



Advocates, Attorneys, and Legislators on Passing Legislation That Protects the Rights of Parents with Disabilities

Sasha Albert, Robyn Powell, and Jack
Rubinstein · August 2021

Introduction

Parents with disabilities are routinely discriminated against in the child welfare, family law, and adoption and foster care systems (Callow et al., 2011). For example, parents with disabilities are more likely to be involved in the child welfare system (Callow et al., 2011). They are also at risk of losing their parental rights in custody or visitation disputes (DeZelar & Lightfoot, 2018; LaLiberte et al., 2017).



28

states have introduced or passed
legislation to protect the rights of
parents with disabilities and their
children—but 22 states still lack
protections for disabled parents.

Over the past few decades, advocates, activists, and legislators have urged states to pass legislation protecting disabled parents. Twenty-eight states have introduced or passed legislation to protect the rights of parents with disabilities and their children (National Research Center for Parents with Disabilities). But their work is not done—although states are increasingly likely to pass such legislation, 22 states still lack comprehensive protections for parents with disabilities.



National Research Center for Parents with Disabilities
Parents Empowering Parents
Padres Empoderando a Padres

Brandeis

THE HELLER SCHOOL
FOR SOCIAL POLICY
AND MANAGEMENT
Lurie Institute for
Disability Policy

This study had two goals:

- ▶ to understand the obstacles that advocates, attorneys, and legislators face when they try to pass laws that protect the rights of parents with disabilities
- ▶ to identify solutions for passing laws that protect parents with disabilities and their children.

Findings

Participants, including advocates, attorneys, and legislators, described three broad themes involving barriers to passing state legislation to protect the rights of parents with disabilities:

... Legislators often had outdated, harmful ideas about disability and parenthood, including the misconception that parents with disabilities are inherently unfit. Because of these stereotypes, these legislators did not consider the rights of parents with disabilities a high priority.

1. **Misconceptions among legislators.** Many participants said that legislators often had outdated, harmful ideas about disability and parenthood, including the misconception that parents with disabilities are inherently unfit. Because of these stereotypes, these legislators did not consider the rights of parents with disabilities a high priority. Although some legislators were willing to protect the rights of parents with physical disabilities, they still opposed legislation protecting parents with intellectual, developmental, and psychiatric disabilities, as well as parents recovering from drug or alcohol dependence.
2. **External opposition.** Legislators are not the only potential opponents of laws protecting disabled parents: outside groups and organizations, such as state child welfare agencies, can also stymie efforts to pass new legislation. Participants faced opposition from various outside groups, including state bar associations—professional groups of lawyers—and state child welfare agencies.
3. **Legislative barriers.** For a bill to be considered in a state legislature, a committee must approve it. Unfortunately, legislators struggled to find committee

assignments for bills concerning parents with disabilities—and even when legislators did find a committee, bills often stalled, since legislative leadership did not consider the rights of parents with disabilities a priority.

In addition to identifying barriers, participants also found eight ways to help legislators, advocates, and community members pass legislation that protects the rights of parents with disabilities:

1. **Cross-disability advocacy.** Advocacy should involve people with all kinds of disabilities. Cross-disability coalitions show widespread support for legislation protecting parents with disabilities—and ensures that the proposed legislation will benefit all disabled parents.
2. **Education.** Teaching legislators about parents with disabilities, their needs, and their experiences can counteract destructive stereotypes. Moreover, once legislators understand more fully what parents with disabilities need, they may consider protecting the rights of parents with disabilities a priority.
3. **Relationship-building.** Building relationships with potential opponents, such as child welfare agencies, may help advocates pass legislation.
4. **Bipartisanship.** Participants said that raising children as a person with a disability transcended political parties and ideologies—and that bipartisan support makes bills protecting parents with disabilities more appealing to legislators.
5. **Support from state and national organizations.** Support from these organizations can help move bills forward even with opposition, since national and state organizations may have enough clout to persuade legislators.
6. **Strong sponsors.** A strong sponsor for a bill can often help that bill become a priority for legislators.
7. **Incrementalism.** Participants recommended breaking larger bills into smaller ones, even if this means introducing less comprehensive bills. These bills would be easier to pass and could make it easier for more comprehensive bills to be passed later on.
8. **Model legislation.** Having a template for potential bills can help advocates, since templates ensure that legislation draws from legal precedent. Using past legislation could strengthen the case for similar bills.

Policy implications

- ▶ Because parents with disabilities are wrongly thought to be unfit parents, researchers should make a priority of studies showing that people with disabilities can be successful parents.
- ▶ Legislators often respond more readily to personal stories than they do contextless facts and figures, so people with disabilities should have more opportunities to be involved in legislative advocacy.
- ▶ Further research should consider the role and experiences of people with disabilities in legislative advocacy and policymaking.
- ▶ Researchers should investigate whether laws protecting parents with disabilities are effective. Though legislation protecting marginalized groups is helpful in theory, laws are effective only when states enforce them.

Limitations

Although this study calls attention to ways that advocates, attorneys, activists, and legislators can uphold the rights of parents with disabilities, the results may not be fully generalizable to all parents with disabilities involved in legislative advocacy. For example, all the participants were white, and most of them were women over the age of 60. Furthermore, our data were based on self-report, meaning that participants' responses may have been biased.

Methods

This study was conducted via phone interview with participants who (1) had been involved with legislation related to parents with disabilities, or (2) were legislators, legislative staffers, advocates, attorneys, or child welfare professionals. The participants were recruited through emails to disability rights organizations, organizations in the child welfare system, and legislators in all 28 states where legislation regarding parents with disabilities had been introduced or passed.

References

Callow, E., Buckland, K., & Jones, S. (2011). Parents with disabilities in the United States: Prevalence, perspectives, and proposal for legislative change to protect the right to family in the disability community. *Texas Journal on Civil Liberties & Civil Rights*, 17(1), 9–42.

DeZelar, S., & Lightfoot, E. (2018). Use of parental disability as a removal reason for children in foster care in the U.S. *Children and Youth Services Review*, 86, 128–134. <https://doi.org/10.1016/j.chilyouth.2018.01.027>

LaLiberte, T., Piescher, K., Mickelson, N., & Lee, M. H. (2017). Child protection services and parents with intellectual and developmental disabilities. *Journal of Applied Research in Intellectual Disabilities*, 30(3), 521–532.

National Research Center for Parents with Disabilities. (2020). Current legislation. <https://heller.brandeis.edu/parents-with-disabilities/map/index.html>

Credit

Adapted by the National Research Center for Parents with Disabilities from Albert, S. M., Powell, R. M., & Rubinstein, J. (2021). Barriers and Solutions to Passing State Legislation to Protect the Rights of Parents with Disabilities: Lessons from Interviews with Advocates, Attorneys, and Legislators. *Journal of Disability Policy Studies*. <https://doi.org/10.1177/10442073211006394>

How to Cite This Brief

National Research Center for Parents with Disabilities (2021). Advocates, Attorneys, and Legislators on Passing Legislation That Protects the Rights of Parents with Disabilities. Brandeis University, Waltham, MA.

Contact

Website: heller.brandeis.edu/parents-with-disabilities

Twitter: @NatRCPD

Facebook: facebook.com/nrcpd

Email: centerforparents@brandeis.edu

Disclaimer and Funding Statement

The contents of this brief were developed under a grant from the National Institute on Disability, Independent Living, and Rehabilitation Research (NIDILRR grant number 90DPGE0001). NIDILRR is a Center within the Administration for Community Living (ACL), Department of Health and Human Services (HHS). The contents of this brief do not necessarily represent the policy of NIDILRR, ACL, or HHS, and you should not assume endorsement by the Federal Government.