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Res. No. 464

Resolution calling on the New York State Legislature to pass, and the Governor to sign, legislation recognizing postpartum mental illness as a mitigating factor in criminal sentencing

By Council Members Lee, Hanif, Riley, Louis, Narcisse, Hudson, Hanks, Epstein, Maloney, Wilson, Brooks-Powers, Banks, Abreu, P. Sanchez, Farías, Ung, Restler, Stevens, J. Sanchez, Gutiérrez, Santosuosso, De La Rosa, Morano and the Public Advocate (Mr. Williams)

Whereas, Postpartum psychosis is a rare but severe psychiatric emergency that typically arises within days to two weeks after childbirth and can produce delusions, paranoia, auditory and visual hallucinations, and rapid shifts in mood and behavior, sometimes in women with no prior psychiatric history; and

Whereas, According to research published in the Archives of Women's Mental Health, postpartum psychosis affects approximately 4,000 women in the United States each year, or about 1 to 2 women per 1,000 births; and

Whereas, Untreated postpartum psychosis carries serious risks, with published estimates placing the rate of infanticide among affected women at 1 to 4 percent and the rate of maternal suicide at approximately 5 percent; and

Whereas, A study published in 2003 in the Journal of the American Academy of Psychiatry and the Law, examining a sample of mothers who killed their children, found that 52.7 percent were experiencing psychotic symptoms at the time of the offense, underscoring the link between untreated maternal psychiatric illness and tragic outcomes; and

Whereas, The Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM-5), does not contain a stand-alone diagnostic category for postpartum psychosis and instead treats the condition as a peripartum-onset specifier under broader mood and psychotic disorder diagnoses, which may complicate the

introduction of expert testimony and the assessment of clinical evidence in legal proceedings; and

Whereas, Despite the clinical reality of postpartum psychosis, New York's Penal Law and Criminal Procedure Law contain no provisions that explicitly recognize postpartum mental illness as a mitigating factor at sentencing or as a basis for post-conviction sentence review; and

Whereas, Mothers experiencing acute postpartum psychiatric crises who become involved in the criminal legal system are subject to the same sentencing framework as defendants without postpartum psychiatric conditions, and can be sentenced to lengthy prison terms without any formal acknowledgment of the condition that contributed to the offense; and

Whereas, Criminal cases involving postpartum mental illness are prosecuted in all five boroughs of New York City by the offices of the District Attorneys of New York, Bronx, Kings, Queens, and Richmond Counties, each of which operates within the State sentencing framework; and

Whereas, In 2018, Illinois enacted Public Act 100-0574, which became the first criminal statute in the United States to require courts to consider postpartum depression and postpartum psychosis as mitigating factors at sentencing for crimes committed while the defendant was suffering from such conditions; and

Whereas, Public Act 100-0574 also established a post-conviction mechanism under which women previously sentenced without consideration of their postpartum mental illness may petition for a new sentencing hearing, and multiple incarcerated women in Illinois became eligible for resentencing as a direct result of that law; and

Whereas, Adopting a comparable framework in New York would allow courts to weigh medical evidence of postpartum mental illness alongside other sentencing considerations, would open the possibility of treatment-focused dispositions for women who pose no ongoing public-safety risk once the postpartum period has resolved, and would bring State law into closer alignment with current clinical understanding of perinatal mental illness; now, therefore, be it

Resolved, That the Council of the City of New York calls on the New York State Legislature to pass,

and the Governor to sign, legislation recognizing postpartum mental illness as a mitigating factor in criminal sentencing.

JW
LS #22867
5.7.26