

## Research In Focus: A Weekly Digest of New Research from the NIDILRR Community

### Legislators and Advocates Share Challenges and Solutions to Protecting the Rights of Parents with Disabilities

*A study funded by the National Institute on Disability, Independent Living, and Rehabilitation Research (NIDILRR).*

People with disabilities have long fought for the right to learn, live, and work in their communities. In the US, some of these rights have been secured through the passing of legislation such as the Americans with Disabilities Act, which prohibits discrimination against people with disabilities in employment, transportation, and obtaining government services. However, people with disabilities may still face significant challenges when it comes to creating and maintaining families. Studies show that people with disabilities are more likely to have their parental rights taken away than people without disabilities. A recent study on national child welfare data found that 19% of foster care children have a parent with a disability. Also, child custody was awarded more often to parents without disabilities over parents with disabilities. To address this issue, 28 states have either passed or introduced legislation that protect the rights of parents with disabilities and their children. These laws were the product of legislative advocacy at the state level.

In a recent NIDILRR-funded study, researchers wanted to learn from advocates, attorneys, and legislators about the barriers they have faced when trying to pass legislation protecting the parental rights of people with disabilities. The researchers also wanted to know what solutions advocates, attorneys, and legislators have identified for successfully passing legislation concerning the rights of parents with disabilities and their children.

Researchers at [Parents Empowering Parents: National Research Center for Parents with Disabilities and Their Families](#), interviewed 19 advocates, attorneys, and legislators who were involved in a variety of ways with state legislation related to parents with disabilities. The participants included legislators, legislative staff, advocates, attorneys, and child welfare professionals from states in the Northeast, Midwest, South, and West. Some worked on drafting or sponsoring bills, some lobbied for the introduction and passage of bills, and others testified before a legislature in support of bills. Twelve participants were involved in the successful passage of legislation.

The researchers analyzed the interviews and found that participants' comments on barriers for passage centered around three themes:

- *Legislators' pejorative attitudes towards parents with disabilities:* These included the legislators' belief that people with disabilities could not parent their children and inherent biases against people with disabilities or misunderstanding about their capabilities, particularly about people with psychiatric or intellectual disabilities.

- *External opposition:* Certain external organizations, such as child welfare and state bar associations, opposed the passing of legislation that protected parental rights. Some had safety and liability concerns and fear of being held responsible in the event something went wrong while others opposed legislation that included those with a substance use disability.
- *Legislative barriers:* It was difficult to pass legislation if it was not a top priority to lawmakers. Legislation on parental rights of people with disabilities would be put aside for other legislation that had more support. Some legislative committees had rules such as not passing legislation within their first year, which may have delayed passage of legislation regardless of support.

Participants' responses on possible solutions to passing parental rights legislation for people with disabilities centered around eight themes:

- *Cross-disability advocacy:* Working with disability rights groups across different communities to build a cross-disability coalition would ensure inclusion of all disability types in the law.
- *Education:* Educating the legislators about what challenges and negative experiences parents with disabilities faced in the child welfare system helped garner support for passage. Parent testimony about personal experiences helped legislators understand the stereotypes and biases people with disabilities faced and the need for legislation to safeguard their rights.
- *Relationship-building:* Fostering relationships with child welfare agencies and explaining the importance of including all parents regardless of disability helped to gain the agency's support in passing legislation. Likewise, building a respectful understanding with bar associations was crucial in gaining their support.
- *Bipartisanship:* Obtaining bipartisan support was crucial in getting legislation passed. The rights of parents with disabilities are an issue that resonates with both political parties and bipartisan support can be the push needed to have a bill passed.
- *Support from state and national organizations:* Obtaining support and lobbying from state and national advocacy organizations helped legislation pass. Also, the testimony from state disability rights groups lent credibility to a legislation and could bolster support for it.
- *Strong sponsors:* Having strong supporters as legislative sponsors helped overcome legislative barriers. Strong sponsors could confront opposition groups and encourage them to rethink their opposition. They could also influence fellow legislators to prioritize legislation on the parental rights of people with disabilities.
- *Incrementalism:* Breaking down large comprehensive bills to a series of smaller ones could increase the chances of getting those bills passed. For example,

passing a bill protecting the rights of blind parents laid the foundation for further cross-disability bills. Similarly, addressing the rights of people with disabilities in adoption and guardianship led to another bill on rights for people with disabilities in divorce and separation.

- *Model legislation:* Having a sample legislation to use as a model was helpful to advocates in drafting bills for their states. Participants advised using previous legislation passed in other states and adapting it to address the concerns of their state's child welfare agency.

The authors noted that the lessons learned from these legislators and advocates can have an impact on future advocacy efforts to secure the rights of parents with disabilities, and for disability rights advocacy broadly. According to the authors, this study demonstrated that the inclusion of parents with disabilities and their personal stories is vital in challenging biases and stereotypes hindering legislation. The authors recommended that training on the legislative process, cross-disability advocacy, and effective communication strategies be provided to people with disabilities and disability rights organizations, including those from marginalized communities. In addition, researchers may take a role in educating legislators and child welfare advocates that parents with disabilities can safely and successfully raise children. The authors also noted that it may be helpful to provide advocates with resources on legislation as well as model legislation to use in drafting legislation. Finally, the authors called for future research exploring the effectiveness of passed legislation in ensuring the rights of parents with disabilities.

[To learn more](#)

The National Research Center for Parents with Disabilities offers research-based information and resources to parents and providers, including research and data on [parental rights and family law](#), [resources by state](#), and articles and webinars centering the voices of parents with disabilities and their experiences.

The [ADA National Network has ten regional centers](#) that provide information and resources to help people with disabilities understand their rights and public entities understand their responsibilities under the ADA and other civil rights laws.

[To learn more about this study](#)

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. This article is available from the NARIC collection under Accession Number: J89376.

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Research In Focus is a publication of the National Rehabilitation Information Center (NARIC), a library and information center focusing on disability and rehabilitation research, with a special focus on the research funded by NIDILRR. NARIC provides information, referral, and document

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NARIC operates under a contract from the National Institute on Disability, Independent Living, and Rehabilitation Research (NIDILRR), Administration for Community Living, Department of Health and Human Services, contract #GS-06F-0726Z.