

Nicky's Law:

Review and Advocacy Preparation for the 191st Legislative Session

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April 25, 2019

An act to protect individuals with intellectual and developmental disabilities from abuse

▶ Bill FACTS

- ▶ The bill creates a registry and requires that the names of persons substantiated of abuse, against an individual with I/DD, be placed onto this registry.
- ▶ The abuse finding is issued by the DPPC
- ▶ The registry is for DDS or DDS funded providers only (expansion planned)
- ▶ This registry is pertains to the adult service system
- ▶ Providers can not hire a person on the registry
- ▶ S 71 Sponsor: Senator Michael Moore
- ▶ H 101 Sponsor: Rep Linda Campbell

History of the legislation

- ▶ Abuse against Nicky
- ▶ Family pursues system change through lawmakers
- ▶ The Arc of Mass works with task force and stakeholder community on a mandatory registry
- ▶ Senator Moore takes the lead and after over 1 year of due diligence with agencies and stakeholders across the state, language is drafted with the help of Senator Moore's legal team.
- ▶ Rep Campbell files on the House side
- ▶ The Arc begins advocacy campaign, #1 Arc priority, the bill takes on Nicky's name



One family, the power of community and the process...

- ▶ Nicky's Law passes through the Joint Committee on Children, Families and Persons with Disabilities
- ▶ Dana's law
- ▶ Senate Ways and Means, due process amendment
- ▶ Unanimous passage through the Senate
- ▶ Log jam in the House
- ▶ Potential for informal



Informal session, opposition and strategy

Informal session support is strong, Chair Khan and others

Globe notes Nicky's Law in top 3 bills for Beacon Hill to pass during informal

Lack of movement

Over 2,000 letters generated, half a dozen media stories, daily advocacy, meetings and work with leadership in the House, Vigil

Unions, CPCS concerns

Disability Law Center plays a critical role

Letter from CPCS derails hope of passage in the informal

Negotiation and collaboration with CPCS (The Arc, DLC, House leaders)

New session,
huge
support!

108 cosponsors

Final version of bill ready
with minor changes

Tightening up due process

Active stakeholder
support in the thousands

Chair Khan and Chair Chang Diaz

Early hearing in front of
Children Families and Persons
with Disabilities

April 30th

Early in session meetings with
Chairs and leadership, #1
Priority of The Arc and AFAM,
other organizational support

Hearing Preparation

- ▶ Engage your legislator (NEW ones to be fully educated by you)
 - ▶ Let them know you are providing testimony
 - ▶ Are they a cosponsor?
 - ▶ Tell them your story
 - ▶ Ask them to speak to chairs and members of the committee
 - ▶ Ask them to make this bill their priority to move early in session
 - ▶ Hold them accountable by following up



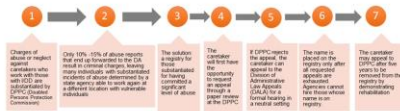
Nicky's Law

S 71 H 101

An act to protect individuals with intellectual and developmental disabilities from abuse

The bill does require that the names of the staff persons (through state or private employment) be placed onto a registry against whom a substantiated finding of abuse of a person with I/DD has been issued by the DPPC. DDS and DDS funded providers would not be able to hire someone on that registry. The registry includes a comprehensive formal appeal process through the Division of Administrative Law Appeals (DALA). Specifics on the registry and the level of abuse which rise to inclusion in the registry are left to regulation.

The bills filed this session have been negotiated with the Committee on Public Counsel Services to satisfy concerns on due process for those who are subject to the registry. The chart below demonstrates the gap closed by this legislation.



Process for registry placement of caretaker who has a substantiated incident of abuse

Please cosponsor this crucial piece of legislation.
Learn more at arcmass.org/abuserregistry.

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Nicky's Law

S 71 H 101

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There is presently no system to track individuals whose act of abuse against individuals with intellectual and developmental disabilities (I/DD) has been substantiated. The **Disabled Persons Protection Commission (DPPC)** screened 11,395 cases in the past year. In FY 2017, a total of 2,571 investigations were deemed necessary through DPPC screening.



In 2017, 1,478 abuse reports were referred to the appropriate District Attorney's Office ("DA"). Only 102 of those referrals resulted in criminal charges (less than 10%). In 2016, out of 1,500 referrals to the DA's office, 101 received charges. In the last decade, the ratio of criminal charges to abuse case referrals have been in the range of 10%-15%. This real-life statistic meant that some other mechanism was needed to protect people with disabilities from caretakers who had committed substantiated incidents of abuse, but who had not been criminally charged or convicted. The reality that someone can be substantiated for abuse as determined by the state agency responsible, namely the DPPC, but can work the following week, month or year at another location with vulnerable individuals is simply wrong and against the public interest.

The solution: a "mandatory abuse registry" law. A bill filed by Senator Michael Moore and Representative Linda Campbell known as "Nicky's Law" (similar to Dana's Law filed last session by Senator O'Connor) initially targets caretakers funded through or working for the Department of Developmental Services (DDS). The bills are filed as Senate Docket 1836 and House Docket 3783 ("An act to protect individuals with intellectual and developmental disabilities from abuse").

It is important to note that **this bill is not a "criminal justice" bill.** It is a protection against abuse and neglect and it is a way to restrict those who have been demonstrated to be abusive from working with vulnerable individuals. The DPPC reported rate of substantiation in 2018 was 15-17%. For sexual abuse cases, the reported rate from DPPC is 10-12%. The cases in which there are criminal charges are a subset of these cases. This bill does not make new recommendations in relation to the referrals to the DA's or the courts.



Check out the Nicky's Law Webpage for Fact Sheets and link to current bill:

www.thearcofmass.org/abuserregistry

▶ Written and oral testimony

- ▶ Address to the Chairs and the entire committee
- ▶ Thank them for the opportunity to come before them
- ▶ Keep your testimony BRIEF! Try for 2 minutes, 3 minutes MAXIMUM
- ▶ How does your personal, family or professional experience support the need for this bill's passage
- ▶ Don't worry about getting all the facts of the bill or what happened last session, just tell your story
- ▶ If a question comes from the committee that you can't answer, you can refer to The Arc for a response

Tips for effective testimony

Year round advocacy - gear up and stay the course...

► Perseverance

- Emotions are high!
- MOST bills need more than one session to pass, we are in good shape!
- 108 cosponsors, media attn, dedicated Sponsors and legislators

► Process

- From here to Ways and Means both Senate and House
- Pass both chambers, ratified and on to Governor



Nicky's Law

Protecting the safety and dignity of

questions



The Arc
Massachusetts

