



Disability Law Colorado's Opposition to the Passage of the Murphy Bill

Proposed amendments to the PAIMI Act by Representative Murphy's Bill, HR 2646- Helping Families in Mental Health Crisis Act of 2015 - would substantially weaken Disability Law Colorado's authority to protect and advocate for individuals with mental illness, who experience rights violations as opposed to abuse and neglect.

HR 2646 amends Section 10804 - Use of Allotments – which adds subsection (C) and says that in order to be eligible for a contract under this paragraph- "(C) the protection and advocacy activities of such an agency or organization shall be exclusively focused on safeguarding the rights of individuals with mental illness to be free from abuse and neglect . . ." There are multiple other paragraphs in the PAIMI Act that are amended by adding the qualification "to be free from abuse and neglect," the intent being to restrict P&A activities to only cases involving abuse/neglect and eliminating activities designed to protect/enforce the rights of PAIMI eligible individuals under both state and federal law.

If HR 2646 becomes law, Disability Law Colorado may no longer be able to protect individuals' rights in the following situations absent abuse and neglect:

1. ADA/Rehabilitation Act discrimination complaints.
2. Olmstead least restrictive placement violations.
3. Procedural due process complaints under the Constitution or federal and state law.
4. Complaints about 27-65-117 rights violations, e.g., the right to make and receive telephone calls in private, the right to have frequent and convenient opportunities to meet with visitors.
5. Medicaid violations, such as the right to receive notice of actions terminating or reducing services.
6. Fair Housing Act complaints.
7. Special education complaints such as the right to FAPE and inclusion, etc. Restraint and seclusion complaints would probably survive as abuse.
8. Employment discrimination cases, to include representation or advocacy before the EEOC.
9. Any claim creating a private right of action under federal or state statutes.

It would probably not limit our ability to enforce 8th Amendment violations such as those found at the ADX, since cruel and unusual punishment is abuse or neglect, if it satisfies the deliberate indifference standard.

However, it would give defendants an argument that associational standing cannot exist in a rights violation case, and defendants would probably litigate whether or not the PAIMI Act definition of abuse and neglect were met in a given case.

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