OPINION

Commentary: 'Test-and-report' policies put families at risk

Informed Consent Act would require providers to get a patient's consent before a drug screening, removing a deterrent to seeking prenatal care.

By **Jasmine Wali**
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New York wisely rejects the notion that a positive drug test alone is synonymous with child maltreatment. That's because substance use is not inherently incompatible with being able to care for one's child. But health care providers are drug testing and screening pregnant people and their newborns without informed consent and reporting the results to child protective services. It's a practice that puts families at risk – and it disproportionately affects families of color.

This practice, referred to as "test-and-report," violates bodily autonomy and exposes families to the violence of forced family separation. There is a wealth of data showing that parental drug use is equal across most demographics, yet Black and brown women are being tested at much higher rates than their white counterparts.

And at a time when Black New Yorkers are nine times more likely to die from pregnancy-related causes than white New Yorkers, test-and-report contributes to maternal-infant health inequity. Rather than encouraging uptake of prenatal care and supporting the critical early bonding moments between the newborn and their parents, test-and-report does just the opposite. The practice deters New Yorkers from seeking critical prenatal care for fear that interacting with a health care provider will result in their newborn or child being taken away from them.

As the second half of the legislative session gets underway, the state Legislature has an opportunity to dismantle this obstacle to equitable health care: They must pass the Informed Consent Act.

The Informed Consent Act would move birth care away from the stigmatization, surveillance and criminalization of people who use substances. By requiring providers to get a patient's consent before a drug screening, it would make clear that maternal-infant health and well-being, not punishment, are the state's priorities.

Doulas, reproductive justice advocates and studies agree: The best health care for a newborn is to be with their parent. And the real threat to children comes from forced family separation and lack of access to robust support and resources for newborns and their families.

People parent. People use substances. People parent and use substances. Despite how common this is, parenting and substance use -- including cannabis use -- are highly stigmatized. Substance use does not define how much a person loves their child or their ability to care for their child. We can and must do better. During this session, it's time for the Legislature to get on board and pass the Informed Consent Act.

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