



STAYING TOGETHER

Preventing Custody Relinquishment
for Children's Access
to
Mental Health Services

Bazelon Center for Mental Health Law
and the
Federation of Families for Children's Mental Health

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THE BAZELON CENTER FOR MENTAL HEALTH LAW is the leading national legal advocate for adults and children with mental disabilities. Since its formation as a national nonprofit organization in 1972, the Bazelon Center has successfully challenged many of the barriers to dignity and choice that confront people with mental illness or mental retardation. Through precedent-setting litigation, in the public-policy arena and by assisting legal advocates across the country, the center works today to clarify and uphold the rights of adults and children with mental, emotional or behavioral disorders who rely on public services and ensure them equal access to health and mental health care, education, housing and employment.

THE FEDERATION OF FAMILIES FOR CHILDREN'S MENTAL HEALTH is a national parent-run organization focused on the needs of children and youth with emotional, behavioral or mental disorders and their families. The Federation's mission is to: provide leadership in the field of children's mental health; address the unique needs of children and youth with emotional, behavioral or mental disorders from birth through transition to adulthood; ensure the rights to full citizenship, support and access to community-based services for children with mental health needs and their families; and provide information and engage in advocacy regarding research, prevention, early intervention, family support, education, transition services and other supports needed by children and youth with emotional, behavioral or mental disorders and their families.

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A Family Advocate’s Guide to Preventing Custody Relinquishment
for Children’s Access to Mental Health Services

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FOREWORD AND ACKNOWLEDGMENTS

Many children in this country are uninsured or underinsured for mental health care, and those who have coverage often can't access the care they need. When private or public insurance will not pay for intensive mental health services, parents face a painful dilemma: If they want treatment for their children, they must relinquish custody to the child welfare system. We believe parents should never be asked to sever ties with their children to get help.

Recent studies confirm that the practice of requiring custody relinquishment is widespread, occurring in at least half of the states and affecting about one in five families of children with serious emotional disturbance, according to the National Alliance for the Mentally Ill. The Bazelon Center and the Federation of Families for Children's Mental Health urge family organizations and child advocates to join in a campaign, using this guide, to press for an end to custody relinquishment. In this booklet, we offer suggestions for making change happen, with examples of several types of programs used by states that have reduced the incidence of this egregious practice. A list of additional resources appears at the end.

Because many of the decisions with respect to children's services are made at the state level, we focus on state-based initiatives and advocacy. Excerpts from several state statutes are included in the appendix. However, recognizing that some advocates may also wish to work at a national level, a fact sheet on federal policy proposals is also included.

The guide was written by Mary Giliberti, director of the custody relinquishment project at the Bazelon Center, and Trina Osher, policy coordinator for the Federation of Families, in consultation with Chris Koyanagi, Bazelon Center policy direc-

tor. It is based on research conducted by Ms. Giliberti and consultant Rhoda Schulzinger. We appreciate the legal support provided by intern Carolyn Frantz and the pro bono assistance of the law firm of Skadden, Arps, Slate, Meagher & Flom, as well as the administrative support of Gwen Ewing and Mark Wilger of the Bazelon Center staff. Lee Carty edited and designed the publication.

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Robert Bernstein, Executive Director
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