

For many years, the problem of racial and ethnic disproportionality and disparity in the child welfare system has been widely known. In addition, parents with disabilities are overly referred to child welfare services, and once involved, are permanently separated at disproportionately high rates. Families of color comprised of a person with a disability have less access to programs and services for the family member with a disability, and together with racial bias and discrimination leads to separation.

When the role of child protective workers are left in the hands of law enforcement, the same type of inherent bias in policing is also implicit in decisions made for removing children from their parents. Law enforcement employees are often allowed to determine what's best for families with a person with a disability with a law enforcement approach instead of a social work approach based on child welfare practices.

Alysha Cesaire is a 26-year-old Haitian woman with a disability. After giving birth to a healthy baby boy in February of 2018, a nurse and hospital social worker were concerned with Alysha's ability to breastfeed and the assistance she would receive at home regarding her spinal ataxia, a hereditary disease that affects the brain and causes an uncoordinated walk, poor hand-eye coordination and abnormal speech.

The hospital workers called the Florida Abuse Hotline and Child Protective Investigators at the Broward Sheriff's Office were dispatched. BSO decided that Alysha was not permitted to bring her baby home when she was released from the hospital to her and amazingly initiated a legal proceeding to take the child from Alysha. BSO filed this case even though Alysha had her mom at home to assist her in caring for her son.

Although the Broward Sheriff's Office requested the baby be placed in the dependency system, after advocacy on her behalf the dependency petition was dismissed.

Alysha will always live with a disability, and as such she is always at risk of losing her child – despite the fact that she lives with her mother and is very close to her grandmother, both of whom provide assistance. Persons with disabilities are automatically disadvantaged in the dependency system because the state deems that their children will always be at risk. The risk assessment system does not consider the availability of family or friends to assist the parent or the specific details of each individual case. Even more alarming is that in Broward County, where BSO investigates, there is a disproportionate number of African Americans who are involved in cases in the dependency system in Broward County.

The lawsuit filed by attorneys Matthew W. Dietz and Kelley Kronenberg Partner Stacie J. Schmerling seeks to ensure that Alysha will no longer have to live in fear of losing her child. Dietz is the Litigation Director of the Disability Independence Group. Schmerling is a Business Unit Leader for Justice for Kids, a division of Kelley Kronenberg, as well as a former child protective investigator and supervisor for the Broward Sheriff's Office. The goals of the suit is to ensure that parents and prospective parents with disabilities have equal access to parenting opportunities without encountering artificial barriers posed by discrimination improves the lives of the children in their care. This includes standards the take into account disability and accommodations when making the assessment of a risk for a child, as well as ensuring accommodations and services are provided to families with persons with disabilities when the dependency system becomes involved in the lives of a family.