



Disability Rights Organizations Submit Overwhelming Evidence of DC's Broken Children's Mental Health System; Seek Certification of Class of Hundreds of Needlessly Institutionalized Children with Mental Health Disabilities

For Immediate Release

July 26, 2021

Contact: Jalyn Radziminski, JalynR@bazelon.org, 202.467.5730 x1333

Washington, D.C. – Last week, the Bazelon Center for Mental Health Law, Disability Rights DC, the National Center for Youth Law, and Schulte Roth & Zabel LLP filed [a motion](#) to certify a class in *M.J., et al. v District of Columbia*, to address the District's systemic failure to provide medically necessary community-based services to hundreds of children with mental health disabilities.

The motion includes numerous first-hand accounts of how District families struggle to obtain needed intensive mental health services for their children. One mother recounts how her daughter has cycled through the District's psychiatric hospitals for children and has been sent away to institutions in Georgia and Florida for treatment, where the daughter was physically abused. Another parent tells the story of her child, who has been sent to residential facilities in Virginia and Tennessee for treatment and is now in the District's New Beginnings Child Development Center in Maryland, where he contracted the COVID-19 virus in February. An advocate noted that many of her clients have been hospitalized 10 or more times for extended stays of 30 to 90 days.

The plaintiffs' motion also includes testimony from advocates and providers working with District children with mental health disabilities and their families. One provider noted that more than half the hundreds of children served by her program have been institutionalized in the District's psychiatric hospitals for children or in out-of-District residential facilities. The advocates and experts emphasize the lack of intensive home and community-based services wrapped around the child and family, which are proven to support positive outcomes for children in school and in transition to adulthood. These services are also proven to prevent institutionalization and involvement with law enforcement as children grow up.

Many of the plaintiffs' witnesses also emphasize the lack of effective mobile crisis services for children and youth, which have been shown elsewhere to reduce hospitalizations by de-escalating concerning situations in the community. In the District, however, this too often results in a trip to the emergency room or a call to the police.

"We have been working to protect the rights of these children and youth since 2018, and the past three years of advocacy has led up to this moment," **Lewis Bossing, Senior Staff Attorney at the Bazelon Center for Mental Health Law, says.** "We have gathered overwhelming evidence for the Court to consider. We hope this spurs the District to work with us to address its systems for serving these children."

The *M.J.* lawsuit was filed three years ago by individual youth who have cycled between hospitals, residential treatment centers, group homes, and the District's detention centers, and by Disability Rights DC, the District's "protection and advocacy" program for people with disabilities. Disability Rights DC and the youth plaintiffs filed the lawsuit on behalf of hundreds of other children with disabilities who have experienced similar challenges in obtaining needed mental health services. The lawsuit alleges that the District violates the Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act, which prohibit the unnecessary institutionalization of individuals with disabilities, and the Medicaid Act, which requires the District to provide Medicaid-eligible children with the medically necessary treatment they need to improve their mental health conditions. Plaintiffs have asked the District to follow other states and cities across the country and provide intensive home and community-based services to these children and youth, rather than in psychiatric institutions, jails, or prisons.

In their motion filed on July 19, 2021, the plaintiffs asked U.S. District Court Judge Emmet Sullivan to certify a class of, "all Medicaid-eligible District of Columbia children who now or in the future are under the age of 21, have a mental health

disability, are not receiving medically necessary intensive community-based services, and are unnecessarily institutionalized or at serious risk of institutionalization.”

A panel of national experts working with the plaintiffs testified about a study of randomly selected District children and youth with mental health disabilities that they conducted this year. The experts found that all of the youth that participated in the study needed but have not received intensive mental health services delivered in their own homes and communities. Most of them have been placed in psychiatric institutions and are still at serious risk of institutionalization or incarceration. As one of the experts stated, each of the youth studied had “a number of strengths to build on. However, there was very little indication that this was done. This clearly seems to be a group of young people with [mental health disabilities] who failed to receive the help they needed.”

“In the almost three years since we filed this lawsuit, we continue to see District families struggle with a system that does not meet the needs of the family but instead imposes barriers, and only offers extensive supports after children enter the juvenile justice system. At this point, the supports are often too little, too late,” said **Mary Nell Clark, Managing Attorney at Disability Rights DC**.

“The District must ensure access to high quality services whenever children and their families need them. Otherwise, it will continue to set these kids up to be locked up and removed from their families and communities of support,” said **Seth Galanter, Senior Director at the National Center for Youth Law**.

“Children in the District, their families, their service providers, their advocates, and behavioral health experts all agree that the District has failed to provide these essential services,” said **Howard Schiffman, a partner in the litigation practice at Schulte Roth & Zabel** who is overseeing the firm’s efforts. “The Court’s certification of a class will help us fight for all children and families across the District who need and have a right to receive these services in their homes and communities. Other cities and states have addressed similar problems with their behavioral health systems in order to comply with the law and serve their communities better—the District must do the same.”

Read the motion to certify (PDF) [here](#).

About the Bazelon Center for Mental Health Law: The Judge David L. Bazelon Center for Mental Health Law (www.bazelon.org) is a national non-profit legal advocacy organization that advances equal opportunity for people with mental disabilities in all aspects of life. Formerly the Mental Health Law Project, the Bazelon Center has played a role in numerous disability rights cases in the U.S. Supreme Court, including in *Olmstead v. L.C.*, which established that the unnecessary segregation of people with disabilities is discrimination under the ADA.

About Disability Rights DC: Disability Rights DC (DRDC) (uls-dc.org) at University Legal Services is the federally-designated protection and advocacy program for people with disabilities in the District of Columbia and is the Client Assistance Program under the Rehabilitation Act. DRDC’s mission is to advocate for the human, civil, and legal rights of people with disabilities in the District of Columbia.

About National Center for Youth Law: The National Center for Youth Law (NCYL) (youthlaw.org) has worked for 50 years to improve the lives of children and youth. NCYL leads campaigns, weaving together research, public awareness, policy development, technical assistance and litigation to ensure governmental systems provide the support these children and youth need to thrive.

About Schulte Roth & Zabel LLP: Schulte Roth & Zabel LLP (www.srz.com) is a full-service law firm with offices in New York, Washington, DC and London. As one of the leading law firms serving the financial services industry, the firm regularly advises clients on corporate and transactional matters and provides counsel on regulatory, compliance, enforcement and investigative issues. The firm’s practices include: antitrust; bank regulatory; bankruptcy & creditors’ rights litigation; blockchain technology & digital assets; broker-dealer regulatory & enforcement; business reorganization; complex commercial litigation; cybersecurity & data privacy; distressed debt & claims trading; distressed investing; education law; employment & employee benefits; energy; environmental; finance & derivatives; financial institutions; hedge funds; individual client services; insurance; intellectual property, sourcing & technology; investment management; litigation; litigation finance; mergers & acquisitions; PIPEs; private equity; real estate; real estate capital markets & REITs; real estate litigation; regulated funds; regulatory & compliance; securities & capital markets; securities enforcement; securities litigation; securitization; shareholder activism; tax; and white collar defense & government investigations.