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DISTRICT OF COLUMBIA FACES LAWSUIT FOR UNNECESSARILY INSTITUTIONALIZING HUNDREDS OF CHILDREN WITH MENTAL HEALTH DISABILITIES

Class Action Complaint, Filed by Disability Rights DC, the Bazelon Center for Mental Health Law, National Center for Youth Law, and Schulte Roth & Zabel, Sues District for Violating Americans with Disabilities Act

WASHINGTON, DC (August 14, 2018) – The District of Columbia is unnecessarily institutionalizing hundreds of District children or placing them at serious risk of institutionalization by failing to provide them essential intensive community-based services as required by federal law, according to a class action complaint filed today by lawyers for children with mental health disabilities.

Disability Rights DC at University Legal Services, the protection and advocacy agency for the District of Columbia, in collaboration with the Bazelon Center for Mental Health Law, the National Center for Youth Law, and law firm Schulte Roth & Zabel, have challenged widespread failures of the District's children's mental health system to provide federally required intensive community-based services for children in their own homes, schools, and elsewhere in the community. As a result, the District's children suffer drastically curtailed life opportunities, cycling in and out of psychiatric hospitals, psychiatric residential treatment facilities that are often hundreds or thousands of miles away from their families, other residential treatment centers, juvenile detention facilities, and group homes. The District's failure to follow federal law places intense stress on these children's families and communities and dramatically underserves the children, preventing them from achieving their potential and from being able to function productively in their communities. They fall behind and drop out of school, may experience court involvement and incarceration, and become unable to find and maintain employment as adults.

“Whether by active neglect or sheer complacency, the District has abjectly failed hundreds of its most vulnerable children and their families,” said Lewis Bossing, senior staff attorney at the Bazelon Center for Mental Health Law. “The system has not worked to prevent bad outcomes for DC kids. Longstanding federal law requires the District to provide these children essential intensive community-based services in their own homes and schools. The District must make this an urgent priority.”

The class action complaint alleges violations of both the Medicaid Act and the Americans with Disabilities Act (ADA), which requires the District to serve its children with disabilities in the most integrated setting appropriate. For virtually all children, this setting is their own home or another family or foster home. The Medicaid Act requires the District to provide intensive community-based services to all children with mental health disabilities who need them, to help them live in their own homes and communities, and participate fully in family and community life.

“When a child is in crisis, the entire family needs support—coordinated support that wraps around the child and the caregivers,” explained Mary Nell Clark, attorney at Disability Rights DC. “Even with our advocacy, we hit barriers that prevent the family from accessing the help they need.”

As described in the complaint, the District has for years been on notice of its obligation to provide intensive community-based services to children who desperately need them, through testimony before the District council, reports from advocates, and the District’s own evaluations of its children’s mental health services. The complaint alleges that the District’s current, crisis-focused system provides only a narrow array of uncoordinated services, on a time-limited basis and with inadequate benefit to the hundreds of District children who are cycling in and out of institutions.

“The steps the District has taken to serve these children’s urgent needs are woefully inadequate. The District needs to fix this now,” said Alice Abrokwa, an attorney at the National Center for Youth Law.

Howard Schiffman, the Schulte Roth & Zabel litigation partner overseeing the firm's efforts in the case, added, “We are disappointed that it is necessary to bring this litigation to ensure that the District meets its obligation to provide these services, which have been proven to help children and to avoid unnecessary institutionalization. We are deeply committed to supporting the mission of our co-counsel to improve the lives of District families.”

Because the District has refused to take corrective action, litigation has become necessary to achieve change. The complaint seeks a federal court order for the District to end its policies and practices that violate the ADA and the Medicaid Act. Lawyers for the children and for Disability Rights DC, which is also a plaintiff to the complaint, have asked the District to develop a plan for how it will develop intensive community-based services and provide them to every District child who needs them. The children and their attorneys have previously asked the District to provide these necessary services and prevent unnecessary institutionalization, but to date the District has failed to do so. Neither the District’s children with mental health disabilities nor their advocates can wait any longer for the District to fix this problem on its own, so they take legal action today to address this dire need.

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Disability Rights DC (DRDC) at University Legal Services is the federally designated protection and advocacy program for people with disabilities in the District of Columbia. DRDC’s mission is to advocate for the human, civil, and legal rights of people with disabilities in the District of Columbia.

The Judge David L. Bazelon Center for Mental Health Law is a national legal-advocacy organization representing people with mental disabilities. It promotes laws and policies that enable people with psychiatric or intellectual disabilities to exercise their life choices and access the resources they need to participate fully in their communities.

The National Center for Youth Law is a non-profit law firm that helps marginalized children achieve their potential by transforming the public agencies that serve them. For more information, please visit www.youthlaw.org.

Schulte Roth & Zabel LLP (www.srz.com) is a market-leading law firm serving the financial services industry from offices in New York, Washington, D.C. and London. SRZ has a long history as a leader in **pro bono** services, and the firm's **Litigation Group** has extensive trial experience and a proven track record of success in complex civil and criminal matters.