DISABILITY RIGHTS OREGON

February 12, 2019

TO: Senator Sara Gelser, Chair
Senate Committee on Human Services
FR: Bob Joondeph, Executive Director
RE: Support for SB 492

Thank you for hearing SB 492 which is a further opportunity to bring clarity to our laws governing the termination of parental rights so that they are fair to parents who experience disabilities and their children.

The 2018 legislature enacted SB 1526 which was signed by the Governor. That bill removed offensive language from that statute that sets out when parental rights may be terminated by a court. It also stated that the court "may not consider a parent's disability…unless the parent's conduct related to the disability is of such nature and duration as to render the parent incapable of providing proper care for the child or ward for extended periods of time."

The need for SB 1526 arose in early 2018 when public attention turned to the decision of a Deschutes County judge in a parental termination proceeding. After a multi-day hearing, Circuit Judge Bethany Flint determined there wasn't enough evidence to show that Amy Fabbrini and Eric Ziegler could not safely parent their children, 4 year old Christopher and 10 month old Hunter. Both boys had spent most of their lives in foster care due to concerns that Amy and Eric were intellectually incapable of parenting them. According to Oregonian Reporter Samantha Swindler, no abuse had ever been alleged. Instead, the government argued that the parents' "cognitive and 'executive functioning' skills were inherently inadequate.

This case has both garnered public interest and renewed the fears of parents and prospective parents in the disability community. DRO received many stories from individuals, families and support workers who felt that parents with a disability must prove they are capable of parenting, rather than the burden being on the state to prove that their behavior or abilities make them incapable.

SB 1526 corrected the misunderstanding that ORS 419B.504 allowed children to be taken away from parents because of their disability rather than their behavior and parenting skills.

The present bill before you, SB 492, seeks to correct a related misimpression. ORS 419B.502 states that

> (5) It is the policy of the State of Oregon, in those cases not described as extreme conduct under ORS 419B.502, to offer appropriate reunification services to parents and guardians to allow them the opportunity to adjust their circumstances, conduct or conditions to make it possible for the child to safely return home within a reasonable time.

Just as there may be an assumption that parents with disabilities do not have the ability to raise their children, there may also be a preconception that such parents cannot benefit from reunification services. That preconception may be based upon the belief that since the parent's disability will not change, the parent's skills cannot be enhanced. This is simply wrong.

The ADA, Rehabilitation Act and state law set the standard and mandate for nondiscrimination in any public service. As a reminder that these laws do apply to reunification services, SB 492 would amend ORS 419B.502 to set forth a basic statement that parents with disabilities should be treated fairly. The amendment states:

> **The state shall provide to parents and guardians with disabilities opportunities to benefit from or participate in reunification services that are equal to those extended to individuals without disabilities. The state shall provide aids, benefits and services different from those provided to parents and guardians without disabilities, when necessary to ensure that parents and guardians with disabilities are provided with an equal opportunity under this subsection.**

DRO supports SB 492 because it would restore fairness to our laws that are designed to protect children but also support and acknowledge the vital importance of maintaining family relations when possible and achievable.

Thank you for this opportunity to testify in support of SB 492.