

## Parents with disabilities and child welfare

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with

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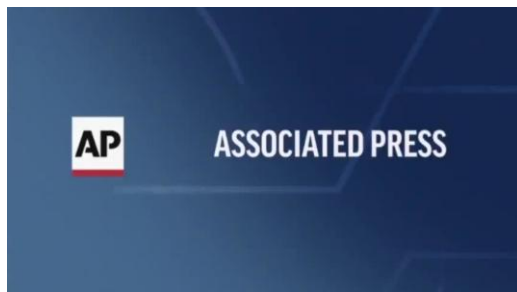
## Overview

- Prevalance of parental disability in child welfare
- Policy context for parents with disabilities
- National Council on Disability's *Rocking the Cradle* Report – video presentation
- Promising practices in child welfare for working with parents with disabilities



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## Parents with Disabilities

- Historically...
  - In the early twentieth century, people with disabilities were routinely sterilized involuntarily
    - Early 1900s laws started
    - *Buck v. Bell* (1927), Supreme Court ruled that it did not violate the Constitution to sterilize "the unfit"
  - Mothers with disabilities who had babies often had them removed at birth based on their disability– still happens today



Carrie Buck & her mother

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## Parents with Disabilities in Child Welfare TODAY: WHAT WE KNOW

- Lots of people with disabilities have children (SIPP, 1993)
  - 11% of parents have a disability (6.9 million)
  - 30% of adults with disabilities have a child living at home
- Many cases in the child welfare system have a parent with a disability
  - Small samples
  - No centralized record keeping by states on parents with disabilities
  - Court records and anecdotal information suggest that parents with disabilities often are involved in child welfare and have their children removed via TPR
- Research in this area focuses primarily on:
  - Assessment
  - Behavioral modification

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## Parental Mental Illness

- No national data on parental mental illness
  - 21% of mothers experienced a psychiatric disorder within the past 12 months
  - 10% of fathers experience a psychiatric disorder within the past 12 months
    - Data available from the National Comorbidity Survey

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## Prevalence Study in Minnesota

- Parents with Disabilities who have had their parental rights terminated (TPR)



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## Matched TPRs 2000-2006

Academic Year	Parents with disability in education records	Parents with no disability in education records
2000-2001	30.2%	69.8%
2001-2002	40.4%	59.6%
2002-2003	32.7%	67.3%
2003-2004	36.7%	63.3%
2004-2005	25%	75.0%
2005-2006	39.1%	60.9%
<b>Total all years</b>	<b>34.7%</b>	<b>65.2%</b>

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## Disproportionality?

	TPR cases	General population
Parent had disability label as kid	34.6%	14%
Parent had NO disability label as kid	65.4%	86%

Risk ratio for having a TPR for a person with a disability label is 3.26.

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## Policies

- ADA
- AFSA
- State Laws



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## Americans with Disabilities Act

- ADA is an anti-discrimination law banning discrimination based on disability
  - Title II of the ADA covers state and local agencies, such as state or county child protection agencies
  - Requires states to make modifications to programs or services that deny equal access to people with disabilities

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## Adoption & Safe Families Act (ASFA)

- ASFA signed in 1997
  - Three goals - child safety, permanency, and child well-being
    - Shift away from “family preservation”
    - New emphasis on “accountability”
- Reasonable Efforts
  - To prevent unnecessary removal of a child
  - To reunify child with parents
    - Unless abandonment; parent has murdered or attempted to kill a child; or has committed a felonious assault, or has had parental rights terminated to another child

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### Adoption & Safe Families Act (ASFA)

- ASFA Requires States to TPR
  - When a child has been in **foster care 15 of the most recent 22 months**
  - When a child is an **abandoned** infant
  - The court has determined that the parent has:
    - committed **murder** of another child of the parent;
    - committed **voluntary manslaughter** of another child of the parent;
    - aided or abetted, attempted, conspired, or solicited** to commit such a murder or such a voluntary manslaughter; or
    - Committed a **felony assault** that results in **serious bodily injury** to the child or another child of the parent.



### Termination of Parental Rights

- All 50 states and DC have state statutes outlining grounds for terminating parental rights
  - Some have long lists of specific grounds
  - Others are more vague
  - Almost all grounds relate to past or current *parental behavior*
- All states have modified their laws in regards to Adoption in Safe Families Act (ASFA) requirements
  - Added timelines
  - Requirements for TPR (murder of child, felonious assault resulting in serious bodily injury, abandonment, etc.)



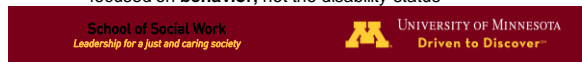
### Disability in State Child Protection Laws

- Three-quarters of the states included **disability-related** grounds for termination of parental rights
- The vast majority of these 37 states
  - use *outdated terminology*
  - use *imprecise definitions*
  - emphasize *conditions* rather than *behaviors*



### States that do NOT have disability in state laws

- Have language that allows the state to remove children from parents with disabilities (or any other parent) based on behaviors...
  - Ex. Maine
    - i) The parent is unwilling or unable to protect the child from jeopardy and these circumstances are unlikely to change within a time which is reasonably calculated to meet the child's needs; ii) The parent has been unwilling or unable to take responsibility for the child within a time which is reasonably calculated to meet the child's needs*
- Have case law to support removing a child because a person with a disability failed to provide appropriate care – focused on **behavior**, not the disability status



### Legislative Change Project

- Model statutory language
  - Removed discriminatory language and focus on conditions
  - Introduced concept of **parental support**
- Collaboration with :
  - disability groups in MN (e.g. P&A, the ARC, CILs, NAMI, DD Council)
  - advocates/researchers in other states
  - national groups



### Trends in Termination of Parental Rights

- Trends
  - Several states have recently abolished disability language -- since 2007 the number of states with disability language in state laws has gone down
    - Example: Idaho
  - At least one state has attempted to add disability language recently
    - South Dakota (failed attempt to add it)



## Idaho Model

- In State Law:
  - “Nothing in this chapter shall be construed to allow discrimination on the basis of disability.”
  - “Teams shall develop... written protocols for investigations involving a family member with a disability”
  - “Teams shall consist of ... persons knowledgeable about adaptive equipment and supportive services for parents or guardians with disabilities”
  - “If the parent has a disability.... The parent shall have a right to provide evidence to the court regarding the manner in which use of adaptive equipment or supportive services will enable the parent to carry out the responsibilities of parenting the child”

## Robyn Powell

*Rocking the Cradle: Ensuring the Rights of Parents with Disabilities and Their Children*

National Council on Disability

[www.ndc.gov](http://www.ndc.gov)



## Complete Self-Assessment



## Child Welfare Reform

- New policies and program models – also shifts in values and philosophies
- Increased awareness of ecological models of development
- Increased focus on family strengths, capacities & critical nature of family involvement in decision making
- Differential Response
- Family group conferencing
- Family group decision-making
- Casey - Family to Family Initiatives
- Signs of Safety
- Systems of Care



## Definition of Differential Response

- Practice model that can lend itself to working with parents with disabilities
- Defined here as a codified set of policies and protocols that establish at least two distinct tracks or responses for all families that are reported and “screened in” for child maltreatment.
  - One response: traditional investigative track
  - Differential response track(s):
    - engages families by setting aside fault-finding;
    - standardized process for determining level of risk for referred families;
    - services are voluntary (assessment is not);
    - partnerships between public child welfare agencies and community organizations



## Comparison Between Investigation and Assessment Approaches.

	Investigation	Assessment
Focus	<ul style="list-style-type: none"> <li>•Did an incident of child abuse or neglect occur?</li> <li>•Who was responsible?</li> <li>•What steps need to be taken to ensure the child's safety?</li> </ul>	<ul style="list-style-type: none"> <li>•What underlying conditions and factors may jeopardize the child's safety?</li> <li>•What strengths and resources exist within the family and community?</li> <li>•What areas of family functioning need to be strengthened?</li> </ul>
Goal	To determine the "findings" related to allegations in the report and identify perpetrators and victims.	To engage parents, extended family, and community partners in identifying problems and participating in services and supports that address family needs.
Disposition	A decision must be made whether to substantiate the allegation of maltreatment.	Caseworkers are not typically required to make a formal finding regarding whether child maltreatment occurred.
Central Registry	Perpetrators' names are entered into a central registry, in accordance with State statutes and policies.	Alleged perpetrators' names are not entered into a central registry.
Services	If a case is opened for services, a case plan is generally written and services are provided. Families can be ordered by the court to participate in services if CPS involves the court in the case.	Voluntary services are offered. If parents do not participate, the case is either closed or switched to another type of response. ***Table SOURCE: Child Welfare Gateway, adapted from Schene, 2005



## Definition of personal supports

- American Association of Intellectual and Developmental Disabilities
  - “resources and strategies that aim to promote the development, education, interests, and personal well-being of a person and that enhance individual functioning” (pp.105)”



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## Why are supports important?

- Supports help people participate in variety of life domains, including social roles:
  - Social roles are: “ valid activities considered normative for a specific age group”(AAID, pp.16)

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## Social roles



- Student
- Employee/Employee
- Neighbor
- Friend
- Religious community member
- Family member

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## Social roles

- An important social role that is normative for many adults:  
**PARENTING**

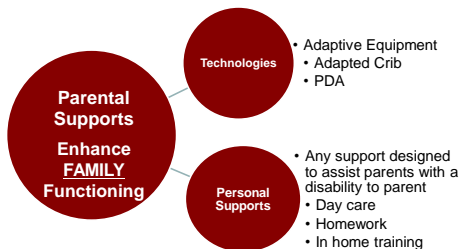


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## New Concept of Parental Supports

- Supports *in general* are technologies or personal supports to enhance individual functioning (AAIDD)



## Parental Supports

### Technologies

- Adaptive Equipment
- Adapted Crib or child care equipment,
- Cooking/feeding equipment or smart phone
- Personal digital assistant (PDA)

### Personal Supports

- Any support designed to assist parents with a disability to parent
  - Day care
  - Homework
  - In Home training
  - Respite care
  - Co-parent or mentor
  - Money management assistance
  - Housekeeping
  - Safety planning
  - Long term family support

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## Concept of Parental Supports

- Fits well with
  - Social model of disability and the concept of individual supports
  - Person-in-the-environment paradigm of social work
  - New trends in child welfare



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## Child welfare and parents with disabilities

- Consider the specific needs and assets of families headed by a parent with a disability
- What do we know?
  - Need for formal and informal supports
  - Services may require tailoring/modification



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## Supports for parents with disabilities

- Few supports available for parenting for people with disabilities
  - Few programs supporting parenting, and many that do focus on **increasing individual parenting ability**
  - Funding streams not design to support parenting

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## Tools for Supporting Parents with Disabilities

- Parents & Supporters
  - Programs and Resources Guide
  - Community Integration Tools
    - Child Welfare & Custody Issues
    - Positive Parenting & Child Resilience
    - Understanding Child Abuse & Neglect in PA
- Providers
  - Child Custody Assessment Worksheet
  - Parenting Resources Worksheet

<http://www.tucollaborative.org/resources/resources.html#parenting>

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## Checklist of Reasonable Efforts

- Assessments
  - Frequency
  - Duration
  - Addressed strengths as well as needs
  - Informed by multiple sources
  - Used to inform services
- Services
  - Provided in timely manner
  - Specific to both parent's needs and their disability
  - Current services adapted to include the parenting role
- Representation
  - Focus on parental behavior
  - Opportunity to demonstrate parenting ability with supports
  - Multiple experts' opinions to determine parent's ability and competence to parent

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## Advanced Planning

- Advance Directives
  - Advance plans that are recognized as legal entities that confer specific rights related to medical care
- Psychiatric Advance Directives
  - Legally-recognized advance plans that give instructions for mental health treatment



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## Advance Self Advocacy Plan (ASAP)

- Includes topics that are not addressed well or at all in other mental health advance planning documents
  - **Temporary care of children**
  - Seclusion & restraint
  - Finances
  - Work
  - School
  - Temporary care of pets
- Emphasizes **planning process** over legal aspect
- Can be used as a legally binding, psychiatric advance directive (PAD) if the plan creator chooses to do so

## Questions?

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