



**House Health Committee**  
**Interested Party Testimony on HB188**  
**November 12, 2019**  
**Mary Wachtel, Director of Public Policy**  
**Public Children Services Association of Ohio**  
**37 W. Broad Street, Suite 1100**  
**Columbus, OH 43215**  
[mary@pcsao.org](mailto:mary@pcsao.org)  
**614.224.5802**

The Public Children Services Association of Ohio (PCSAO) appreciates the opportunity to provide interested party testimony for HB188. PCSAO is a membership driven association of Ohio's county Public Children Services Agencies that advocates for and promotes child protection program excellence and sound public policy for safe children, stable families and supportive communities.

PCSAO and its member agencies agree with the intent of HB188 -- to prevent blindness from being used to limit or exclude a person's ability to care for or parent a child -- and appreciate that Rep. Crawley and Rep. Cross have brought this legislation forward.

While HB188 provides an opportunity to address current gaps in protections for private custody matters arising from divorce, dissolution, separation and private adoptions, it's important to keep in mind the strong federal and state protections already in place for public child welfare proceedings.

[Section 504 of the Rehabilitation Act of 1973](#) (Section 504) prohibits discrimination against qualified individuals with a disability in child welfare programs, services, and activities receiving federal funds. [Title II of the Americans with Disabilities Act of 1990](#) (ADA) prohibits

discrimination based on disability by public entities even if they do not receive federal funds. Qualified individuals include children, parents, legal guardians, relatives, other caretakers, foster and adoptive parents, and individuals seeking to become foster or adoptive parents.<sup>i</sup>

Most importantly, the decision by a court to remove a child from the home on a temporary or permanent basis must be based on best interest of the child and the existence of abuse, neglect or dependency. Courts are prohibited from making those decisions solely on the basis of a parent's disability<sup>ii</sup>. (See Attachment A for how these protections are spelled out in the Ohio Revised Code and the Ohio Administrative Code.)

Ohio's public children services agencies (PCSAs) work diligently to implement these protections in all cases. In addition, recognizing the strengths of diverse foster and adoptive parents in serving the best interest of children, some agencies specifically recruit foster parents who are blind or deaf.

This is not to say, however, that partners in the children services system (courts, PCSAs, private child placing agencies, private foster care licensing agencies) are immune from bias. Ongoing education and leadership are necessary to ensure that parents and prospective parents with disabilities do not encounter bias and discrimination in child welfare proceedings.

Federal and state law already protects individuals from discrimination based on disability within the public child welfare system. Therefore, we respectfully request that this bill be amended to focus on private custody proceedings and proceedings that may not be covered by existing federal and state laws. We appreciate your consideration of these issues. Thank you.

---

<sup>i</sup> Beyond protections for disabilities the [Interethnic Placement Act of 1996](#), provides a mandate to eliminate racial discrimination during federally funded foster care and adoption placements on the basis of race, color, or national origin.

<sup>ii</sup> See ORC Sections 2151.03, 2151.031, 2151.04, 2151.05 for definitions of neglected, abused, dependent children and children without proper care. See ORC 2151.414 for protections in permanent custody hearings.

---

## ATTACHMENT A

### CURRENT PROTECTIONS FOR PARENTS AND PROSPECTIVE PARENTS WITH DISABILITIES IN CHILD WELFARE PROCEEDINGS.

First and foremost, [Section 504 of the Rehabilitation Act of 1973](#) (Section 504) prohibits discrimination against qualified individuals with a disability in child welfare programs, services, and activities receiving federal funds. [Title II of the Americans with Disabilities Act of 1990](#) (ADA) prohibits discrimination based on disability by public entities even if they do not receive federal funds. Qualified individuals include children, parents, legal guardians, relatives, other caretakers, foster and adoptive parents, and individuals seeking to become foster or adoptive parents.<sup>ii</sup>

These protections are spelled out in various places in Ohio Revised Code and Ohio Administrative Code. Most importantly, the decision by a court to remove a child from the home on a temporary or permanent basis must be based on best interest of the child and the existence of abuse, neglect or dependency. Courts are prohibited from making those decisions solely on the basis of a parent's disability<sup>ii</sup>.

Ohio Administrative Code [5101:2-5-20 \(E\) \(3\)](#) prohibits an agency from discriminating on the basis of disability when recommending an individual for certification as a licensed foster caregiver and in [5101: 2-48-12 \(E\) \(3\)](#) when considering whether to approve a homestudy for a prospective adoptive parent and whether to place a child in the home. Per [5101:2-40-02 \(W\) \(1\)](#), agencies must assure that all mandated support services are available to all children and families in need of services without regard to income, race, color, national origin, religion, social status, handicap or sex, as well as provide written policies and procedures for reviewing and resolving complaints about the provisions of services.

These protections mean that child welfare agencies and courts must do the following:<sup>ii</sup>

- 
- Ensure that programs, activities and services are accessible to and usable by individuals with disabilities
  - Services must be adapted to meet the needs of a parent or prospective parent who has a disability to provide meaningful and equal access to the benefit
  - Ensure that child welfare assessments are “individualized” --- taking into consideration the functional effects of the disability, but not based on stereotypes and generalizations about individuals with disabilities
  - Make reasonable modifications to policies, practices, and procedures to avoid discrimination against individuals with disabilities