



February 6, 2018

TO: Senator Sara Gelser, Chair  
Senate Committee on Human Services  
FR: Bob Joondeph, Executive Director  
RE: Support for SB 1526

In early January, the decision of a Deschutes County judge renewed a discussion about whether Oregon systematically discriminated against parents with disabilities in child custody and parental rights cases.

After a multi-day hearing, Circuit Judge Bethany Flint determined there wasn't enough evidence to show that Amy Fabbrini and Eric Ziegler could not safely parent their children, 4 year old Christopher and 10 month old Hunter. Both boys have spent most of their lives in foster care due to concerns that Amy and Eric were intellectually incapable of parenting them. According to Oregonian Reporter Samantha Swindler, no abuse had ever been alleged. Instead, the government argued that the parents' "cognitive and 'executive functioning' skills were inadequate.

This case has both garnered public interest and renewed the fears of parents and prospective parents in the disability community. DRO has received many stories from individuals, families and support workers who feel that if a parent has a disability, they must prove they are capable of parenting, rather than the state having to prove they are incapable.

Unfortunately, our state statutes give the impression that parents with disabilities are disfavored. ORS 419B.504 says that parental rights may be terminated if a parent is "unfit by reason of conduct or condition seriously detrimental to the child." The first "conduct or condition that a court is directed to consider is:

- (1) Emotional illness, mental illness or mental retardation of the parent of such nature and duration as to render the parent incapable of providing proper care for the child or ward for extended periods of time.

This section leaves the impression that behavior demonstrated by a person without a disability will be acceptable, whereas the exact same behavior by a parent with a

disability is grounds for parental termination. This impression should not be furthered by our statutes. Discriminatory attitudes and beliefs are hard enough to overcome without a statute that can be read to encourage them.

DRO believes that the -1 amendments will greatly improve the present statute and we support them. However, we think more needs to be done to overcome bias in the parental termination process. We hope to participate in a work group after the 2018 session in order to review the statutes and rules that presently govern this area in order to find a better balance that assures the safety and welfare of children, the value of families and the rights of parents with disabilities.