest of their parents; the right to maintain a relationship and visit their parents while in prison, and to be included and considered in decisions regarding their life, any potential foster care situation, their parent, and to be cared for in a way that “prioritizes the child’s physical, mental and emotional needs.”

The issue was the subject of the film “Mothering Inside” by Portland filmmaker Brian Lindstrom, featuring the work of the Family Preservation Project. Parents who were part of the Family Preservation Project were on hand for the signing.

The Legislature passed the bill of rights in June along with a package of a half-dozen bills, also sponsored by Dembrow, related to prisoners’ re-entry into society.

Three other pieces of legislation passed, including a bill allowing child support payments to be suspended while a parent is imprisoned.



Gov. Kate Brown signs the Bill of Rights for Children of Incarcerated parents. To the right, Sen. Michael Dembrow, (D-Portland) speaks to supporters of the bill, along with Sen. Lew Fredrick, (D-Portland) standing far left.

PHOTO BY AMANDA WALDROUPE

Another bill allows those on probation or parole to perform community service instead of paying court fees and other fines. Yet another created “certificates of good standing” for people convicted of Class A misdemeanors and felonies who adhere to treatment guidelines, perform paid and unpaid work, meet the expectations of their probation, and other measures. The hope is that the certificates will help ex-prisoners as they apply for housing and jobs.

The number of people who become imprisoned while parenting a child has grown a staggering 79 percent between 1991 and 2007, according to national statistics. During that same period, the number of children with an incarcerated mother more than doubled. Nationally, 1 out of every 14 children experiences the imprisonment of one, or both, of their parents.

Nearly 70,000 Oregon children have at least one parent in prison, estimates Children First for Oregon, one of the state’s largest children advocacy organizations. The imprisonment of parents disproportionately impacts children of color: 1 in 9 African American children will experience the imprisonment of one of their parents. One out of 8 of these children live in poverty.

Having a parent in prison during childhood increases the trauma and instability in a child’s life. In fact, a parent’s imprisonment is among the 10 adverse childhood events considered to contribute to a person’s likelihood in developing substance abuse disorders and other risky, unhealthy behaviors and health problems.

Children with imprisoned parents are four times more likely to become involved in the juvenile justice system, three times more likely to not graduate from high school, and the likelihood of becoming homeless once exiting the foster care system grows by 65 percent, according to a 2016 policy report by the Annie E. Casey Foundation.

Marianne Kersten is the program manager for Northwest Family Services Children of Incarcerated Parents Program, which works to pair youth with mentors who provide support while they’re in school or seeking employment.

Every day, Kersten said, she sees the traumatic effects of arrest and incarceration on children.

“These children come to us with an extraordinary amount of colossal barriers to success,” she said, including generational poverty, criminality and homelessness.

“(There’s) just a real lack of support,” Kersten continued. “And you add on top of that the shame and stigma of having a parent in jail.”

A bill of rights for children of incarcerated parents was first created by the San Francisco Partnership, an advocacy organization, in 2003. In March 2012, the United Nations’ Human Rights Council passed a resolution on children’s rights. The Oregon version signed Tuesday includes some of the provisions from the United Nations resolution.

While Dembrow, Kersten and others applaud the signing of the legislation, more work is to be done for the bill of rights’ provisions to become policy and procedure.

“Sometimes these bills of rights are not necessarily binding,” said David Rogers, the executive director of the ACLU of Oregon, which supported the legislation. “They demonstrate that there is a vision and values for Oregonians to do things differently. We’re not at a place where we ultimately want to be in terms of being able to care for and lift up the health and wellbeing of children with incarcerated parents.”

The law also creates the Task Force on Children of Incarcerated Parents, which is expected to develop recommendations for how the rights enshrined in the bill can be implemented in the criminal justice system

and across Oregon’s state agencies.

“A system of advocacy that starts at the time of arrest” needs to be developed, said Jessica Katz, the director of Family Preservation Project, a program of the YWCA of Greater Portland that operates four programs inside Coffee Creek Correctional Facility, Oregon’s only women’s prison.

That includes training police officers to ask parents, as they’re being arrested, if they have children in need of attention. “And if you ask, ‘do you have kids?’ that’s not enough,” Katz said. “You have to have a response when you get a ‘yes.’”

Allowing children to safely visit their parents while in prison is another priority of advocates, and Kersten said that increased communication with children to help them understand what being in prison means and what has happened to the one they love is important to reduce feelings of isolation and abandonment.

“The barriers for them to see that parent are just unbelievable,” Kersten said. “People think that somebody is arrested, lock them up, and the family is better off. That’s not the case. Just because their parent is locked up doesn’t mean they don’t love that parent.”

Department of Corrections spokesperson Betty Bernt said that the bill of rights will serve as a set of guiding principles.

“While we may not be able to remove the obstacles and traumas faced by children of incarcerated parents, we can help to create a system that recognizes their needs and prioritizes their rights,” she said.

Kersten calls this population of Oregon children – even though they number one in 10 – “invisible,” a group who demand attention.

“They’re everywhere,” she said. “They’re in our midst.”