



Legislation Text

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Res. No. 746

Resolution calling on the New York State Legislature to pass, and the Governor to sign, legislation requiring the New York State Department of Health to create clear and fair regulations for hospitals on drug testing those who are pregnant or giving birth, including informing patients of their rights before any discussion of drug use or drug testing.

By Council Members Rivera, Levin, Rosenthal, Eugene, Ayala, Louis and Miller

Whereas, Currently, hospitals will drug test patients who are giving birth and report those who test positive to the Statewide Central Register of Child Abuse and Maltreatment (SCR); and

Whereas, This testing leads to a child welfare investigation for marijuana use alone because the New York City Administration for Children's Services is required to investigate all cases in NYC referred from SCR; and

Whereas, It is unclear how hospitals determine that testing is necessary and a Daily News article from 2012 found that testing varied by hospital and disproportionately impacted low-income women and women of color; and

Whereas, It is also unclear whether hospitals ensure that patients are aware of the child welfare ramifications for drug tests and disclosing drug history to their health care provider; and

Whereas, Studies show that marijuana is the most commonly used illicit drug during pregnancy, and its use is increasing; and

Whereas, Women should be encouraged to share their medical history, including drug use, with their health care provider without fear of a child welfare case being opened; and

Whereas, A review of the research has shown that maternal marijuana use during pregnancy is not an independent risk factor for adverse neonatal outcomes after adjusting for confounding factors; and

Whereas, Research on the topic is limited due to relying on self-reporting and the difficulty in conducting direct research with a Schedule I drug; and

Whereas, Current state law states that a “neglected child” means a child “whose physical, mental or emotional condition has been impaired or is in imminent danger of becoming impaired” due to a parent or guardian’s failure to provide minimum care, including “misusing a drug or drugs”; and

Whereas, Given the requirement of drug misuse - not just use - as well as evidence establishing that the child's physical, mental or emotional condition has been impaired or is in imminent danger of becoming impaired, one positive drug test arguably does not fit into the definition of neglect, as defined by State law; and

Whereas, While the medical field is continuing to research prenatal marijuana use and marijuana is being legalized across the nation, New York should address marijuana similarly to alcohol and should amend laws, regulations and policies that equate marijuana use with neglectful parenting; now, therefore, be it

Resolved, That the Council of the City of New York calls on the State Legislature to pass, and the Governor to sign, legislation requiring the New York State Department of Health to create clear and fair regulations for hospitals on drug testing those who are pregnant or giving birth, including informing patients of their rights before any discussion of drug use or drug testing.

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