



Danna E. Mauch, PhD  
President and CEO

Ambassador (ret.) Barry B. White  
Chairperson of MAMH Board of Directors

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22 July 2019

Senator James B. Eldridge, Chair  
Joint Committee on the Judiciary  
State House Room 320  
24 Beacon St.  
Boston MA 02133

Rep. Claire Cronin  
Joint Committee on the Judiciary  
State House Room 136  
24 Beacon St.  
Boston MA 02133

Re: **S. 983 & H. 1487**  
**An Act prohibiting discrimination against adults with disabilities in Family and Juvenile Court proceedings**

Dear Chairperson Eldridge, Chairperson Cronin and Members of the Committee:

The Massachusetts Association for Mental Health (MAMH) is pleased to support S. 983/H. 1487 -- An Act prohibiting discrimination against adults with disabilities in Family and Juvenile Court proceedings.

Since 1913, MAMH has worked to improve understanding of mental health conditions and combat disparities in health services access. We envision a day when all individuals and families across the Commonwealth have the resources and opportunities they need to promote resilience and protect overall health. MAMH has been a leader of the Children's Mental Health Campaign, advancing strategies to build an effective, sustainable system of behavioral health care for children and adolescents. Accordingly, we have a particular interest in insuring that children and their parents with disabilities are treated fairly and without discrimination in all aspects of the human services and justice systems.

In our years of advocacy for individuals and families with behavioral health issues we have been painfully aware that parents with disabilities, especially those with psychiatric and intellectual disabilities, are at risk of losing custody of their children. Parents with disabilities are likely to encounter disparate treatment in the family law system entirely on the basis of other people's perception of their disability and its impact on parenting. The resulting discrimination based on disability ought to be explicitly illegal in our State's law.

The National Council on Disability, an independent federal agency, has written that "Parents with disabilities face multiple layers of discrimination from the moment they enter the child welfare system. ... Biased beliefs about the pathology of people with disabilities are assumed to hold true for all parents with disabilities." Nat'l Council on Disability, *Rocking the Cradle: Ensuring the*



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Rights of Parents with Disabilities and their Children,” (2012) available at <https://www.ncd.gov/publications/2012/Sep272012/Ch5/>. This is consistent with what we know from our observations in Massachusetts.

We also know from a national study that women with disabilities are significantly more likely than those without disabilities to stay in a bad marriage out of fear of losing their children in a custody proceeding. Margaret A. Nosek et al., “Vulnerabilities for Abuse among Women with Disabilities,” *Sexuality and Disability* 19(3) 2001: 177–189. This places vulnerable women with disabilities and their children at even greater risk.

Each year the destinies of thousands of children are decided in divorce, custody, and visitation proceedings in our Probate and Family and Juvenile Courts. A parent’s disability should be irrelevant to the court’s analysis unless there is legally sufficient evidence of a connection or nexus between the disability and a detrimental impact on the child.

The discrimination faced by parents with disabilities is compounded by attitudinal bias regarding the child-rearing abilities of parents with disabilities. The unnecessary obstacles and stereotypes attending the family law system for parents with disabilities have obvious and profound consequences for people with disabilities and their children.

The bill before you seeks to remedy some of these problems. S. 983/H. 1487 will require courts

- To determine if a parent’s disability causes actual harm to a child – a finding that must be based on evidence, not assumptions and stereotypes;
- Make written findings if the court determines that the parent’s disability is a negative factor in custody decisions; and
- Assess whether the harm can be avoided with adaptive equipment or supportive services.

This is an important bill designed to address a serious, but remediable, problem. We strongly urge you and the Committee to report it favorably. Thank you.

Sincerely,

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