

The Price They Pay: Protecting the Mother-Child Relationship Through the Use of Prison Nurseries and Residential Parenting Programs

ANNE E. JBARA*

INTRODUCTION

Over the past century, while advocates of prison nurseries have applauded their individual and societal benefits, opponents have criticized their touchy-feely undertones, arguing that children do not belong behind bars.¹ New York instituted the first modern prison nursery program in 1901 at its Bedford Hills facility, and the nursery has existed ever since.² The federal government and a number of other states have followed suit in developing programs that, to varying degrees, give mothers and infants an opportunity to remain together until the infant reaches a particular age.³ The requirements for such programs vary by state but generally only permit women with nonviolent criminal histories to take part.⁴ Some states have instituted alternative community-based residential parenting programs that fall between halfway houses and prisons; others have segmented off the prison to build a nursery that will hold both mothers and babies.⁵

These institutions recognize the emotional value of allowing mother and child to bond, while simultaneously giving incarcerated mothers an opportunity to learn about the basics of being a parent, both from a practical and an emotional standpoint.⁶ On the other hand, many onlookers take offense at the thought of young children being imprisoned for their mothers' crimes. Why are women allowed to reside with their children, despite committing a punishable act? State governments, along with the federal government, have weighed these issues when creating such programs, and, in the process, have ultimately concluded that keeping families together outweighs the retributive value of incarceration. While nontraditional, this approach to imprisonment is useful for both its deterrent and rehabilitative aspects and may even create multigenerational benefits.

As the female prison population continues to grow, many have argued for increasing the number of facilities that offer alternative prison programs for

* J.D. Candidate, 2012, Indiana University Maurer School of Law; B.A., 2007, Illinois Wesleyan University. Thanks to Professor Jody Madeira and the *Indiana Law Journal* Board of Editors for their guidance and critiques on this Note. Thanks also to Brian Jbara and my parents for their love and support during the Note-writing process.

1. See, e.g., Leda M. Pojman, *Cuffed Love: Do Prison Babies Ever Smile?*, 10 BUFF. WOMEN'S L.J. 46, 60–67 (2002).

2. *Id.* at 52.

3. See, e.g., WOMEN'S PRISON ASSOCIATION, *MOTHERS, INFANTS, AND IMPRISONMENT: A NATIONAL LOOK AT PRISON NURSERIES AND COMMUNITY-BASED ALTERNATIVES* (2009) [hereinafter WPA].

4. *Id.* at 5.

5. *Id.* at 4.

6. *Id.* at 10.

pregnant women.⁷ In 2009, 6.9% of U.S. prisoners were women, according to the U.S. Department of Justice.⁸ In 2004, 4% of women in state prisons, 3% of women in federal prisons, and 6% of women in jails were pregnant.⁹ A large majority of women in this group also have at least one child under the age of eighteen at home, and many are single parents.¹⁰ Conversely, less than one in five incarcerated men are single parents.¹¹ A number of scholars have investigated the societal impact of these family arrangements and have found that, while children whose fathers are incarcerated more often than not live with their mothers, children whose mothers are incarcerated typically live with a nonparent family member or become part of the foster care system.¹²

Studies have shown that children who fail to sufficiently bond with their mothers are more likely to suffer from developmental delays, an inability to connect with others, and a greater likelihood of being convicted of a crime later in life.¹³ Consequently, it is difficult not to wonder whether incarcerating mothers is more detrimental for the mother or the child. Considering these negative effects, many children may believe they are the ones being punished for their mothers' crimes. While children who are left with their fathers or other relatives may be subject to poverty, a lack of stimulation, violence, non-nutritious food, or any number of other negative side effects, the in-prison or alternative programs would, in an ideal world, give children a stable, nurturing environment in which they are given significant attention and at least three meals a day. Even though they are surrounded by concrete walls and barbed wire, these babies may ultimately have a better opportunity to begin their lives on the right foot than those children who are separated from their mothers and sent out into the world. Furthermore, using community-based residential parenting programs as a transitional tool equips both mother and child with a sturdy foundation before releasing them into regular society. This Note advocates a hybrid approach to alternative prison programs in which community-based residential parenting programs are not used in lieu of, but in addition to prison nurseries. The combination of the two approaches would maximize the individual emotional benefits to both mother and child and the more general societal benefits while being less susceptible to political criticism.

Part I examines the effects prison nurseries and community-based residential parenting programs can have on the cognitive and emotional well-being of both the mother and child in arguing that these programs are beneficial to both parties. Part II explores some of the existing programs and looks to empirical evidence in determining whether the states and federal government have instituted programs

7. See, e.g., Suzanne Smalley, *Bringing up Baby in the Big House*, DAILY BEAST (May 13, 2009, 8:00 PM), <http://www.thedailybeast.com/newsweek2009/05/13/bringing-up-baby-in-the-big-house.html>.

8. HEATHER C. WEST, U.S. DEP'T OF JUSTICE, PRISON INMATES AT MIDYEAR 2009—STATISTICAL TABLES 11 (2010).

9. WPA, *supra* note 3, at 8.

10. Jessica Y. Kim, Note, *In-Prison Day Care: A Correctional Alternative for Women Offenders*, 7 CARDOZO WOMEN'S L.J. 221, 224–25 (2001).

11. *Id.* at 225.

12. *Id.* at 224–25.

13. Pojman, *supra* note 1, at 50.

that best cater to the emotional needs of mothers and babies. Part III argues for the combined use of these programs to ensure a socially appealing punishment and a logical transitional period for mother and child. Finally, Part IV addresses the arguments against prison nurseries and community-based residential parenting programs and concludes that the individual and societal benefits of these programs outweigh the financial burdens and moral opposition.

I. EMOTIONAL AND COGNITIVE HEALTH OF INCARCERATED MOTHERS AND THEIR CHILDREN

Children are typically adversely affected when their mothers are incarcerated because, as a general rule, the mother is the primary caretaker.¹⁴ Furthermore, over half of all incarcerated women are mothers to minor children,¹⁵ a statistic that suggests the importance of examining the developmental harms that may befall children who are party to this separation. Similarly, mothers who, prior to incarceration, were significantly involved in their children's lives may suffer mentally and emotionally as a result of missing out on their children's daily lives and losing an opportunity to participate in their upbringing.¹⁶ These strongly detrimental effects warrant reconsideration of the benefits and methods of incarceration in our society.

A. Emotional and Cognitive Development in Children of Incarcerated Mothers

The few states that have enacted legislation permitting incarcerated women to stay with their young children have done so in reliance on evidence that the mother-child relationship is fundamental to the child's cognitive and emotional development.¹⁷ "[T]he American Psychological Society found that infants who bond securely with their mothers become more self-reliant and have higher self-esteem as toddlers. Later in life, this translates into successful peer relationships and the ability to better cope with life stressors."¹⁸ Some mothers may reunite with their children early on, when the child is two or three, and before the child would have any established memories of the mother's absence. Even in those situations, the child can develop long-lasting psychological trauma, largely because "an attachment bond is formed when the child is between the ages of six months and two years."¹⁹ Children can sometimes create replacement bonds with another

14. LAUREN E. GLAZE & LAURA M. MARUSCHAK, U.S. DEP'T OF JUSTICE, PARENTS IN PRISON AND THEIR MINOR CHILDREN 16 app. tbl.8 (2010). Seventy-seven percent of women in state prisons and 82.8% of women in federal prisons indicated they had provided the majority of their children's daily care prior to incarceration. *Id.*

15. *Id.* at 3 tbl.5. Sixty-one percent of women in state prisons and 55.9% of women in federal prisons had minor children, a number which has increased in recent years. *Id.*

16. *See infra* Part I.B.

17. *See, e.g., Behind Bars, Keeping Mother and Child Together*, N.Y. TIMES, Sep. 23, 1990, § 1, at 34.

18. WPA, *supra* note 3, at 8.

19. Note, *On Prisoners and Parenting: Preserving the Tie That Binds*, 87 YALE L.J. 1408, 1413 (1978).

family member or caretaker; however, passing the child from caretaker to caretaker tends to eliminate this benefit.²⁰

These largely negative effects on the child's emotional development are difficult to reverse once the child is beyond babyhood, and "the child may develop what is known as a psychopathic personality—a tendency to break the law because normal guilt reactions for inappropriate behavior are lacking."²¹ This is often attributed to the child's fear of seeking supportive relationships in anticipation that those relationships will result in abandonment.²² These children can suffer from "disruptive, delinquent, and/or social behavioral problems,"²³ in addition to feelings of "guilt; emotional withdrawal; depression; . . . low self-esteem; and embarrassment" among others.²⁴ Having a parent in prison causes children to question "their uncertain futures" and feel ashamed of the social stigma attached to parental incarceration.²⁵

For those women who have non-infant children when they enter prison, the impact of the separation on both mother and child is substantial. If a child is five when her mother goes to prison, the child will still have feelings of shame and abandonment and will experience many of the negative consequences of these emotions. Regardless of the age at which parent and child separate, the child is "always traumatized by separation."²⁶ Prison nurseries and community-based programs give women who are pregnant when they become incarcerated an opportunity to build a relationship with the child, potentially averting these detrimental effects.

Despite the benefits that come from keeping a mother and her young child together, many still vehemently oppose prison nurseries and their counterparts.²⁷ This opposition is multilayered, stemming from arguments based on the purpose of incarceration, the well-being of the child, and the resentment that taxpayers will be forced to support yet another life in prison.²⁸ Conversely, prison nursery advocates believe that the developmental benefits from both an emotional and cognitive standpoint are significant for those children who are partially raised within prison walls.²⁹ Incarcerated women have substantial blocks of free time on their hands, leaving them with ample opportunity to benefit "from parent education classes and . . . lavish attention on their infants."³⁰ These women have a unique opportunity to take advantage of resources that they otherwise would not have. As a result, many of the children in prison nurseries are "happy, healthy, alert and

20. *Id.* at 1415.

21. *Id.*

22. Kim, *supra* note 10, at 229.

23. *Id.*

24. Pojman, *supra* note 1, at 50.

25. *Id.* at 51.

26. *Id.* at 50.

27. *See Behind Bars, Keeping Mother and Child Together*, *supra* note 17.

28. *See infra* Part IV.

29. Nicole S. Mauskopf, Note, *Reaching Beyond the Bars: An Analysis of Prison Nurseries*, 5 *CARDOZO WOMEN'S L.J.* 101, 111 (1998).

30. *Id.* (quoting Dr. T. Berry Brazelton, pediatrician and child development specialist).

developmentally advanced.”³¹ One study from 1992 concluded that infants who stayed at the prison had healthy attachments with their mothers when compared to infants who left the prison immediately after birth to live with a caregiver.³² Furthermore, the presence of children in a prison can have widespread benefits for guards and other, nonmother inmates by softening the overall tone of the prison environment.³³

B. Emotional Benefits to Mothers Who Maintain a Parental Relationship

In addition to the numerous emotional and cognitive benefits for infants and children involved in prison nursery programs, incarcerated mothers who can communicate with their children are generally mentally healthier than those mothers who, for one reason or another, do not maintain a parental relationship.³⁴ Mothers, particularly those who had frequent contact with their children prior to incarceration, reported that the separation stemming from their imprisonment resulted in “depression and guilt,” which was “compounded by the infantilization [the mothers] experience[d] within the criminal justice system.”³⁵ Conversely, some mothers view the incarceration period as an opportunity to reestablish relationships with their children that had previously been tenuous.³⁶ Even still, incarcerated parents often feel helpless to reconnect with their kids, largely because they are typically at the whim of the children’s caregiver, who may or may not prefer that the children visit or talk to the incarcerated parent.³⁷ This out-of-control feeling can itself cause additional guilt and stress for a mother because it can “further undermine[] her authority as a parent when attempting to reunify with her children.”³⁸

Studies indicate that at least half, and potentially up to 90%, of incarcerated women experience clinical levels of depression at some point during their imprisonment, which can potentially be attributed to “life stressors, family of origin violence, and early trauma.”³⁹ Some studies have pointed out that a mother’s depressive feelings can also stem from a severed or diminished relationship with her children.⁴⁰ It is not uncommon for incarcerated women to have had strained

31. *Id.* (quoting Eldon Vail, former superintendent at McNeil Island Corrections Center in Steilacoom, WA).

32. Pojman, *supra* note 1, at 62 (citing AM. MED. ASS’N, COUNCIL ON SCIENTIFIC AFFAIRS, BONDING PROGRAMS FOR WOMEN PRISONERS AND THEIR NEWBORN CHILDREN, Report 3 (1–97)).

33. *Id.*

34. *See, e.g.*, Julie Poehlmann, *Incarcerated Mothers’ Contact with Children, Perceived Family Relationships, and Depressive Symptoms*, 19 J. FAM. PSYCHOL. 350, 355 (2005).

35. Elena Hontoria Tuerk & Ann Booker Loper, *Contact Between Incarcerated Mothers and Their Children: Assessing Parenting Stress*, 43 J. OFFENDER REHABILITATION 23, 28 (2006).

36. *Id.*

37. *See id.*

38. *Id.*

39. Poehlmann, *supra* note 34, at 350.

40. *See id.*

relationships with their own parents due to abuse, desertion, imprisonment, or any number of other causes.⁴¹ Consequently, the negative elements of this previous relationship coupled with a mother's current disconnection from her children can result in increased levels of depression and anxiety.⁴² In a recent study, a small group of mothers indicated that their imprisonment initially left them feeling suicidal,⁴³ and nearly 70% indicated they felt guilty about their circumstances and worried for their child.⁴⁴

The type and frequency of parent-child interaction can significantly alleviate these negative mental health effects common among incarcerated mothers.⁴⁵ The availability of communication methods is largely dependent upon the child's age, in addition to the caregiver's willingness to permit the child to spend time associating with the mother.⁴⁶ An infant would be unable to write a letter to an incarcerated parent or speak on the phone, and a caregiver may be unwilling to expose a young child to the prison atmosphere, so visits may also be out of the question.⁴⁷ Perhaps obviously, "less frequent face-to-face contact with children during maternal incarceration was associated with mothers' symptoms of depression, highlighting the importance of current relationship processes for women's psychological well-being."⁴⁸ Even increased telephone contact with older children led to more mothers self-reporting an improved perception of the mother-child relationship.⁴⁹ Frequent phone conversations can help a mother feel more involved in a child's life, and the nature of the relationship can evolve as the child gets older and develops a greater capacity for understanding the mother's situation.⁵⁰

In addition to the communicative benefits of the relationship, some incarcerated mothers have indicated that, surprisingly, the prison situation on its own lends itself to improved familial relations.⁵¹ Because so many imprisoned women have histories of abuse, abandonment, or incarceration of their own parents, some prisons focus on the rehabilitative benefits of reflection on these negative experiences.⁵² Although recalling a traumatic childhood could exacerbate the potential for depression among mothers and create fear for their own children's well-being, many women have emphasized the value of reflection in building relationships with their children.⁵³ The mother's emotional state, however, can often become overly optimistic, as the distance prison affords her may give her an opportunity to take a rose-colored perspective on a potentially difficult relationship

41. *See id.*

42. *Id.* at 350–51.

43. *Id.* at 354.

44. *Id.* at 353–54.

45. *Id.* at 351.

46. *Id.*

47. *See id.*

48. *Id.* at 355.

49. *Id.* at 356.

50. Tuerk & Loper, *supra* note 35, at 29.

51. Poehlmann, *supra* note 34, at 356.

52. *Id.*

53. *Id.*

with her children.⁵⁴ At the same time, she may feel as though she is failing in terms of her parental competence due to her lack of involvement in and knowledge of her children's day-to-day existence.⁵⁵

The benefits of a positive mother-child relationship have widespread societal implications as well.⁵⁶ Mothers who stay with their young children while in prison have lower rates of recidivism, potentially because of a stronger sense of attachment to their families.⁵⁷ Courts, however, often place women in prisons far from their prior homes, a result that is even more likely when the women are sent to federal prisons.⁵⁸ Under those circumstances, women have fewer opportunities to spend time with their children and are entirely reliant on the child's caregiver to ensure that mother and child have an opportunity to adequately bond.⁵⁹ These women are inevitably more likely to commit future crimes because of their complete separation from their support system, and will be more likely "to return to their only existing support network: prison."⁶⁰

Considering the spectrum of negative side effects an incarcerated mother can experience as a result of being separated from her children, the corrections system should encourage frequent communications within the parent-child relationship. Older children would most likely be best served by residing with a trustworthy caregiver while having telephone conversations and visits with their imprisoned mothers. On the other hand, when infants are able to reside with their mothers, the mother would presumably have a greater sense of control in her ability to parent her child and would also have an increased peace of mind in being able to care for the child every day. Furthermore, what is in the best interest of the mother may also be what is in the best interest of the child. A happier and more mentally stable mother could very well result in more well-adjusted children, and the mutual benefits thus come full circle in strongly supporting alternative parenting programs for incarcerated mothers and their children.

In instituting prison nurseries and alternative programs, legislatures and courts must weigh the benefits and downsides in deciding what is best for both the individuals affected and society at large. While prisons are by no means an ideal environment in which to raise a child, the alternatives many of these children face may be even worse. Despite the challenges, allowing the child to remain with the mother may, in many cases, be in the best interest of both the child and the mother. Even though some studies have found that the prison environment can have some detrimental, but reversible, effects on young children's development,⁶¹ the emotional deficits from the parent-child separation could affect a child for the rest of his or her life. The elements of relative safety and structure that come with living in a prison, coupled with the necessity of the mother-child relationship, indicate

54. Katherine D.F. Houck & Ann Booker Loper, *The Relationship of Parenting Stress to Adjustment Among Mothers in Prison*, 72 AM. J. ORTHOPSYCHIATRY 548, 554 (2002).

55. *Id.*

56. Pojman, *supra* note 1, at 63.

57. *Id.*

58. See Kim, *supra* note 10, at 229.

59. *Id.*

60. *Id.* at 234.

61. See *infra* Part V.

that alternative prison programs are, at the very least, worthy of serious consideration.

II. COMPARISON OF PRISON NURSERIES AND RESIDENTIAL PARENTING PROGRAMS

Prison nurseries and their counterparts have existed in various forms for centuries, but only within the past thirty years have these programs become a more common, though still relatively rare, option for incarcerated mothers.⁶² Beginning in 1858, Massachusetts developed a prison nursery program in which children could stay with their mothers until they reached eighteen months, a program that existed uninterrupted for a century.⁶³ England and the early American colonies employed this practice as well, although the impact at that time was largely negative, as many babies often died in the unsanitary and “horrific conditions.”⁶⁴ Over time, prison nurseries fell out of favor in the United States, due in part to the women’s rights movement, which emphasized equal treatment for men and women, coupled with the shift in societal focus to a more punitive-based system of incarceration.⁶⁵ However, since the 1970s, “the rate of female incarceration has . . . grow[n] more than eightfold,”⁶⁶ suggesting a more pressing need to address and understand the impact of the mother-child separation. The current system is far from perfect, and the requirements for such programs vary significantly among jurisdictions,⁶⁷ but they begin to address the emotional and cognitive effects of this separation on the mother-child relationship.

A. Prison Nurseries

As of 2009, seven states had instituted prison nurseries for incarcerated women, and two others were working to establish such programs.⁶⁸ The prison nurseries are comparable in that they only accept mothers who have nonviolent convictions and who do not have a history of child abuse or neglect.⁶⁹ Additionally, the nurseries only accept women whose babies were born in state custody, so mothers who gave birth prior to incarceration are ineligible.⁷⁰ For the most part, the similarities end there. States have varying timelines and requirements for sentence length, ranging

62. Pojman, *supra*, note 1, at 56–59.

63. *Id.* at 51.

64. *Id.*

65. *Id.* at 56.

66. Smalley, *supra* note 7.

67. *See generally* WPA, *supra* note 3.

68. *Id.* at 5 (California, Illinois, Indiana, Ohio, Nebraska, New York, South Dakota, Washington, and West Virginia).

69. *Id.* at 9

70. *See id.*

from thirty days to three years,⁷¹ and the benefits offered by each program also differ rather significantly.⁷²

Similar to a number of other prison nurseries, the Bedford Hills Correctional Facility permits infants to stay with their mother until the child's first birthday.⁷³ Mothers can apply for an extension and spend a longer time with their baby, although exceptions are typically granted only when the mother's release date is within six months.⁷⁴ Bedford Hills offers parenting classes, support groups, and a variety of stimulating toys to foster a developmentally ideal atmosphere.⁷⁵ Bedford Hills additionally offers the "Sponsor a Baby" program, in which volunteer groups support inmate mothers by donating baby products; either to help the mother fully support the child when they leave the prison together, or to pass along to the child's guardian, if the mother is not accepted into the nursery program.⁷⁶

On the other end of the spectrum, Washington's Residential Parenting Program permits the child to remain in the prison for up to three years⁷⁷ in partial acknowledgement of the foundational mother-child bond. At the Washington Corrections Center for Women in Gig Harbor, the Residential Parenting Program employs a "rigorous screening and selection process" in determining which pregnant inmates will be accepted.⁷⁸ Like most programs, the Residential Parenting Program requires that its participants have no prior history of violent crime or parental rights termination.⁷⁹ They must also be within thirty months of completing their current sentence.⁸⁰ Once accepted, the women are required to participate in the nursery community by cleaning up the facilities, helping other mothers with their children, and ensuring that their own child is taken care of in addition to completing parenting classes and caregiver training.⁸¹

While both Washington's Residential Parenting Program and Bedford Hills' prison nursery help to support the mother-child relationship, Washington's program

71. *Id.* at 10 ("At the South Dakota Women's Prison, infants are only permitted to stay for 30 days. In contrast, the Washington Correctional Center for Women allows children to stay with their incarcerated mothers for up to three years. The average maximum allowable length of stay for a child at most facilities is between 12 to 18 months.").

72. *Id.* Most offer parenting classes and day care, with others providing many additional services, such as Early Head Start. *Id.* Early Head Start is a "federally funded community-based program for low-income families with infants and toddlers and pregnant women" that was developed in 1994. *What Is Early Head Start?*, EARLY HEAD START NAT'L RESOURCE CENTER, www.ehsnrc.org/AboutUs/ehs.htm.

73. *Id.* at 28.

74. *Id.*

75. *See generally* Family & Corrs. Network, *The Fourth North American Conference on the Family & Corrections*, FCN (Oct. 10, 1993), <http://www.fcnetwork.org/4thnorth/children.html>.

76. *See id.*

77. WPA, *supra* note 3, at 11.

78. Cheryl Hanna-Truscott, *Protective Custody: Within a Prison Nursery at the Washington Corrections Center for Women* (2010), <http://www.protectivecustody.org/stepinside>.

79. *See id.*

80. *Id.*

81. *Id.*

is far more beneficial than the one offered at Bedford Hills. At a conference in 1993, Bedford Hills' staff emphasized the mother-child bond and said "the child's best interest is paramount in the philosophy of our nursery program."⁸² While Bedford Hills has made great strides in terms of its dynamic perspective on infant care within prison walls, its limitations are somewhat astounding. The requirement that mothers with long sentences can only stay with their babies for twelve months is "puzzling."⁸³ Again, if mother and baby leave the prison together, the program will hopefully have worked in starting them off in a solid, stable, and supportive environment in which the mother was able to learn about parenting, and the baby was provided with love and stimulation. The negative effects of the program, however, could be devastating. If the child leaves after twelve months, and the mother stays in prison for many years, the initial bonding period was probably all for naught.⁸⁴ Requiring the child to reconnect with a new caregiver would eliminate any developmental benefits.⁸⁵ Although there may be other benefits for the mother, who would have a unique opportunity to spend months almost solely devoted to her child, this particular policy undermines Bedford Hills' emphasis on the well-being of the child.

Washington's Residential Parenting Program, on the other hand, appears to be the most thorough prison nursery program in the country, largely due to the emphasis of the parent-child relationship in the State's correctional laws.⁸⁶ The Residential Parenting Program employs a number of other unique services, including doulas to help the women during their pregnancy and labor, and the Early Head Start program, which ensures that the children develop normally, eat nutritious food, and receive adequate cognitive stimulation.⁸⁷ No other facility in the country includes Early Head Start services as part of its nursery program.⁸⁸ Because the children can remain there for up to three years, Early Head Start seems especially important in order to lay the necessary educational and developmental foundation for the participating children.

The Residential Parenting Program fully aligns with Washington law regarding children with incarcerated parents, which greatly concerns itself with supporting this subset of the population.⁸⁹ Washington has no less than four statutes on this subject, and each of them discuss the impact a parent's imprisonment can have on child development, intergenerational incarceration, and parental recidivism.⁹⁰ In the Department of Corrections section of the Washington Code, the state legislature indicated that its intent in drafting the legislation was to

support children and families, and maintain familial connections when appropriate, during the period a parent is incarcerated. Further, the

82. Family & Corrs. Network, *supra* note 75.

83. Pojman, *supra* note 1, at 70.

84. *Id.*

85. *Id.*; see also Kim, *supra* note 10, at 228.

86. See, e.g., WASH. REV. CODE § 72.09.495 (2010).

87. WPA, *supra* note 3, at 11.

88. *Id.*

89. *Id.*; see also WASH. REV. CODE § 72.09.495.

90. E.g. WASH. REV. CODE § 74.04.800.

legislature finds that there must be greater emphasis placed on identifying state policies and programs impacting children with incarcerated parents. Additionally, greater effort must be made to ensure that the policies and programs of the state are supportive of the children, and meet their needs during the time the parent is incarcerated.⁹¹

With this in mind, the legislature codified the goal of instituting policies that “encourage familial contact” and question the “impact of existing policies on the ability . . . to maintain familial contact.”⁹² In drafting this legislation, it seems clear that the Washington legislature has been cognizant of the long-term effects parental incarceration can have on a child. By insisting on familial contact, the legislature at least attempts to avoid the separation issues inherent in the Bedford Hills program. The program constructs a situation in which mother and child are able to develop a relationship before entering the world together. The prison also has educational programs, and the mothers are able to earn their G.E.D. while other inmates care for their children in the nursery.⁹³ While no program can guarantee success, the Washington Corrections Center for Women takes advantage of the unique free time its inmates are given while in prison.

Washington additionally emphasizes the centrality of the family in a number of other statutes, including “support[ing] the children of incarcerated parents . . . with the goal of facilitating normal child development” in the public schools,⁹⁴ establishing a “children of incarcerated parents advisory committee” within the state’s Department of Commerce,⁹⁵ and focusing attention on “programs and policies affecting foster youth who have a parent who is incarcerated.”⁹⁶

In its 2009 Annual Report, the Children and Families of Incarcerated Parents Advisory Committee noted that there were 29,000 dependent children with parents in Washington State prison facilities,⁹⁷ suggesting that caring for and supporting these kids is no small undertaking. The Advisory Committee made a number of recommendations in 2009, while acknowledging that enacting new policies would be difficult given the budget problems plaguing Washington at the time.⁹⁸ Nevertheless, the Advisory Committee pointed out that, even if some programs would have to wait for funding, “it is important to be aware of the needs of the children and families with incarcerated parents.”⁹⁹ Because children of incarcerated parents are often “an invisible part of our population,”¹⁰⁰ the focus on updated initiatives, regardless of how well funded they are, is a step in the right direction.

91. *Id.* § 72.09.495.

92. WASH. REV. CODE ANN. § 72.09.495(1)(a) (West 2004 & Supp. 2012)

93. Hanna-Truscott, *supra* note 78.

94. *See* WASH. REV. CODE ANN. § 28A.300.520 (West 2011); *id.* § 43.215.065 (West Supp. 2012).

95. *Id.* § 43.63A.068(1)(d) (West Supp. 2012).

96. *Id.* § 74.04.800(1)(a) (West 2011).

97. CHILDREN AND FAMILIES OF INCARCERATED PARENTS ADVISORY COMMITTEE ANNUAL REPORT 2 (2009).

98. *Id.* at 3.

99. *Id.*

100. *Id.* at 2.

Above all else, the Advisory Committee's recommendations highly support initiatives that both protect and lend developmental encouragement to the children of incarcerated parents. The goals of the Residential Parenting Program and the general support system for these kids are, again, to minimize the risk that the parents will recidivate and that the children will become offenders themselves.¹⁰¹ While so much of the public views incarceration as a method of retribution for a person's wrongful acts, Washington seems to be more concerned with establishing healthy relationships and a supportive environment for kids who could otherwise be at risk for poverty, developmental and cognitive delays, and, ultimately, criminal convictions of their own.¹⁰² In this respect, Washington's laws and policies are mindful of the best interests of these children, while also working to serve the needs of incarcerated parents and to protect the society at large. However, because the Washington laws are relatively new, it is unclear whether the state's policies have been an effective means of combating many of the problems that typically afflict incarcerated parents and their children.

While the Bedford Hills program is more representative of prison nurseries generally, Washington's policies are particularly progressive and unique. Ideally, all prison nurseries would include such programs as Early Head Start to equip both mother and child with the necessary foundation to re-enter regular society. Realistically, instituting such programs requires both money and time. This is an investment that Washington is willing to make, or at least acknowledge, but which other states are not currently able, or perhaps eager, to attempt.

B. Community-Based Residential Parenting Programs

In addition to prison nurseries, both state and federal prisons have instituted community-based residential parenting programs.¹⁰³ While the clientele in these programs is largely the same as in the prison nurseries, the atmosphere is quite different.¹⁰⁴ As evident from their name, these programs permit women to live in the community, rather than within the prison, and can be used "from pre-trial through the duration of a sentence, as a condition of parole or as a requirement for probation."¹⁰⁵ They typically provide rehabilitative services for women addicted to drugs along with many of the parenting programs usually seen in prison nurseries.¹⁰⁶ Residents can request permission to leave the premises for appointments, making these programs significantly less restrictive than traditional prisons.¹⁰⁷ Additionally, "[m]ost [residential parenting] programs allow children to stay with their mothers until they reach school age," and, unlike many of the prison nursery programs, "[t]he duration of the child's stay is often tied to the length of the mother's sentence."¹⁰⁸

101. See ch. 384, 2007 Wash. Sess. Laws 1763.

102. WASH. REV. CODE ANN. § 72.09.495 (West Supp. 2012).

103. WPA, *supra* note 3, at 30–32.

104. See *id.* at 12.

105. *Id.*

106. *Id.*

107. *Id.*

108. *Id.*

Unlike the strict, institutional feel of prisons, the community-based programs are intended to be more home-like and are often run by nonprofit organizations that team up with corrections departments,¹⁰⁹ making them an appealing option for incarcerated women. Child development experts seem to appreciate residential parenting programs more than prison nurseries because the nonprison facilities allow women to retain some control over their daily lives while also understanding and addressing the reasons for their criminal history.¹¹⁰ The community-based programs additionally incorporate many of the benefits of prison nurseries, such as a relatively structured lifestyle and parenting classes, while also allowing for a smooth transition back into regular society.¹¹¹

A history of substance abuse is often a prerequisite for admittance into the community-based programs, although many of the other requirements vary among states.¹¹² California, for example, has two separate programs, one of which requires that the woman begin her sentence in a state prison before applying to be moved to a residential facility.¹¹³ The other is seen as an alternative to incarceration, and women live there as part of their sentence.¹¹⁴ Similarly, a number of programs require that the woman's child can only stay in the facility until the child is five or six, at most.¹¹⁵ Others, like the Lovelady Center in Birmingham, Alabama, permit children to stay there until they reach eighteen, although the Center imposes certain restrictions on boys over age fourteen.¹¹⁶

The Lovelady Center's age limits, or lack thereof, may seem unusual, but they help to ensure that children have a stable primary caregiver. The unique situation at the Lovelady Center was not created by statute, although the State of Alabama has laws permitting those convicted of crimes to be sentenced to nonprison facilities.¹¹⁷ The Lovelady Center, however, operates as both a prison alternative and as a type of homeless shelter/domestic violence center, and "40% of [its residents] are self-admitted."¹¹⁸ A private facility, the Center emphasizes Christianity and offers "medical services, counseling services, addiction counseling services, life-skills training, parenting classes, job training, job placement, childcare, nutrition, housing, and post-secondary education."¹¹⁹

Other community-based programs are less generous with their time limitations, potentially resulting in detrimental effects on mothers and children. Through the Federal Bureau of Prisons, the U.S. government established the Mothers and Infants Nurturing Together (MINT) program in the 1980s, which allows pregnant women to live in a residential setting after giving birth until the child is three

109. *Id.*

110. *Id.* at 24.

111. *Id.*

112. *See id.* at 30–32.

113. *Id.* at 30.

114. *Id.*

115. *See id.* at 30–32

116. *Id.* at 13.

117. *E.g.* ALA. CODE § 15-18-175 (LexisNexis 1995 & Supp. 2010).

118. *About Us*, LOVELADYCENTER.ORG, <http://web.me.com/roaringcreek/lovelady/about.html>.

119. *Id.*

months old, although the inmates can apply for an extension on the three-month limit.¹²⁰ The program is intended to “promote[] bonding and parenting skills for low-risk female inmates.”¹²¹ To be accepted, however, women must meet a set of stringent requirements: they must be in their “last three months of pregnancy, have less than five years remaining to serve on their sentence, and [be] eligible for furlough.”¹²² They must additionally take on the financial responsibility of the child’s medical care for the duration of the program and must make custody arrangements for the child after the mother returns to prison.¹²³ The program has a number of perks and is fairly comprehensive in its educational coverage. While enrolled, the mothers “participate in pre-natal and post-natal programs such as childbirth, parenting, and coping skills classes. In addition to services specifically related to parenting, MINT sites also offer chemical dependency treatment, physical and sexual abuse counseling, budgeting classes, and vocational and educational programs.”¹²⁴

Like many of the other programs, MINT gives pregnant inmates an opportunity to learn how to be a better parent and a more successful member of society; however, the three-month time limit is somewhat confusing. While it is certainly beneficial for the mother and her baby to bond early on, as previously discussed, the subsequent separation could cause severe, life-long damage to the child.¹²⁵ MINT seems to be an ideal solution for those women who are going to be released soon after the birth of their child, meaning their sentence would have to be quite short to begin with. Under those circumstances, mother and baby would be able to connect in a supportive, educational environment, leaving the mother equipped with enough knowledge to raise a healthy child once leaving prison. They could then make the transition together from the residential environment back into their own home. In that situation, the MINT program appears to be the perfect way for mother and child to begin their life together on the right foot; however, for those women who are not so fortunate as to be released within three months of their child’s birth, the inevitable separation could be agonizing for everyone involved.

C. Statistics on the Efficacy of Alternative Parenting Programs

In 2009, the Women’s Prison Association (WPA) released a report that documented the various prison nurseries and community-based parenting programs in the United States,¹²⁶ concluding that community-based parenting programs were a better use of state resources because they would more thoroughly equip women for life outside of prison.¹²⁷ While the WPA believed many of the prison nurseries

120. *Female Offender Programs*, FED. BUREAU PRISONS, http://www.bop.gov/inmate_programs/female.jsp.

121. *Id.*

122. *Id.*

123. *Id.*

124. *Id.*

125. *See supra* Part I.

126. *See generally* WPA, *supra* note 3.

127. *Id.* at 24 (“Whenever possible, custodial parents and pregnant women under criminal justice supervision should be housed in community-based, non-incarcerative settings.”).

had beneficial aspects, it concluded that community-based programs provided a more appropriate real world scenario for women learning how to parent.¹²⁸ The Nebraska Correctional Center for Women executed a two- and five-year study program after opening its prison nursery in 1994.¹²⁹ In terms of recidivism rates, the study found that women who completed the nursery program were only about one-third as likely to recidivate when compared to women who gave birth and were immediately separated from their children while incarcerated.¹³⁰ Overall, in self-evaluation, the inmates who participated in the program believed they had stronger bonds with their children and found the program generally beneficial.¹³¹

The American Medical Association released information on two studies in 1997, which looked more closely at the implications of prison nurseries on development of both the mother and the child, resulting in less optimistic conclusions.¹³² One study, conducted in 1992 by Dr. L. Catan, found that the program participants had strong bonds with their infants, although the infants had some developmental delays that disappeared after being released from prison.¹³³ The second study, conducted in 1990 by Busch-Rossenagel, concluded that 50% of the infants in the program “seemed insecurely attached to their mothers”¹³⁴ and that 33% of the infants “were below the mean in overall development.”¹³⁵ The Busch-Rossenagel study did not follow the mothers and babies after they were released from prison, although the Catan study continued following the pairs for three months after their release.¹³⁶

More recent studies have reported additional reservations with prison nurseries, particularly the lack of any encouragement for the mothers to develop long-term relationships with other adults.¹³⁷ Due to the restrictive environment, women have a difficult time making strong connections with the other inmates, and some are even forbidden from contacting the other women once they are released.¹³⁸ Despite the problems, the paper concluded that the prison nursery programs were overall beneficial for families, largely because they avoid the need to put children in foster care and instead work within the realistic parameters of a woman’s sentence to establish a foundational mother-child relationship.¹³⁹ The paper acknowledged, however, that a community-based program would better reach these ends without falling prey to so many of the downsides inherent in the prison setting.¹⁴⁰ The authors noted that

128. *Id.*

129. *Id.* at 16.

130. *Id.*

131. *Id.* at 16–17.

132. *See id.* at 20.

133. *Id.*

134. *Id.*

135. *Id.* at 21.

136. *Id.* at 20.

137. *See id.* at 21–22.

138. *Id.*

139. *Id.* at 24.

140. *Id.*

[c]ommunity-based residential parenting programs can prevent mother-child separation while allowing mothers to address the issues that contributed to their criminal justice involvement in a real-world setting. These programs allow mothers to practice positive responses to the challenges of parenting and the challenges of everyday life. These programs also keep children out of foster care and provide children the stability of a consistent primary caregiver.¹⁴¹

Although this assertion appears to be correct, based on the report's use of support from other studies, community-based parenting programs could be problematic in other ways. As it currently stands, a significant portion of the public remains resentful that these types of programs exist, essentially rewarding women for becoming pregnant and committing crimes.¹⁴² Community-based programs, while more effective in their ability to support families and child development, would increasingly undermine the punitive value of incarceration. Although the long-term benefits for mother and child are clear, community-based programs would grant an advantage to pregnant women, while leaving other female inmates locked in their cells. This is true of both prison nurseries and community-based programs, but is especially highlighted when women and their children are physically moved to another less restrictive environment beyond the prison walls.

III. A HYBRID APPROACH

While the support for community-based programs is understandable, their disparate treatment of pregnant versus nonpregnant female inmates, coupled with their more lackadaisical style, indicates their feasibility is questionable. When focusing on the prisoner, society at large may have a difficult time understanding how the American justice system can reasonably punish someone while allowing her to live in a regular community.¹⁴³ It may be both more appropriate and more successful to implement prison nurseries across the United States, and improve the federal MINT program, in order to maximize the benefits of the nurseries. Furthermore, the federal and state governments should attempt to streamline their programs in order to make them more effective. As discussed earlier,¹⁴⁴ the MINT program, while a good idea in theory, could potentially cause great harm to mothers, babies, and society by strictly limiting the bonding period between mother and child without regard for the long-term effects.¹⁴⁵ A number of states have followed suit in what comes across as a half-hearted nod to the more progressive style of incarceration, without a true examination of the negative and positive elements of such programs.¹⁴⁶ In an ideal world, particularly when considering the WPA data,¹⁴⁷ community-based programs would be the best solution, at least in

141. *Id.*

142. *See* Pojman, *supra* note 1, at 63–67.

143. *Id.*

144. *See supra* Part II.B.

145. *Id.*

146. *See infra* Part IV.

147. WPA, *supra* note 3, at 15–23.

terms of their rehabilitative and societal value. The WPA data, however, already strongly favors any prison reform for women and children and relies heavily on the emotional and cognitive benefits to both parties in reaching its conclusions.¹⁴⁸ When actually constructing a socially and politically acceptable policy for mothers and children, we must balance this empirical support with the popular view of prison as punishment and rehabilitation.

On the other hand, many of the benefits of community-based programs can be integrated into prison nurseries in order to make them more effective and diminish some of the downsides. Creating a community atmosphere within the prison nurseries would give the mothers an opportunity to bond and learn from each other without necessarily establishing a less restrictive environment. While the parent-child relationship is important to both the mother's and the baby's success, the adult friendships established among the mothers would presumably lead to a more supportive and communal environment. Studies have also noted improvements for the prison as a whole when young children reside in the facilities, suggesting that the entire community may benefit from the increased development of these programs.¹⁴⁹

As the WPA paper points out, many prison nurseries lack the stimulation young children need and may discourage friendships among the mothers residing there.¹⁵⁰ Child-development experts may take issue with the inappropriateness of the environment.¹⁵¹ Conversely, community-based residential parenting programs, while often benefitting from a more relaxed and stimulating environment, appear to incentivize crime by allowing women a homelike place to live with their children.¹⁵² If the goal is to be "tough on crime," community-based programs do not fit the bill.

The community-based residential parenting programs could be effectively used as transition or rehabilitation programs, rather than as an alternative to incarceration. The programs are sometimes used in this way,¹⁵³ and this approach would presumably counteract many of the negative feelings the public has toward offenders who avoid prison altogether. Even doubling-up and allowing women to live with their child in a prison nursery before moving to a residential program as, for example, a condition of their parole would maximize the benefits of both programs while also establishing an arrangement that is more politically appealing. Although the cognitive benefits for children may be somewhat limited due to the structure of the prison environment, their reversibility coupled with the stability of the prison nursery, make the nurseries a sustainable temporary option. The children and mothers would then be able to maximize the cognitive and emotional benefits by transitioning to a community-based program, in which the environment is less limiting, but still structured. The strict nature of the prison environment, while arguably a necessity for punitive reasons, can undermine an offender's ability to

148. *Id.*

149. *See* Pojman, *supra* note 1, at 60–67.

150. WPA, *supra* note 3, 20–21.

151. *See, e.g.,* Pojman, *supra* note 1, at 63–67.

152. *See* WPA, *supra* note 3, at 12.

153. *Id.*

successfully reintegrate into normal society.¹⁵⁴ As a transitional tool, community-based programs can compensate for this inadequacy by giving mothers and their children a stable place to live temporarily while making prospective arrangements for school and work. In the interim, both parties are ensured a bed to sleep in and food to eat and have a chance to develop relationships with the other residents.¹⁵⁵

IV. COUNTERARGUMENTS

A hybrid approach to prison nurseries and community-based residential parenting programs would benefit the public by ensuring adequate deterrence from criminal acts by imprisoning mother-offenders, while also giving these women and their children an opportunity to more easily transition into regular society. Nevertheless, arguments against such a proposal would likely raise concerns about financial burdens and the retributive effectiveness of a less stringent prison atmosphere. Both of these concerns can be addressed by contrasting these potential pitfalls with their detrimental alternatives.

A. Financial Concerns

Many agree that the cost of housing prisoners in the United States has reached an exorbitant level in recent years, so the suggestion of adding more bodies to already congested prisons is not often well received.¹⁵⁶ In 2008, the Public Safety Performance Project released data that indicated one in every 100 Americans was living behind bars.¹⁵⁷ While the state prison population dropped by 0.3% in 2009, the federal prison population increased by 3.4% during the same period, resulting in a net gain.¹⁵⁸ When budgets are tight, many states reduce expenditures by cutting prison funding and limiting the number of offenders who are incarcerated.¹⁵⁹ Nevertheless, “[c]orrections costs . . . now account for 1 of every 15 state general fund discretionary dollars.”¹⁶⁰ Consequently, adding additional bodies in the form of young children to already overcrowded prisons appears to be an unnecessary, even ridiculous, expense.

No matter the financial source, starting and maintaining a prison nursery is a burdensome and costly task. Specific information on the financial burdens prison nurseries impose is difficult to come by and can vary based on the state, the thoroughness of the program, and the availability of grants from outside sources.¹⁶¹

154. *Id.* at 5–6.

155. *See id.* at 12.

156. *See* Jennifer Steinhauer, *To Trim Costs, States Relax Hard Line on Prisons*, N.Y. TIMES, Mar. 25, 2009, at A1.

157. PEW CTR. ON THE STATES, PRISON COUNT 2010: STATE POPULATION DECLINES FOR THE FIRST TIME IN 38 YEARS 1 (2010).

158. *Id.*

159. Steinhauer, *supra* note 156.

160. PEW CTR. ON THE STATES, *supra* note 157, at 6.

161. Lorie Smith Goshin & Mary Woods Byrne, *Converging Streams of Opportunity for Prison Nursery Programs in the United States*, 48 J. OFFENDER REHABILITATION 271, 279–

In 2002, both New York and Ohio “spent approximately \$90,000 . . . to operate nursery programs caring for approximately 20 children.”¹⁶² Washington, on the other hand, has funded its prison nursery program entirely through social service money and “partnerships with community organizations, such as the local children’s hospital and Early Head Start provider.”¹⁶³

In reality, the cost of running a prison nursery is often only a fraction of the typical taxpayer burden for supporting these children because “[p]ublic funding provides the bulk of the economic support for this population of children of incarcerated parents whether inside or outside of prison nursery programs.”¹⁶⁴ About 10% of children with incarcerated parents live with a foster family,¹⁶⁵ and even for those 90% of children who end up with a family member, many are still supported by public assistance.¹⁶⁶

A relatively small increase in a state’s corrections budget will additionally be offset by the long-term benefits of keeping the mother and child together in a prison nursery.¹⁶⁷ Recidivism rates for mothers are lower when the mother has an established relationship with her child,¹⁶⁸ and, furthermore, children with a maternal bond are less likely to become offenders themselves.¹⁶⁹ Therefore, in the long run, the prison population will shrink, reducing the financial burden. More immediately, society will benefit from having a larger population of law-abiding and comparatively stable citizens.

B. Moral Concerns

The moral opposition to prison nurseries stems from a variety of rationales, including the retributive value of incarceration, the negative side effects of the prison environment on children, and the reliability, or lack thereof, of incarcerated mothers.¹⁷⁰ The criminal justice system currently operates as American society’s method of handling a multitude of issues, and many drug offenders, for example, are incarcerated when perhaps a more effective system would send them to a rehabilitation facility.¹⁷¹ Prisons have historically been viewed as a means of

80 (2009).

162. *Id.*

163. *Id.*

164. *Id.*

165. *Id.* The public cost of foster care is nearly impossible to calculate with certainty because the federal and state governments each pay a portion of the funding required to support a child in foster care, in addition to contributions from private sources. LAURA RADEL, U.S. DEP’T HEALTH & HUMAN SERVS., FEDERAL FOSTER CARE FINANCING: HOW AND WHY THE CURRENT FUNDING STRUCTURE FAILS TO MEET THE NEEDS OF THE CHILD WELFARE FIELD 8, 11 (2005), available at <http://aspe.hhs.gov/hsp/05/fc-financing-ib/ib.pdf>.

166. See Goshin & Byrne, *supra* note 161 at 279. (“Children of incarcerated mothers are most often cared for by their maternal grandmothers, who predominately live in poverty and receive public assistance in order to provide for them.”).

167. *Id.* at 279–80.

168. See *supra* Part I.B.

169. See *supra* Part I.A.

170. WPA, *supra* note 3, at 9.

171. See, e.g., Lanette P. Dalley, *Policy Implications Relating to Inmate Mothers and Their Children: Will the Past be Prologue?*, 82 PRISON J. 234, 251 (2002).

punishing people who have committed bad acts, and the retributive model “punish[es] those who transgress society’s laws by inflicting punishment” separate from the goal of “controlling . . . criminals and crimes.”¹⁷² Based on this perspective, prison nurseries reward mothers to some degree, rather than punishing them for their bad acts. Additionally, the deterrence model of incarceration seeks to dissuade people from committing crimes “either by experiencing punishment or witnessing punishment.”¹⁷³ By keeping women and children together, prisons may effectively reach a contrary result in which women seek out the stability and comparatively nurturing environment of a prison nursery.

If the object of incarceration is to punish the offender, it seems counterintuitive to essentially allow pregnant inmates to have their cake and eat it, too, when they are able to develop a long-lasting relationship with their children after committing a prison-worthy act. Some opponents believe that women are responsible for the consequences of their actions and “should have thought of [their] children before . . . decid[ing] to use drugs and commit robbery.”¹⁷⁴ Some prison administrators doubt the validity of the emotional benefits a child can develop as a result of remaining with his mother and believe the “[prison] lifestyle could have an adverse effect on kids.”¹⁷⁵ One corrections spokesman in Florida indicates that the women’s prison environment does not provide what children need “to an optimum degree.”¹⁷⁶

Regardless of an individual’s philosophical stance on the role of prisons, whether the object is to punish or rehabilitate the offender, U.S. society has never created prisons as a place where people want to go. Prison nurseries undermine this seemingly solid notion and create a somewhat desirable, even pleasant, atmosphere for female criminals. If their cell is so comfortable, why bother sending them to prison at all?

As previously discussed, the long-term emotional devastation a child can develop as a result of his mother’s incarceration outweighs society’s need to indiscriminately punish a mother-offender.¹⁷⁷ While this may seem counterintuitive to the “tough on crime” mentality, in reality, prison nurseries limit recidivism, encourage women to take responsibility for and support their children, and give children a chance to develop stable and healthy relationships with their primary caretaker.¹⁷⁸ Punishing children for their mothers’ bad acts has a greater tendency to lead to a familial tradition of crime and instability.¹⁷⁹

The fear that prison nurseries will incentivize, rather than deter, crime is unsupported at this juncture. Prison nurseries are highly selective, accepting only a particular subset of pregnant prisoners,¹⁸⁰ so it is unlikely that a pregnant offender

172. Kim, *supra* note 10, at 232.

173. *Id.* at 233.

174. Mauskopf, *supra* note 29, at 110 (quoting David Botkins, a spokesman for the Virginia Department of Corrections).

175. *Id.*

176. *Id.* at 110–11.

177. *See supra* Part I.A.

178. *Id.*

179. *Id.*

180. *See supra* Part II.A.

would enter prison with a misconceived plan of ultimately moving to the nursery wing.

CONCLUSION

The strict structure of prison nursery programs coupled with the transitional benefits of community-based residential parenting programs lend support for a hybrid approach to these alternative incarceration options. Based on the emotional and cognitive benefits for both mothers and babies, the prison nursery program is a worthwhile addition to the prison system in the United States. While the community-based residential parenting program appears to be more successful in some respects, the likelihood of it achieving public and political approval is slim. Instead, the residential programs could be used as a transitional tool for women and babies exiting the prison environment, in order to maximize the benefits for their individual development and their relationship while hopefully deterring any future crimes by either party. The political appeal of the prison nursery, conversely, is more easily achievable and provides a safe and structured environment. With the development of new policies in recent years—such as the emphasis on support for children of incarcerated parents in the state of Washington—states and the federal government appear to be recognizing the value of these programs and will hopefully work to amend them to best serve their residents.