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Parental Disability in Child Welfare:

Policy strategies for improving child welfare services for parents with disabilities and their children

An overview of how the child welfare system uses parental disability as a consideration in removing children and termination of parental rights.

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Background

There has been growing international attention to the high rates of involvement of parents with disabilities in the child welfare system, and to concerns that parents with disabilities may not be receiving fair treatment and accessible services.¹⁻² Studies in Canada,³⁻⁵ Australia⁶⁻⁷ and the United Kingdom⁸⁻⁹ have found that parents with disabilities are more likely to be involved in the child protection system, have their children removed from their home, and have their parental rights terminated than other parents. Research in these countries is beginning to rely more on population-based data to get a better understanding of the prevalence of parents with disabilities in the child welfare system and the outcomes for their children. Further, there are growing calls for using population based-data in child welfare research in general,¹⁰ and specifically in studying issues surrounding parents with disabilities.¹¹

In the United States, there are also growing concerns about parents with disabilities in the child welfare system,¹²⁻¹⁵ even though the prevalence of parents with disabilities involved in child welfare remains largely unknown. In 2012, the United States National Council on Disability released a report entitled *Rocking the Cradle: Ensuring the Rights of Parents with Disabilities and their Children*, which described numerous practices within the child welfare system that do not provide parents with disabilities appropriate and fair services, and recommended widespread reforms.^{16,25-26} For example, currently about two-thirds of states have statutes that refer to parental disability in their grounds for termination of parental rights (TPR).¹⁷ While parents with disabilities are entitled to accommodations in the child welfare system according to both the Americans with Disabilities Act (ADA) and the Rehabilitation Act (Title II and Section 504),¹⁸ and many child welfare workers provide excellent services to parents with disabilities, the child welfare system is not set up to provide appropriate parental supports for parents with disabilities.

A recent study examined how parental disability was tracked in the Adoption and Foster Care Reporting System (AFCARS).¹⁹⁻²⁰ AFCARS is the federal reporting system that collects case-level data on all children in foster care through state and tribal title IV-E agencies.²¹ AFCARS collects a variety of types of data, including children's characteristics of age, gender, race/ethnicity, disability status and type; removal reasons; number and types of placements; length of placements; case plan goals and permanency outcomes. The only data on parents or caretakers collected are age and household type. However, one of the removal reasons that AFCARS collects is titled "No Cope", which does relate to parent or caretaker disability. "No Cope" is defined in the AFCARS code book as "... physical or emotional illness or disabling condition adversely affecting the caregiver's ability to care for the children".²¹ Nearly one-fifth (19.0%) of children in foster care have "No Cope" as at least one of their reasons for removal from their home into foster care, and 5.14% have "No Cope" as their sole removal reason.¹⁹⁻²⁰

Prevalence of Parents with Disabilities in Child Welfare

Policy issue: There currently are no good national data sources tracking how many parents with disabilities are involved in the

Table 1: States' Percentage Use of the Parental Disability Removal Reason

	At Least One Removal	Sole Removal		At Least One Removal	Sole Removal
OH	54.02	20.13	WA	13.64	2.02
ID	50.71	0.66	ND	12.86	6.21
OR	33.45	11.50	FL	12.44	6.20
MI	33.71	0.09	VA	11.26	2.36
MS	32.52	2.71	NM	11.73	0.37
CA	30.52	14.33	AK	10.30	0.33
AZ	25.62	0.08	NJ	9.60	4.79
WI	21.40	12.08	SC	9.02	1.23
RI	26.47	3.61	NY	8.35	2.68
HI	25.54	2.08	SD	7.86	1.26
PR	24.75	.00	WY	7.22	0.33
KS	22.41	4.25	AL	7.21	3.77
CT	24.24	1.43	AR	7.07	3.25
PA	22.24	8.25	DC	6.53	3.13
TX	22.17	0.05	NV	6.49	0.40
NC	21.24	3.24	TN	6.18	3.43
CO	20.45	4.45	MT	6.00	2.84
KY	20.15	3.91	IN	5.61	0.08
UT	18.91	0.39	NE	4.05	2.21
MA	16.72	4.27	WV	3.39	1.65
GA	15.74	3.02	OK	2.98	0.87
ME	15.24	0.28	DE	1.48	0.31
MO	15.01	2.75	NH	1.11	0.51
MD	14.97	1.22	IL	0.79	0.79
VT	14.65	10.83	LA	0.52	0.11
IA	14.40	5.17	Mean	19.00	5.14
MN	13.88	4.12			

child welfare system in the U.S, and state level data regarding parental disability widely varies. For example, in the AFCARS data, six states indicated that parental disability was a removal reason for over 30% of the children in foster care, with both Ohio and Idaho using this removal reason in over 50% of their cases, while 19 states indicating that less than 10% of the children had a parental disability related removal reason, with Illinois and Louisiana using this removal reason in less than 1% of their cases.²⁰ The National Child Abuse and Neglect Data System (NCANDS), which collects child specific maltreatment reports from states, does have parental disability variables recorded as risk factors²², but it also has wide variability. Child welfare programs are not able to plan for providing appropriate services or supports for parents with disabilities, nor track whether or not they are providing appropriate services or supports, without knowing how many parents with disabilities are involved in the child welfare system.

Policy Solution: The child welfare system needs to adopt better data collection practices in regards to parental disability prevalence and service accommodations. There should be a specific requirement to track parental disability in both the AFCARS and the NCANDS system which clearly lays out appropriate definitions for disabilities that are consistent with current understandings of disability. Guidance must be given to states to aim for more consistency in usage among states. In addition, tracking of accommodations and service modifications required by the ADA and the Rehabilitation Act is also necessary to assist child welfare agencies in ensuring that parents with disabilities are receiving appropriate and fair services. Congressional appropriation of funding for research on parents with disabilities and their families, as recommended by both

the National Council on Disability and the National Association of Social Workers,^{16,23} would also assist in better understanding prevalence and services.

Parental Disability Should Not be Categorized as a Removal Reason or Grounds for Termination of Parental Rights

Policy issue: Parental disability is the only parental *characteristic* that is categorized in state child welfare policies or in federal data collection tools as a consideration when determining whether to remove a child from his or her home or to terminate parental rights. In the AFCARS data, the “no cope” removal reason is the only removal reason that is a parental characteristic that is unchangeable by the parent.¹⁹ All of the other removal reasons, such as physical abuse, sexual abuse and neglect, are parental behaviors. If the AFCARS data tracked parental addiction, that would be a characteristic, however it tracks the parental *behaviors* of alcohol and drug abuse as removal reasons. Similarly, parental disability is the only parental characteristic that is included in states’ grounds for TPR. All other factors listed are parental behaviors, such as physical abuse or neglect.¹⁷ Having parental disability listed as a removal reason or as grounds for TPR can contribute to discriminatory practices in child welfare, as it can lead those involved in the system to believe that parental disabilities lead to abuse, rather than focusing on how to appropriately provide services. While there have been some calls to remove parental disability from state statutes,^{16,25,26} the issue of inappropriately focusing on parental disability in child welfare is much more pervasive than simply the TPR statutes.

Policy Solution: Parental disability should not be included anywhere in a state’s grounds for TPR statute. Additionally, parental disability should not be used in state or federal reports as a removal reason. One avenue for eliminating parental disability as a factor in TPR considerations is for individual states to change their laws. In fact, very recently the state of West Virginia removed all disability related language from TPR statutes, and further added requirements of service accommodations for parents with disabilities and their children.²⁴ However, with over two-thirds of states containing such language,¹⁷ a state-by-state approach may not be the most efficient approach. Likely the best avenue for ensuring protections for parents with disabilities would be to amend the Adoption and Safe Families Act (ASFA) to require elimination of parental disability as a consideration for removals and terminations. Parental disability data should only be collected as demographic information, similar to age and race/ethnicity.

Foster children who are removed at least partially related to a parent’s or caretaker’s disability have poorer outcomes

Policy issue: Findings from the Lightfoot & DeZelar study of 2012 AFCARS data demonstrate that foster children who had parental disability listed as at least one of their removal reasons spent an average of 116 more days in foster care than other children, while those with parental disability listed as their

sole removal reason spent 240 more days in foster care than other children.¹⁹ Compared to foster children who were not removed in relation to their parent’s or caretaker’s disability, foster children with parental disability as at least one of their removal reasons had 47% lower odds of having a case plan goal of permanency, 87% higher odds of having a case plan goal of long-term foster care, 32% lower odds to be reunified with their parents upon discharge from foster care, and 21% lower odds to be discharged into permanency. Those foster children with parental disability as their sole removal reason had 91% lower odds of having a case plan goal of permanency, more than twice as high (232%) odds of having a case plan goal of long-term foster care, 32% lower odds of being reunited with their parents upon discharged from foster care, and 33% lower odds of being discharged into permanency. While the AFCARS removal reason of parental disability should not be interpreted as a proxy for parental disability, it does show that children who have parental disability as a removal reason are having different experiences in foster care.

Policy Solution: Child welfare policies should be amended to require that appropriate and accessible services be provided to parents with disabilities and their children. While there was a recent joint guidance by the Department of Justice and the Department of Health and Human Services reaffirming that child welfare agencies must provide modifications to their services for parents with disabilities under the ADA and the Rehabilitation Act,¹⁸ there still are many conflicting policies directing child welfare services regarding parents with disabilities. An amendment to ASFA requiring protections of parents with disabilities in child welfare services, and requiring and providing funding for the provision of appropriate, modified services in child welfare would help child welfare agencies provide better supports to these families. In addition, amending the Social Security Act to include parenting as an activity of daily living would allow for some parents with disabilities who rely on public funding to purchase their own parental supports.

Resources for Further Information and Continued Education

View CASCW’s new webpage “parental disability in state termination of parental rights statutes” to view parental disability policy by state, as well as to access papers on parental disability written by CASCW affiliates:

<http://cascw.umn.edu/portfolio-items/disability-map/>

Download CASCW’s Fall 2013 CW360° - *The Intersection of Child Welfare and Disability: Focus on Parents* from:

<http://cascw.umn.edu/portfolio-items/fall-2013-cw360/>

For other papers generated by CASCW-supported affiliates, follow this link: <http://z.umn.edu/cwpubs>

Download CASCW’s Legislative Primer for a better understanding of Minnesota’s child welfare system:

z.umn.edu/legislativeprimer

To connect with other professionals, researchers, advocates and parents, visit The Association for Successful Parenting: <http://achancetoparent.net/>.

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More Policy Briefs Coming Soon

CASCW will continue to publish policy briefs to share research and evidence-based policy solutions on pressing issues for Minnesota's children and families. Look for new policy briefs at <http://z.umn.edu/cwpolicybriefs>.

Not finding what you need? Visit the CASCW website at <http://cascw.umn.edu>, or contact CASCW directly for information, research & analysis on child welfare at 612-624-4231 or cascw@umn.edu.

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