



State Laws- Parents with Disabilities - Summary

Plain-language version

People with disabilities have more rights than ever before. But, parents with disabilities are still discriminated against. The government is more likely to take children away from parents with disabilities. Courts do not always let parents with disabilities live with their children or even visit them. Parents with disabilities are sometimes told they cannot adopt children or be foster parents. Laws affecting parents with disabilities usually come from the states.

In 2012, the National Council on Disability wrote a report, *Rocking the Cradle: Ensuring the Rights of Parents with Disabilities and Their Children*. In that report, they included examples of ways to change laws so that parents with disabilities have more rights. Many states have passed these laws. The National Research Center for Parents with Disabilities' *Changes in State Legislation to Protect the Rights of Parents with Disabilities*' table describes each law by state and has information on what it does.

As advocates have worked with state lawmakers to change laws, there have been many similarities in how states changed their laws.

Disability types covered

Many state laws are about parents with all disabilities but some are only about parents with certain disabilities. For example, a new Washington law only helps parents with intellectual and developmental disabilities. Many states are changing their laws to help parents who are blind, including Illinois, South Carolina, New York, Oregon, Ohio, and Virginia.

Incorporation of the ADA

Some states are changing their laws about parents so that they are more like the ADA, like Idaho, Maryland, Massachusetts, Arkansas, Nebraska, and West Virginia

Adaptive equipment and support services

Some state laws mention adaptive equipment and support services that can help parents with disabilities. For example, in Idaho, Kansas, Massachusetts, Nebraska, South Carolina,

and Vermont, judges will need to learn about adaptive equipment and supports before deciding if a child should be taken from a parent

with a disability. In California, a law says that Medicaid has to pay for adaptive equipment that helps parents with disabilities. In Minnesota, advocates are trying to change their laws so that parents with disabilities can get more help with taking care of their children.

Burden of proof

Illinois, Nebraska, Oregon, and Virginia are changing laws so that if a child welfare worker or someone else, like the other parent, says that a parent's disability makes that person unable to take care of their children, the child welfare worker or whoever says this must show the court why. In Idaho, Illinois, Massachusetts, Rhode Island, and Virginia, new laws make courts think about how adaptive equipment or supports can help parents with disabilities so that children can still live with them.

Removes disability as grounds for termination of parental rights

Some states, like Idaho, Massachusetts, Rhode Island, and State Carolina, are changing their laws so that children cannot be taken from their parents just because their parents have a disability.