



NEW YORK STATE SENATOR

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Senator Brouk: Get consent before drug testing during pregnancy and childbirth

SAMRA G. BROUK June 3, 2025



Some time ago, when I was not yet a mother and still held a deep faith in American medicine, I attended a maternal health briefing at which the speaker presented a chart showing maternal mortality rates in the United States. I stared at it in disbelief: Surely the chart, which displayed a dismal trajectory, was upside down?

It wasn't. And it forever changed the way I viewed the U.S. health care system.

In the 10 years since, my disbelief has morphed into urgency and outrage. Maternal mortality rates in the U.S. have doubled since 2001, and they have increased 27% over five years. If you're a non-Hispanic Black woman like me, you are five times more likely to die during childbirth than your white counterparts.

These disparities aren't accidents or flukes. They are symptoms of a system infected by medical racism, stigma and structural inequality.

One example: Despite similar rates of substance use across racial groups, Black women are drug-tested far more frequently than white women. Across New York, Black people are subjected to invasive testing and life-altering scrutiny during pregnancy without ever being told what's happening to them, let alone asked for their consent. They can be stigmatized if they live in a particular neighborhood, if they have Medicaid insurance, if they switch providers, and often even if they express pain.

Informed consent is the basic tenet of ethical medicine. It allows patients to make decisions about their own health and the health of their children.

Nonconsensual drug testing calls into question a person's bodily autonomy, credibility and dignity. A lack of informed consent threatens trust-building between a patient and their health care providers by deterring them from seeking prenatal care that can improve outcomes for their child.

What's more, drug testing can lead to unnecessary investigations and, sometimes, family separations that traumatize both parents and children.

Nonconsensual drug testing is not care. It is medical racism in action, and it's happening in the name of "health care."

In the state Legislature, we are considering legislation that requires informed consent before drug testing and screening. The Maternal Health, Dignity and Consent Act prohibits unnecessary drug testing and screening without informed consent, unless deemed necessary for a medical emergency.

Informed consent will not put newborns at risk; it will create trust between parents and providers by maintaining a patient's dignity, bodily autonomy and right to make informed choices.

The weaponization of drug testing during childbirth is a contemporary relic of the draconian "War on Drugs" -- a war that was never about public health but about control and punishment.

This must change.

We must build a maternal health system rooted in respect and autonomy. We must support, not surveil, pregnant people. We must treat Black women as patients, not suspects. We must affirm that everyone, regardless of race or income, deserves to understand and agree to medical procedures administered on their bodies. This starts with passing the Maternal Health, Dignity and Consent Act.

(Op-ed originally published in Times Union by State Senator Samra Brouk)