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IDSP POLICY POSITION:

Termination of Parental Rights for Persons with Disabilities

Policy Issue:

- State law in Oregon [Or. Rev. Stat. Ann. § 419B.504 (WESTLAW through Or. 2003 Legis. Serv., Ch. 396)] currently includes an individual's disability as grounds for termination of parental rights and specifies that intellectual or developmental, emotional, and mental health disabilities are to be considered by the courts as adequate means to end a person's right to parent and maintain a family.
 - o Highlighted specific language in Oregon TPR statute: "Mental deficiency," "emotional illness," and "mental illness"
- Disabled parents are not judged on *behavior* but rather *condition*.¹
- Parents with disabilities are 70-80% more likely to have their parental rights terminated than their non-disabled counterparts².

¹ Hill, KH, Lightfoot, E., & LaLiberte, T. (2010). "Child Abuse and Neglect: The Inclusion of Disability as a Condition for Termination of Parental Rights." *Social Work Faculty Publications*. Paper 35.

² Mathis, Jennifer. (2013). "Keeping Families Together: Preserving the Rights of Parents with Psychiatric Disabilities." *Journal of Poverty, Law and Policy* 46: 516-524.

- Parents with disabilities are not consistently being referred to Centers for Independent Living (CILs) for advocacy, peer mentoring, parental training, or other support services.

Background:

- Thirty-six states have laws that include disability-related grounds for termination of parental rights.
 - o Fourteen states do not consider a parent's disability status as grounds for terminating parental rights (Connecticut, Florida, Idaho, Indiana, Louisiana, Maine, Michigan, Minnesota, New Jersey, Pennsylvania, Rhode Island, South Dakota, Vermont, & Wyoming)
 - o Disabilities include (but are not limited to): ID/DD, Mental illness, Emotional disability, & Physical disability
- Most state laws that include disability in their grounds for termination use outdated and demeaning terminology as well as imprecise definitions for describing persons with disabilities.³
 - o Some states fail to provide any definition of disability
- The number of families headed by a parent with a disability has increased substantially during the past century.⁴
- Conservatively, it has been estimated that 40-60% of parents with developmental disabilities have had their children removed from their care at some point in time with minimal reunification rates.⁵
- Social policy in the US has regulated the parenting activities of people with disabilities through forced institutionalization, sterilization, and termination of parental rights.⁶

Reality Narrative:

- Oregon does not terminate parental rights based on felony conviction or incarceration, neglect to claim paternity, or child judged in need of services.
- Parents with disabilities are viewed as deviants and incompetent according to Oregon TPR statutes.
- Oregon's TPR codes suggests that parents with disabilities are not welcome in the state nor are they entitled to the same parental liberties and protection as their non-disabled peers.

Policy Suggestions:

- Eliminate parental disability status as a condition for termination of parental rights
- Remove discriminatory language from Oregon TPR statutes

³ Lightfoot, E., LaLiberte, T., & Hill, K. (2007). "Guide for Creative Legislative Change: Disability Status in Termination of Parental Rights and other Child Custody Statutes." Minneapolis: University of Minnesota.

⁴ Lightfoot, E. and LaLiberte, T. (2006). The Inclusion of Disability as Grounds for Termination of Parental Rights in State Codes." *Policy Research Brief* 17 (2): 1-11.

⁵ Kennedy, R., Garbus, L. & Davis, S. (1999). *Different Moms*. Arlington, TX: ARC Publications.

⁶ Hill, K et al. "Child Abuse and Neglect"

- Guarantee termination of parental rights is focused on behavior (i.e. abuse, neglect, maltreatment) rather than condition
- Ensure parents with disabilities have the needed accommodations including adaptive equipment and parental supports
- Ensure mandated parental referral to CILs for support services

ACTION STEPS

- CILs and/or their Association meet with Disability Rights Oregon to discuss policy issues, past individual efforts to change policy, why joint efforts/inclusion of DRO/CILs/AOCIL was not initiated, and to develop a new action plan;
- CILs and their association coordinate with local and state partners to develop a legislative plan for forming a statewide legislative committee in advance of the upcoming session;
- Advocate for the formation of a statewide legislative committee, comprised of persons with disabilities, disability scholars, community stakeholders, policymakers, and representatives from centers for independent living, charged with organizing support for and creating new legislation to eliminate disability as a condition for termination of parental rights;
 - Potential committee members should be vetted to ensure a certain level of competency and expertise in the field is met through either post-secondary education, proven leadership and active participation in the IL movement, or a combination of experience and advanced education.
- Ensure legislation requires parents with disabilities are referred to and are connected with their area CIL to receive peer-to-peer mentoring and support, living skills training (geared towards effective parenting), and assistive technology;
- Develop a social and traditional media strategic plan that encompasses the publication of letters of support or scholarly articles in local newspapers, newsletters, digital mediums, and appropriate academic or discipline-based journals;
- Provide public input and testimony at legislative hearings;
- Provide all CIL representatives with talking points;
- Advocate for U.S. Ratification of CRPD – USICD membership and active participation;
- U.N. treaties/conventions: Shadow reporting;
- DPOs and NGOs formal notification: TPR and CRPD Advocacy priorities.