

# LEGALMOMENTUM®

## The Women's Legal Defense and Education Fund

### **LM in Action:** LM Provides Testimony Before the NYS Assembly Standing Committee on Children and Families to Recommend Reforms in the Administration of the Statewide Central Register of Child Abuse and Maltreatment



On October 9, 2024, our Staff Attorney, Kyra Batté, testified before the Assembly Standing Committee on Children and Families to examine the administration of the Statewide Central Register of Child Abuse and Maltreatment (SCR). Kyra gave powerful and compelling testimony detailing our work and made recommendations for reform based on what we have witnessed happening across the state. Based on studies and our direct client work, we have seen that across New York, women, particularly Black, Latinx, Indigenous, and low-income pregnant people and newborns are drug tested in health care settings without their knowledge or consent. People who test positive, even for legal substances, are subsequently reported to child protective services and subjected to surveillance and the risk of family separation. Once a report of suspected child abuse or maltreatment is made, Black and Brown children are more likely to be subjected to a child protective service investigation. More specifically, Black families are disproportionately likely to be subject to a child protective service investigation based on perinatal drug testing.

In many instances, health care providers do not even order and wait for confirmatory toxicology results before reporting patients to child protective services—and the Statewide Central Register of Child Abuse and Maltreatment are accepting these reports despite its own policy stating a presumptive positive test result will not be used to register a report; a caller will need to call back if/when a confirmed positive test is received. This has led to unjustified child protective services surveillance of families resulting from drug test results based on consumption of poppy seeds, women seeking substance use disorder treatment, and women who were prescribed lifesaving medication for pregnancy-induced symptoms.

One of our clients was reported to the SCR for suspected child abuse or maltreatment based on a single unconfirmed toxicology result, taken without her knowledge or consent, and indicating a legal substance. During her prenatal care, she was drug tested without her knowledge or consent and instead of informing our client about her positive results or providing any medical counseling or treatment, if warranted, it was used as a basis to conduct yet another nonconsensual test during labor, with the sole purpose of reporting her to child protective services. She was subjected to an intrusive multi-month investigation despite no evidence of any child abuse or maltreatment, lived under constant fear of losing her four children, and will now have records that will be kept on file for ten years and may be used in any future child protective service investigations.

There were nearly 300,000 calls placed to the SCR in 2022, and roughly half of these calls (148,000) were registered and accepted for investigation. Of those calls, only 20% were ultimately indicated for child abuse or maltreatment. This data highlights that 80% of the total calls accepted by the SCR in 2022 were ultimately deemed unfounded, subjecting families to potentially unnecessary and, in some cases, invasive child protective services investigations. Even if a report is deemed unfounded, families under investigation may be subject to unannounced home inspections, requests for medical and educational records, and in-depth interviews. These events can have adverse effects on children and families.

Kyra argued that reports made to the SCR based on nonconsensual drug testing of pregnant patients involve prenatal conduct, that is conduct before any actual child within the legal purview of child protective services even yet exists. Therefore, she argued, SCR policies regarding parents' drug or alcohol misuse or exposure in utero disproportionately target, penalize, and surveil women and must end. We hope that NYS will change this harmful practice.

Watch a recording of the testimony [here](#).