

IN THE JUVENILE COURT OF \_\_\_\_\_ COUNTY  
STATE OF GEORGIA

In the Interest of:

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Children under the age of eighteen (18) years.

**RESPONDENT MOTHER'S NOTICE OF APPLICABILITY OF  
THE AMERICANS WITH DISABILITIES ACT**

COMES NOW Respondent Mother, by and through her attorney of record \_\_\_\_\_,  
Esq., and provides notice to this honorable Court and all parties of the applicability of 42 U.S.C.  
§ 12131-12134 (Americans with Disabilities Act Amendments Act [hereinafter "ADA"]) to the  
case at bar. In support, Respondent Mother states as follows:

**FACTS**

1. [Mother's name] has, or has been regarded to have, mental impairments that substantially limit major life activities, such as the ability to parent her children and, therefore, she qualifies as a person with a disability pursuant to the ADA. Specifically,
  - a. The Division of Family and Children Services regards Respondent Mother as having intellectual delays and an inability to control her emotions.
  - b. Respondent Mother has been diagnosed with Major Depressive Disorder, and Generalized Anxiety Disorder.
  - c. Based on these regarded and/or diagnosed impairments, Respondent Mother's ability to concentrate and focus on tasks at hand, carry out some aspects of executive functioning, and initiate problem solving are substantially limited.
2. The Division of Family and Children Services (hereinafter "DFCS" or the "Division") initially removed four the children from the Respondent Mother's home on or about October 1, 2019, based on allegations of homelessness and untreated mental health needs

of the mother. On March 9, 2020, the Division filed its initial “Petition Alleging Dependency as to the Respondent Mother,” alleging that the children were without adequate housing, and that the mother could not ensure that their basic needs were met.

3. The Division is aware of Respondent Mother’s disability, and/or regards Respondent Mother as being disabled, as evidenced by the “Amended Dependency Petition” filed on June 28, 2020, to specifically add the allegation that “[t]he mother has mental health issues that impairs her ability to parent the children.”
4. The Division is further aware of Respondent Mother’s disability as evidenced by her September 2020 Psychological Evaluation which diagnosed her with “Major Depressive Disorder,” and “Generalized Anxiety Disorder.”
5. The Division is even further aware of Respondent Mother’s disability as evidenced by their removal of the newborn child from the Respondent Mother’s based on statements in their “Dependency Removal Order” dated February 14, 2022, that “[t]he plan for the other four children is not reunification due to the mother’s low intellectual functioning level.”
6. Because Respondent Mother is a qualified person with a disability, she hereby gives notice to this honorable Court and all parties of the applicability of the ADA to her case involving all five (5) children.

#### APPLICABLE LAW

7. The ADA was enacted to ensure that individuals with disabilities did not continue to face discrimination by society based on their disability. Specifically, the ADA’s non-discrimination mandate states, “[N]o qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the

services, programs, or activities of a public entity, or be subjected to discrimination by any such entity.” 42 U.S.C. § 12132.

8. The ADA defines those who fall within the purview of its anti-discrimination protections.

“The term ‘disability’ means, with respect to an individual –

- (A) A physical or mental impairment that substantially limits one or more major life activities of such individual;
- (B) A record of such an impairment; or
- (C) Being regarded as having such an impairment. . .”

42 U.S.C. § 12102(1).

9. Following amendments in 2008, the ADA is now clear that its protections are to be broadly applied. “The definition of disability in this chapter shall be construed in favor of broad coverage of individuals under this chapter, to the maximum extent permitted by the terms of this chapter.” 42 U.S. C. § 12102(4)(A).

10. The regulations implementing the ADA further buttress this idea of broad applicability:

*Broad coverage.* The primary purpose of the ADA Amendments Act is to make it easier for people with disabilities to obtain protection under the ADA. Consistent with the ADA Amendments Act’s purpose of reinstating a broad scope of protection under the ADA, the definition of ‘disability’ in this part shall be construed broadly in favor of expansive coverage to the maximum extent permitted by the terms of the ADA. The primary object of attention in cases brought under the ADA should be whether entities covered under the ADA have complied with their obligations and whether discrimination has occurred, not whether the individual meets the definition of “disability.” The question of whether an

individual meets the definition of ‘disability’ under this part should not demand extensive analysis.

28 C.F.R §35.101(b).

11. Additionally, the Division, the Division’s providers, and this honorable Court are covered entities under the ADA. 42 U.S.C. § 12131(1)(A), (B). As such, the Division, the Division’s providers, and this Court must afford individuals with disabilities the anti-discrimination protections of the ADA. 42 U.S.C. § 12132.

### ANALYSIS

Respondent Mother has been regarded by the Division and the court as having mental health issues and intellectual delays, and the psychological evaluation to which Respondent Mother submitted has diagnosed her with disabilities that qualify her to be protected under the ADA.

WHEREFORE, notice is hereby provided to the Court and all parties of the applicability of Americans with Disabilities Act to the case at bar. Should Respondent Mother require any accommodations or modifications, undersigned counsel will confer with other counsel and motion the Court as needed.

Respectfully submitted March 16, 2022.

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\_\_\_\_\_, Esq.  
Attorney for Respondent Mother  
GA Bar #:

Address  
Address  
Phone  
Email

IN THE JUVENILE COURT OF \_\_\_\_\_ COUNTY  
STATE OF GEORGIA

In the Interest of:

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Children under the age of eighteen (18) years.

**CERTIFICATE OF SERVICE**

This is to certify that I have, on this date, served a copy via electronic mail of the foregoing RESPONDENT MOTHER'S NOTICE OF APPLICABILITY OF THE AMERICANS WITH DISABILITIES ACT upon the following via STATUTORY ELECTRONIC SERVICE:

\_\_\_\_\_, Esq.  
Special Assistant Attorney General  
\_\_\_\_\_ County DFCS

\_\_\_\_\_, Esq.  
Attorney for Father

\_\_\_\_\_, Esq.  
Guardian *ad Litem* for the Children

This the 3rd day of March, 2022.

\_\_\_\_\_, Esq.  
Attorney for Respondent Mother  
GA Bar #:

Address  
Address  
Phone  
Email