The MAPBC met on Thursday, July 13th, at 6:00PM via zoom. Those in attendance included:

Hai Nguyen Ly

Jennifer Bose

Justin Salisbury

Kate Nemens

Katie Lane-Karnas

Liz Lesperance

Stephanie Valdes

We all briefly introduced ourselves and afterwards Kate commenced her presentation. Kate is a Supervising Attorney at the Mental Health Legal Advisors Committee's Family Law Project. Kate runs this project and her work entails working with parents with mental health issues who often have other disabilities.

She has been working on a disabled parents' rights bill for many congressional sessions. She was involved in the bill's first filing. The language was modeled closely based on verbiage from the National Council on Disability's 2012 report "Rocking the Cradle". This report reviewed both family cases (also referred to as private cases) as well as cases involving state intervention. The consensus was that parents with disabilities frequently loose custody to non-disabled spouses or to the state. Court systems and state agencies are subject to the ADA. The ADA is vital legislation which also applies to the rights of parents with disabilities. Since its inception approximately a decade ago, only a couple of minor tweaks have been made to the original legislation.

Jenn asked how this bill has been received by the general public.

Kate explained that the general public is not widely aware of the risks faced by disabled parents in the child welfare system. There needs to be more support and interest around this legislation. The process is particularly challenging in Massachusetts.

The bill is targeted towards judicial written decisions. These decisions happen in two different departments - private custody or state intervention cases. This bill would require a judge to explain in writing how the parent's disability causes harm to the child and what the connection is. The disability can't be used as the basis of the decision in and of itself. Furthermore, the judge must also consider whether there are any other resources or supports that can be put in place to alleviate the potential harm.

The most recent change was to add a provision protecting parent's against child welfare agencies who do not comply with the ADA. During the time period leading up to the point of parental rights termination, if the agency has failed to comply with the ADA (that is, failed to provide accommodations and has discriminated on the basis of disability) the court can prevent the agency's petition to terminate parental rights. Historically the court has been lenient with child welfare agencies. The ADA application means that child welfare agencies are required to work with families to review reasonable accommodations. Accommodations are important because parents with disabilities are suppose to be treated like all other parents interacting with the state agency. This legislation focuses on accommodations because there isn't another provision for that in our existing statutes. Case law has supported this. This bill is to ensure that parents with disabilities who require an accommodation are analyzed at the same place after the accommodation has been provided. It is worth noting that, in Massachusetts, once appeals have been exhausted the court's decision to terminate parental rights cannot be reversed.

Justin brought up the issue of the evidentiary standard and that the prospect of using a parent's disability would require clear and convincing evidence and not a preponderance of evidence.

Kate advised regardless of disability, race, gender, the parent is afforded the higher standard when the state is involved as opposed to another private party. The state has a higher burden before termination than in private custody cases.

Justin clarified the NFB perspective - In order to use any parents disability status would require clear and convincing evidence to admit it. This bill intersects both civil rights and family law.

Jen wanted to highlight the importance of the benefits of children remaining with their parent(s). While this is commonly championed, the benefits of being with a parent with a disability are often challenged. Separation from the parent would have adverse effects to the child whether the parent was disabled or not.

Hai thanked Kate for her time and shared that Shara has agreed to having the NFB of MA support this legislation. We would like to be added to the publicly available list of supporting organizations along with a notation that we are requesting a clear and convincing standard. We would like to keep the conversation going about a possible amendment to address this.

Stephanie asked Kate how we can help in the effort at this time.

Kate said the bill is presently in the judiciary committee which, in the past, has been supportive and has reported favorably on this legislation.

From there, the bill will go to the House Ways and Means Committee. This is where the bill got stuck last time. Many legislators in that committee are not in tune with this bill. Thus, writing to and having conversations with these legislators is worthwhile.

Eventually there will be a public hearing where everyone gets to comment and the NFB's written testimony (ideally in great volume) would be helpful.

Kate asked us to send her any model language that we have. She thanked us for allowing her to reconsider the bill and how to make it stronger.

Hai asked that we be kept in the loop about any changes to the bill

Kate advised that if this current legislation doesn't pass, she is happy to work with the NFB as well as the bill's other supporters on the ground level to strengthen the bill.

Other Business:

Stephanie shared there was no presidential release this month due to the convention.

The next convention will be in Orlando

Hai put forth a motion to approve the June minutes which Liz seconded. The June minutes were approved.

Stephanie will get back to us regarding the totals for the recent fundraiser.

Stephanie encouraged all to bring forward fundraising ideas to help members in getting to convention. We considered relaunching the coffee fundraiser later this year.

The meeting adjourned at 7:05PM

The next meeting will be held on Thursday, August 10th at 6:00PM.