**Legislative Responses to Discrimination**

Note: The scope of this training module is not intended to provide legal advice to rape crisis centers and domestic violence programs. The overall intent of the manual is to provide programs with the knowledge to help meet the varying needs of survivors with disabilities. This section provides an overview of the various laws relevant to serving people with disabilities. The content within this section may bring up additional legal questions. If such questions arise, please refer to the disability-related resource section located at the end of the curriculum. You can also contact your local Independent Living Center. For a referral to an attorney in your area, contact the Disability Law Center.

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**Presenter Instructions:**

1. **Overview of the Americans with Disabilities Act (20 minutes)**

   Give a presentation that describes the findings and purpose of the ADA. Explain that the purpose of the presentation is to help participants understand the serious and pervasive nature of discrimination on the basis of disability and the ways in which legislation has been developed to address these problems.

   **Points to make:**
   - The Americans with Disabilities Act (ADA) was signed into law on July 26, 1990.
   - The ADA was a landmark piece of legislation designed to address the problems of discrimination against the now estimated 54 million Americans with disabilities in both the public and private sectors of our society.
   - In creating the ADA Congress articulated the following findings stated in the preamble to the ADA, stating the issues which it intended the law to address:
     - “Some 43,000,000 [43 million is the 1990 estimate; the 2000 estimate is 54 million] Americans have one or more physical or mental disabilities, and this number is increasing as the population as a whole is growing older.
     - “Historically, society has tended to isolate and segregate individuals with disabilities, and, despite some improvements, such forms of discrimination against individuals with disabilities continue to be a serious and pervasive social problem etc.
     - “Discrimination against individuals with disabilities persists in such critical areas as employment, housing, public accommodations, education, transportation, communications, recreation, institutionalization, health services, voting, and access to public services.
     - “Unlike individuals who have experienced discrimination on the basis of race, color, sex, national origin, religion, or age, individuals who have experienced discrimination on the basis of disability have often had no legal recourse to redress such discrimination.
     - “Individuals with disabilities continually encounter various forms of discrimination, including outright intentional exclusion, the discriminatory
effects of architectural, transportation, and communication barriers, 
overprotective rules and policies, failure to make modifications to existing 
facilities and practices, exclusionary qualification standards and criteria, 
segregation, and relegation to lesser services, programs, activities, benefits, 
jobs, or other opportunities.

- “Census data, national polls, and other studies have documented that people 
  with disabilities, as a group, occupy an inferior status in our society, and are 
  severely disadvantaged socially, vocationally, economically, and 
educationally.

- “Individuals with disabilities are a discrete and insular minority who have 
  been faced with restrictions and limitations, subjected to a history of 
purposeful unequal treatment, and relegated to a position of political 
powerlessness in our society, based on characteristics that are beyond the 
control of such individuals and resulting from stereotypic assumptions not 
truly indicative of the individual ability of such individuals to participate in, 
and contribute to society.

- “The Nation’s proper goals regarding individuals with disability are to assure 
equality of opportunity, full participation, independent living, and economic 
self-sufficiency for such individuals.

- “The continuing existence of unfair and unnecessary discrimination and 
prejudice denies people with disabilities the opportunity to compete on an 
equal basis and to pursue those opportunities for which our free society is 
justifiably famous, and costs the United States billions of dollars in 
unnecessary expenses resulting from dependency and nonproductivity.”

Continue by explaining that legislation has a unique role in addressing discrimination and 
Congress further articulated the following specific purposes of the law:

- To provide a clear and comprehensive national mandate for the elimination of 
discrimination against individuals with disabilities;
- To provide clear, strong, consistent, enforceable standards addressing discrimination 
against individuals with disabilities;
- To ensure that the Federal Government plays a central role in enforcing the standards 
established in the Act on behalf of individuals with disabilities; and
- To invoke the sweep of congressional authority, including the power to enforce the 
fourteenth amendment and to regulate commerce, in order to address the major areas 
of discrimination faced day-to-day by people with disabilities.

2. Discussion (15 minutes)

Ask participants to discuss the following questions:

- In what ways have you observed disability discrimination as described in the 
  ADA?
- How do you think legislation can help to eliminate discrimination?
- Is legislation enough? What supports the success of such broad legislative mandates against discrimination?
- How can we as individuals and in our programs work toward achievement of the ADA’s goals?
Topic: Overview of State and Federal Disability-Related Anti-Discrimination Laws

Goal: Increase participant understanding of applicable disability anti-discrimination laws.

Time: 50 minutes
Materials: Handout #21 – State and Federal Anti-Discrimination Laws
Preparation: Review and photocopy handout.

Presenter Instructions:

1. Overview of disability laws (40 minutes)

Using the handout, give a presentation on the relevant state and federal laws which affect domestic violence and sexual assault programs.

Points to make:
- In addition to the ADA, there are several state and federal laws which are relevant to making services and programs accessible and to working with survivors with disabilities.
- The state and federal laws that will be reviewed set out certain obligations for domestic violence and sexual assault programs.
- These laws are also relevant in assisting survivors with disabilities to develop safe and independent lives because they protect their rights in arenas such as housing and accessing needed community services.

Federal Disability Anti-Discrimination Laws


1. Prohibits discrimination on the basis of disability (handicap) in federally funded and conducted programs.
2. Protects the same groups of individuals covered by the ADA.
3. Applies to state and local government entities and private entities that receive federal funding.
4. Section 504 prohibits programs from discriminating, excluding or denying benefits solely because of disability.
5. Section 504 requires that programs provide reasonable modifications in all rules, policies, and procedures.
6. Section 504 requires that programs be readily accessible to and useable by individuals with disabilities.
B. Americans with Disabilities Act of 1990 (ADA), 42 U.S.C. dd12101-12213
(review previous section for definitions).


1. Prohibits discrimination on the basis of disability
   a. in public and private living quarters,
   b. in all housing except for owner-occupied two-, three-, and four-family houses,
   c. in virtually any housing transaction, including the refusal to make reasonable accommodations in rules, policies, practices, and procedures.
2. Adopts a definition of disability similar to the Rehabilitation Act and ADA, but uses the term “handicap.”
3. Definition does not include individuals whose current use of alcohol or drugs prevents participation in programs or whose participation, by reason of current drug or alcohol use, would constitute a direct threat to property or safety of others. Current illegal drug users are excluded under all federal anti-discrimination laws.
4. A qualified individual with a handicap must meet essential eligibility requirements for housing.
5. Nursing facilities, group homes, single room occupancy facilities, and shelters for persons who are homeless or seeking refuge from domestic violence may be covered under both the ADA and the FHAA.

Massachusetts Disability Anti-Discrimination Laws

A. Housing Bill of Rights, M.G.L.c.151B

1. Prohibits all forms of discrimination in virtually any housing transaction because of that person’s disability.
2. Prohibits discrimination with respect to the terms, conditions, or privileges of any sale or rental of a dwelling.
3. Prohibits discrimination in the provision of any services of facilities in connection with the dwelling.
4. Covers all housing except for owner-occupied two-family housing.
5. Prohibits discrimination based on receipt of subsidy.

B. Article 114 of the Massachusetts Constitution

Adopted in 1980 and reads “No otherwise qualified handicapped individual shall, solely by reason of his or her handicap, be excluded from the participation in, denied the benefits of, or be subject to discrimination under any program or activity within the Commonwealth.”

C. Equal Rights Law, M.G.L.c.93 d 103
The Equal Rights Act provides in part that “[a]ny person within the Commonwealth regardless of handicap…, shall with reasonable accommodation, have the same rights as other persons to make and enforce contracts, inherit, purchase, lease, sell, hold and convey real and personal property…”

D. Public Accommodations Law, M.G.L.c.272 dd 92A and 98

The Massachusetts Law is the same as the ADA but the law is more inclusive in that it includes government-owned and operated public accommodations (which are covered by Title II of the ADA) while Title III of the ADA is confined to privately owned public accommodations.

2. Discussion (10 minutes)

- How are these laws relevant to your program and what has been done or could be done to comply?
- How do these laws relate to the ADA?
**Topic: Mandated Reporting in Massachusetts**

**Goal:** To learn about state requirements for mandated reporters and the potential effect on service delivery.

**Time:** 60 minutes

**Materials:** Handout #22 – Mandated Reporting Overview and Information from the Disabled Person Protection Commission (DPPC) website (http://www.state.ma.us/dppc)

**Preparation:** Review and photocopy handout. Familiarize yourself with Massachusetts Mandated Reporting laws by going to the DPPC website or contacting them to request information.

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**Presenter Instructions:**

1. **Overview of Mandated Reporting Law (20 minutes)**

   - In March 1987, Massachusetts General Law c.19C established protection for persons with disabilities between the ages of 18 and 59 from abuse or neglect by their caregivers, and established the Disabled Persons Protection Commission (DPPC) to ensure that persons with disabilities receive the protective services necessary to address issues of abuse.

   - The law identifies the following professionals as Mandated Reporters of suspected abuse or neglect: medical personnel, medical examiners, social workers, foster parents, police officers, dentists, public or private school teachers, educational administrators, psychologists, guidance or family counselors, daycare workers, employees of private agencies providing services to people with disabilities, and employees of state agencies within the Executive Office of Health and Human Services.

   - “Disabled Person,” as defined under c.19C, refers to “a person between the ages of eighteen to fifty-nine, inclusive, who is mentally retarded, as defined by section of chapter 123b, or who is otherwise mentally or physically disabled and as a result of such mental or physical disability is wholly or partially dependent on others to meet his daily living needs.”

   - Abuse under M.G.L. c.19C is defined as: a serious physical or emotional injury, which results from an act or omission by a caretaker, including non-consensual sexual activity.

   - All situations of suspected abuse or neglect of disabled adults (18-59 years old) meeting the definition of “disabled” under c.19C must be reported to DPPC.

   - Reports of suspected abuse or neglect should be made to **DPPC’s 24-hour Hotline at 1-800-426-9009 V/TTY**. When an emergency exists, reporters should first call **911** for needed emergency services.

   - Reports of suspected criminal activity involving persons with disabilities should also be reported to DPPC’s Hotline.
• The State Police Detective Unit (SPDU) assigned to DPPC reviews and refers all cases involving criminal activity to the appropriate District Attorney’s Office and local law enforcement authorities for further investigation.
• DPPC reviews all allegations to determine whether they meet jurisdictional criteria for investigation under the authority of M.G.L. c.19C.
• DPPC may conduct the investigation itself, or refer cases to one of three other state agencies for investigation, based on the disability of the victim. Those agencies are: Department of Mental Retardation (DMR); Department of Mental Health (DMH); and the Massachusetts Rehabilitation Commission (MRC).
• Although DPPC’s jurisdiction may be limited, the Commission’s limited jurisdiction does not preclude the Commission from assisting in the procurement of protective services when these services are required.
• Reports of suspected abuse or neglect of persons with disabilities under the age of 18 should be reported to the MA Department of Social Services at 1-800-792-5200.
• Reports of suspected abuse or neglect of persons with disabilities over the age of 59 should be reported to the Executive Office of Elder Affairs at 1-800-922-2275.
• Reports of suspected abuse or neglect of persons in long-term care facilities should be reported to the MA Department of Public Health at 1-800-462-5540.

2. Issues related to service delivery to survivors with disabilities (20 minutes)
• While mandated reporting laws are always established with the intent of protecting vulnerable individuals from conditions of abuse and violence, the extent to which they may deter some women from disclosing abuse is a reasonable concern.
• Survivors with disabilities may or may not fully understand mandated reporting laws targeted primarily to caretaker abuse and may fear agency involvement.
• Survivors with disabilities seeking assistance from rape crisis centers or battered women’s services may not want DPPC or other state agencies to have knowledge of their situation, for reasons of confidentiality or for fear that it may impact other services they are receiving.
• Some survivors with disabilities have the perception that there are limited resources available through DPPC and may fear that their situation will be exposed only to be left unresolved. However, even when DPPC’s ability to provide services is limited, the Commission is able to tap into the resources available through the state’s system of Human Service Agencies.
• Some survivors with disabilities who have experienced past institutionalization may fear losing control over their lives again at the hands of well-intentioned agency representatives. Going to a nursing home may seem worse than the abusive situation they are in. While DPPC’s involvement may sometimes lead to short-term placement in a hospital or nursing home, the agency has an obligation to follow through for as long as it takes to find a safe and viable community living arrangement.
• Some survivors with disabilities are unaware of the many ways in which DPPC can offer valuable assistance and information and may need help to explore these resources in a non-threatening way.
• If someone is referred to DPPC, follow up regularly to make sure that the case has been properly resolved.

3. **Role-play of possible mandated reporting scenarios (20 minutes)**

Ask for a couple of volunteers to assist you in acting out a role-play involving a situation where a staff member may have to deal with the issues of mandated reporting. Ask the group to help you come up with an example of a scenario or prepare one in advance. Have those watching make note of the things that seem effective or not effective during the role-play. After the role-play has been completed, ask participants to brainstorm a list of possible ways participants may handle their mandated reporting responsibilities.