



House Community and Family Advancement Committee
Interested Party Testimony on HB309
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Mary Wachtel, Director of Public Policy
Public Children Services Association of Ohio
37 W. Broad Street, Suite 1100
Columbus, OH 43215
mary@pcsao.org
614.224.5802

Chairman Ginter, Ranking Member Boyd and Members of the Committee, the Public Children Services Association of Ohio (PCSAO) appreciates the opportunity to provide interested party testimony for HB309. 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.

Our comments will focus on current protections for parents and prospective parents with disabilities in child welfare proceedings. It is important to understand that these protections apply to child welfare proceedings; we are not addressing custody matters arising from divorce, dissolution, separation, and private adoptions.

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.ⁱ

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 disabilityⁱⁱ.

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 mandates 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:ⁱⁱⁱ

- 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

Ohio's public children services agencies (PCSAs) are well aware of these protections and implement them regularly. 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.

Strong protections against discrimination based on disability in child welfare proceedings already exist in federal and state law and any placement decision must be made in the best interest of the child, of which the court ultimately decides. Therefore, we respectfully request that this bill be amended to focus on private adoptions and custody proceedings that may not be covered already by existing federal and state laws. Thank you.

ⁱ 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.

ⁱⁱ 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.

ⁱⁱⁱ "Your Rights as a Person With a Disability in the Child Welfare System", Office for Civil Rights, U.S. Department of Health and Human Services, downloaded at www.hhs.gov/ocr