

“The Family Separation Crisis That No One Knows About”⁹⁹ How Our Flawed Legal and Prison Systems Work to Keep Incarcerated Parents from Their Children

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Incarcerated parents are at an increased risk of their parental rights being terminated due to the Adoption and Safe Families Act (ASFA) of 1997. The ASFA was passed with the intention of limiting the number of children trapped in the U.S. foster care system and is commonly known for shifting efforts from reunification to adoption.¹⁰¹ This act results in a swift and sudden termination of parental rights (TPR). The negative impact of this law on incarcerated parents is evident considering that in the years following the passage of the ASFA, the rate of TPR for incarcerated parents has increased by 250%.¹⁰² This piece aims to identify aspects of the ASFA which threaten incarcerated parents' ability to be reunited with their children after their prison sentence, along with elements of the prison system that prevent incarcerated parents from abiding by the regulations of the ASFA and maintaining contact with their children.

The most detrimental aspect of the ASFA is the 15 of 22 Provision, which requires the state to file for termination of parental rights when a child has been in foster care for a consecutive 15 of the past 22 months.¹⁰³ This regulation

⁹⁹ Hager and Flagg, “How Incarcerated Parents Are Losing Their Children Forever,” 2018.

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¹⁰¹ Whitt-Woosley, and Sprang, “When Rights Collide,” 2014, 113.

¹⁰² Nicholson, Emily. “Racing against the ASFA Clock: How Incarcerated Parents Lose More than Freedom.” *Duquesne Law Review* 45, no. 5 (2006): 89.

¹⁰³ “Adoption and Safe Families Act of 1997,” H.R.867, 105th Congress (1997-1998), 1997.



guarantees the TPR for any parent with a prison sentence longer than a year and a half during which a child is sent to foster care, resulting in the permanent severance of the parent-child relationship. In addition, strict timeline requirements of the ASFA relating to the child's placements and hearings to discuss these placements make it challenging for incarcerated parents to fight for reunification. This issue is compounded by failures of the prison system, which prevent incarcerated parents from participating in their child's placement process. Most proposed solutions suggest a full repeal of the ASFA, while others argue that a major reform of the ASFA is sufficient. The states of New York, Washington, and Colorado have already initiated this reform by creating exceptions to the 15 of 22 Provision, along with including other considerations and accommodations for incarcerated parents.¹⁰⁴ The findings explored in this paper clearly indicate that incarcerated parents are at a disadvantage when trying to reunite with their children. Their parental rights are terminated at an unjust rate due to the strict requirements of the ASFA: a law that fails to acknowledge the circumstances of incarcerated parents and instead strips their parental rights away.

I. Introduction

From 2006 to 2019, the parental rights of 32,000 incarcerated parents were terminated.¹⁰⁵ Termination of parental rights (TPR) is a court order which ends the parent-child relationship. A parent legally becomes a stranger to their child, and in turn, the parent has no right to raise, speak

¹⁰⁴ Hager and Flagg, "How Incarcerated Parents Are Losing Their Children Forever," 2018.

¹⁰⁵ Durkin, Lopez, and Roberts, "Rep. Incarcerated Parents and Termination of Parental Rights in Connecticut: Recommendations for Reform."



to, or visit their child. The parent is even removed from the child's birth certificate.¹⁰⁶ This ruling, also known as the "civil death penalty,"¹⁰⁷ is administered on a very infrequent basis due to its impact and finality. Once parental rights have been terminated, it is nearly impossible to have them reinstated. It has been found that incarcerated parents are disproportionately impacted by the laws that govern TPR due to factors that are beyond their control. The Adoption and Safe Families Act of 1997, which is a federal law, moves courts to recognize incarceration as child abandonment with the child-welfare goal of adoption rather than reunification. In the years since the passage of the ASFA the rate of termination of parental rights amongst incarcerated parents has increased by 250%.¹⁰⁸ Loving and fit parents are losing their children forever due to a merciless law that fails to recognize and accommodate the barriers faced by incarcerated parents in parenthood, which ranges from ability to participate in placement hearings to visitation with their child. Along with various other flawed aspects of the prison and legislative system, puts incarcerated parents at a perpetual disadvantage and is the cause of disproportionate and unjust termination of the parental rights of incarcerated parents.

II. The ASFA

The ASFA of 1997 promotes the goal of prioritizing child safety and is the largest reform of child welfare legislation in the past 20 years.¹⁰⁹ Due to the nationwide crisis

¹⁰⁶ Child Welfare Information Gateway, and Children's Bureau, "Grounds for Involuntary Termination of Parental Rights," 2021.

¹⁰⁷ Kasio, "Family Law Self-Help Center - Overview of Termination of Parental Rights."

¹⁰⁸ Nicholson, "Racing against the ASFA Clock," 2006, 85.

¹⁰⁹ Notkin, and Weber, "Rep. Intentions and Results: A Look Back at the Adoption and Safe Families Act," 2021, 5.



of an overwhelmed foster care system, President Bill Clinton passed the ASFA in response to children spending years in foster care with no hopes of adoption. The act created a shift in priority from reunification with the biological family to permanent adoption placements.¹¹⁰ To execute this goal, the ASFA requires states to file a TPR petition, to make the child eligible for adoption after being in foster care for 15 of the most recent 22 months. This is known as the 15 of 22 Provision.¹¹¹ The only exceptions to this rule are if:

- (1) the child is being cared for by a fit and willing relative, (2) the state agency has documented a compelling reason why parental rights should not be terminated or (3) the state agency has not provided the family with the services necessary to achieve safe reunification.¹¹²

The 15 of 22 Provision undoubtedly poses the greatest threat to incarcerated parents and their ability to regain custody of their child. The 15 of 22 Provision, interpreted in the context of incarcerated individuals, means that any prison sentence over 15 months results in TPR. This is especially concerning in a time when prison sentences are becoming longer and longer as a result of new minimum sentencing guidelines. On average, incarcerated parents spend 6.5 years in state prison and 8.5 years in federal prison.¹¹³

While the 15 of 22 Provision is undoubtedly the biggest change brought about by the ASFA, the law also nullified previous mandates. Under the ASFA, the once universal Reasonable Efforts mandate, which requires states to make all reasonable efforts to reunify a child with their biological family, is no longer absolute. Now, reasonable efforts are no

¹¹⁰ Whitt-Woosley, and Sprang, "When Rights Collide," 2014, 113.

¹¹¹ "Adoption and Safe Families Act of 1997," H.R.867, 105th Congress (1997-1998), 1997.

¹¹² Nicholson, "Racing against the ASFA Clock," 2006, 85.

¹¹³ Nicholson, "Racing against the ASFA Clock," 2006, 88.



longer required if that parent's rights have been previously terminated, including under the 15 of 22 rule. This rule specifically targets previously incarcerated parents that had their parental rights terminated under the 15 of 22 rule. If they have a second child placed into foster care due to an additional incarceration sentence or other factors, it is almost guaranteed that their parental rights will be once again terminated since the state is not required to make reunification efforts. This consequential termination would take place only 30 days after any additional children are removed from the home.¹¹⁴

According to Emily Nicholson, a writer for *Duquesne Law Review*, the "ASFA carries the potential to 'punish' incarcerated parents... by allowing the state to terminate their rights with respect to subsequent children based only on the tenuous factors that led to the original termination, i.e., the passage of time and the complications involved in parenting from prison."¹¹⁵ Nicholson's argument highlights the underlying problems of the ASFA's restrictions, specifically the negative impact of the 15 of 22 Provision and the lack of the Reasonable Efforts mandate. These two provisions not only permanently separate parents from their children while incarcerated, but also have long-lasting effects that can harm the parent's legal and physical relationship with their other children after being released.

III. Expediting the Process: The Hearing Provisions of the ASFA

In addition to the previous two provisions, the ASFA also established timeframe provisions to speed up the adoption process. One provision states that a written case plan for the

¹¹⁴ Nicholson, "Racing against the ASFA Clock," 2006, 91.

¹¹⁵ Nicholson, "Racing against the ASFA Clock," 2006, 91.



child's future care must be submitted 60 days after the child's removal from the home during the initial disposition hearing, in which a case plan is created for the child. Additionally, the subsequent permanency hearing, a hearing to establish the child's future status, must take place within 18 months of the child's placement in foster care.¹¹⁶ Another provision of the ASFA stipulates that any permanency hearing that does not resolve with reunification or another permanent placement must conclude with a court order to initiate proceedings to terminate parental rights.¹¹⁷ The ASFA provisions are intended to appeal to the legal aspect of the foster care and adoption process and to expedite the process so that children spend less time in foster care. However, the process is expedited to such a strict extent that incarcerated parents must race against time to avoid losing their children forever.

The strict provisions of the ASFA permanency hearings create a standard that is nearly impossible for incarcerated parents to meet and serve. This presents another barrier between incarcerated parents and their children. Once a child enters the foster care system a disposition hearing takes place during which a case plan is created for the child. These case plans detail specific services that will be provided to the child, conditions of visitation, child support requirements and, most importantly, the responsibilities and requirements the parent must fulfill to achieve reunification. Twelve months after this initial disposition hearing, a permanency hearing takes place in which the final and permanent status of the child is decided.¹¹⁸ The permanency hearing provision, which requires parental rights to be terminated if the permanency hearing does not

¹¹⁶ "Child Welfare: Implementation of the Adoption and Safe Families Act (P.L. 105-89)," 2004.

¹¹⁷ Halperin and Harris, "Parental Rights of Incarcerated Mothers with Children in Foster Care," 2004, 341.

¹¹⁸ Halperin and Harris, "Parental Rights of Incarcerated Mothers with Children in Foster Care," 2004, 341.



resole with reunification or a permanent placement, creates an insurmountable barrier for parents fighting for reunification.¹¹⁹ It is nearly impossible for incarcerated parents to attend these hearings and fight for reunification or fulfill the responsibilities required to warrant reunification. An incarcerated parent's attendance at a hearing is dependent on them receiving notification of said hearing, receiving permission from the prison to leave the grounds and attend the hearing, and being able to organize transportation.¹²⁰

IV. Barriers Faced by Incarcerated Parents

Incarcerated parents' inescapable dependence upon the prison system to be notified of their children's legal proceedings has resulted in concerning outcomes. A study by Adela Beckerman, a professor in the Department of Social Work at Florida International University, showed that 28% of mothers in New York State Prisons with children in foster care were not notified of their upcoming court hearings, and over 50% of these women did not know how to organize transportation to these hearings. Furthermore, 49% did not receive any letters from their child's caseworker, and 68% did not receive a single phone call from their child's caseworker.¹²¹ These statistics demonstrate that incarcerated parents are often not aware of ASFA hearings and are therefore unable to attend the hearings to defend their parental rights. Incarcerated parents cannot be expected to attend hearings that they oftentimes have no knowledge of. They are completely dependent on an overburdened caseworker, who will not

¹¹⁹ Halperin and Harris, "Parental Rights of Incarcerated Mothers with Children in Foster Care," 2004, 341.

¹²⁰ Halperin and Harris, "Parental Rights of Incarcerated Mothers with Children in Foster Care," 2004, 341.

¹²¹ Beckerman, "Mothers in Prison," 1994, 9-14.



prioritize reunification of parent and child in a means that is sufficient to reconcile these families.

While the ASFA does not directly prohibit incarcerated parents from attending the hearings, the law fails to make accommodations for incarcerated parents. In order to prevent parental rights from being terminated, parents must utilize disposition hearings to negotiate what changes they will make in order to be reunified with their child before the permanency hearing. However, many incarcerated parents cannot overcome the barriers preventing them from attending the hearings, leaving them helpless as their children are taken from them. In the chapter of the ASFA titled “Court Processes,” no mention is made of incarcerated parents or the accommodations that should be created to help them attend these hearings or visit with their children. This lack of accommodations is an incredible oversight in light of the fact that 40% of foster care children have a parent who has experienced incarceration.¹²² Currently, 30,000 children in the United States foster care system were removed from their home due to the incarceration of their parent.¹²³ In addition, the ASFA was created years after the publication of Adela Beckerman’s 1994 study which highlighted the extent of incarcerated mothers failing to receive notification of these hearings or being unable to attend these hearings. It is evident that the legislators who wrote the ASFA overlooked various sets of data that would have proven that incarcerated parents need specific accommodations during the hearing process.

There are multiple barriers prohibiting incarcerated parents from carrying out court-ordered activities, such as being able to visit and maintain a relationship with their child.

¹²² Child Welfare Information Gateway, and Children's Bureau, “Child Welfare Practice With Families Affected by Parental Incarceration,” 2021, 4.

¹²³ Americanbar.org, Council of State Governments Justice Center, “Foster Care and Permanence,” 2011.



During disposition hearings, judges may order that the parent spend a certain amount of visitation time with their child before the permanency hearing. Child welfare legislation has also made it clear that reunification is dependent on regular contact between the parent and child.¹²⁴ However, this poses an insurmountable barrier for parents who are incarcerated during the 12 months between disposition and permanency hearings. Incarcerated parents are at a disadvantage when trying to maintain contact or visitation with their children because they are at the discretion of others when it comes to seeing their children.¹²⁵ The occurrence of visits depends on who is caring for the child, if they are willing or able to provide transportation to the prison and cooperate with prison visitation periods, and whether that person is comfortable putting themselves or the child in a prison environment.¹²⁶ Considering that visiting a prison can be an uncomfortable experience, caregivers are often reluctant to organize and chaperone these visits.¹²⁷ Additionally, considering that 84% of parents in federal prisons are incarcerated more than 100 miles away from their home, travel distance makes visitation incredibly difficult.¹²⁸ Visits become harder if the child does not have a caregiver and is currently living with a foster family. Consequently, the visits then become dependent on an overburdened caseworker. According to Cindy Seymour, an attorney at Child Welfare League of America, caseworkers often face bureaucratic obstacles when trying to organize visits between incarcerated parents and their children. These include

¹²⁴ Halperin and Harris, "Parental Rights of Incarcerated Mothers with Children in Foster Care," 2004, 342.

¹²⁵ Beckerman, "Women in Prison," 1991, 178.

¹²⁶ Halperin and Harris, "Parental Rights of Incarcerated Mothers with Children in Foster Care," 2004, 342.

¹²⁷ La Vigne, Davies, and Brazzell, "Rep. Broken Bonds: Understanding and Addressing the Needs of Children with Incarcerated Parents," 2008, 5.

¹²⁸ Halter, "Parental Prisoners," 2018, 562.



“inadequate information about prison visiting procedures, difficulties in scheduling visits, the long travel time to make the visits, uncomfortable or humiliating visiting procedures, the resistance of caregivers, and their concern about children's reactions to the visit.”¹²⁹ These barriers have a direct impact on the level of contact between parents and children. Over 50% of incarcerated parents do not receive one visit from their child during their time in prison, 40% of mothers do not receive weekly contact from their children, and 60% of fathers report no weekly contact from their children.¹³⁰

Adding to the already serious difficulties created by the ASFA, incarcerated parents are deprived of access to programs that would aid in their reunification with their children, including treatment or rehabilitation programs. If an incarcerated parent is able to attend the disposition hearing, the judge may order that the parent partake in required programs to increase their fitness as a parent. This is a common occurrence, due to the fact that 24% of incarcerated mothers have a history of alcohol dependence and 23% have been diagnosed with a mental disorder.¹³¹ However, the fulfillment of this requirement is dependent on the facilities at their prison. Ronnie Halperin, a researcher at Purchase College, notes that, “unlike other mothers with children in foster care, who may be able to comply with their children's case plans by attending job training, drug treatment programs, or parenting classes, those who are incarcerated can exert little control over their participation in these programs.”¹³² While most Departments of Correctional Services report that they do have parenting classes

¹²⁹ Seymour, "Children with Parents in Prison," 1998, 469.

¹³⁰ La Vigne, Davies, and Brazzell, “Rep. Broken Bonds: Understanding and Addressing the Needs of Children with Incarcerated Parents,” 2008, 5.

¹³¹ Halperin and Harris, “Parental Rights of Incarcerated Mothers with Children in Foster Care,” 2004, 343.

¹³² Halperin and Harris, “Parental Rights of Incarcerated Mothers with Children in Foster Care,” 2004, 344.



offered for inmates at their facilities, these programs are incredibly small-scale and underfunded. Most inmates who wish to participate are turned away due to the lack of staff available to lead the classes since the majority of these classes are volunteer led.¹³³

V. The Impact of the ASFA on Children with Incarcerated Parents

While this lack of treatment and contact negatively impacts the incarcerated parents' chances of retaining their parental rights, the child is also negatively affected. Evidence has shown that contact between a child and their incarcerated parent benefits the child in various ways, while a lack of contact negatively influences their behavior and emotions.¹³⁴ A 2004 study found that more contact such as phone calls, letters, or physical visits between a child and their incarcerated mother specifically resulted in fewer suspensions from school and lower rates of school dropout compared to students who are not able to retain contact.¹³⁵ Researchers Danielle Dallaire, Laura Wilson, and Anne Ciccone conducted a study in 2010 of 30 teachers who taught students of incarcerated parents, which focused on the behavior of these children in relation to contact with their parents.¹³⁶ The results of the study state, "The teachers also made several positive comments about mail correspondence between incarcerated parents and children..."

¹³³ Halperin and Harris, "Parental Rights of Incarcerated Mothers with Children in Foster Care," 2004, 344.

¹³⁴ Poehlmann, et al, "Children's contact with their incarcerated parents," 2010, 575-98.

¹³⁵ Trice AD, "The effects of maternal incarceration on adolescent children," 2004, 19:27-35.

¹³⁶ Poehlmann, et al, "Children's contact with their incarcerated parents," 2010, 575-98.



one teacher mentioned that a child in her class often sent her incarcerated mother pictures and letters... when the mother wrote back, the child had something tangible to hold on to or refer to when she felt sad or was missing her mother.”¹³⁷ The study also found that children reported fewer feelings of anxiety and depression when they had more contact with their incarcerated parent.¹³⁸ It is clear that children benefit from contact with their incarcerated parents, therefore a change in the system that permits children living with a caregiver or in foster care to have more access to visitation with their parents is necessary.

VI. Unfair Biases Against Incarcerated Parents

It might be argued that incarcerated parents should not have a relationship with their children. Kate Barry, a family law attorney at Greater Boston Legal Services, has extensive experience in the field of child placement hearings and commonly represents clients who are victims of domestic violence. In court, the topic of the couple’s children often arises. According to Barry, “I have never had a case where the judge has even allowed visitation between an incarcerated parent and their child, which is usually due to the violent nature of their crimes. If a husband is found guilty of sexually and physically assaulting his wife, the judge is not going to let him near the child. Even if it’s supervised visits in prison.”¹³⁹ When I asked Barry if she thought this lack of visitation was fair, she explained that these abusers are often so violent that she does not personally believe that they should have any contact with

¹³⁷ Dallaire DH, “Teachers’ experiences with and expectations of children with incarcerated parents,” 2010, 31:281–290.

¹³⁸ Poehlmann, et al, “Children’s contact with their incarcerated parents,” 2010, 575-98.

¹³⁹ Interview with Kate Barry.



their children, even after they are released from prison.¹⁴⁰ This inevitably brings forth the argument that incarcerated parents should be separated from their children.

This argument, which is surprisingly common, is based on the fact that incarcerated or previously incarcerated parents are not only a danger to their children but a negative influence. However, there are already safeguards in the law to protect children from unfit parents. Massachusetts Bill H.1629 titled *An Act Relative to the Best Interest of the Child*, states that, “the best interests of the child shall be the standard for court determinations as to whether a child should be removed from a home, temporarily or permanently, wherein the child has been abused or neglected,”¹⁴¹ While it is undeniable that it may not always be in the best interest of the child to remain in the custody of their incarcerated parent, this should not lead to the punishment of all incarcerated parents. Parental relations should be evaluated on a case-to-case basis; the law should not work to keep incarcerated parents away from their children in all circumstances.

VII. Reform of the ASFA

The ASFA has been negatively impacting parents for the past 24 years, but growing criticisms have led many to advocate for change. Solutions have been proposed to combat the negative effects of the ASFA, with the most common recommendation being to repeal the ASFA entirely. Many organizations have been founded on the premise of repealing the act, such as Repeal ASFA.¹⁴² While Repeal ASFA sees the only solution as a full repeal of the law, other advocates are fighting for ASFA reform.

¹⁴⁰ Interview with Kate Barry.

¹⁴¹ “An Act Relative To the Best Interests of Children,” Bill H. 1629, 192nd Court, 2021.

¹⁴² Repeal ASFA.



The states of New York and Washington have been trailblazers in ASFA reform, with New York passing the ASFA Expanded Discretion Bill of 2010, also known as the Incarcerated Parents Bill. According to the New York State Senate, the bill “amends New York’s child welfare law to reflect the special circumstances of criminal justice involved families”¹⁴³ and “grants foster care agencies discretion to delay filing termination of parental rights papers when a parent’s incarceration or participation in a residential drug treatment program is a significant factor in why the child has been in foster care for 15 of the last 22 months.”¹⁴⁴ As a result of this bill, judges across the state of New York are required to consider the impact of parental incarceration before pursuing termination of parental rights.¹⁴⁵

In 2013, Washington took influence from the New York law and passed the Children of Incarcerated Parents bill, which established similar provisions but targeted even more failures of the system. The bill added flexibility to the 15 of 22 Provision and established that, by law, incarcerated parents must be notified of their court hearings and have opportunities for visitation with their children.¹⁴⁶ The bill states,

If the parent is incarcerated, the [permanency] plan must address how the parent will participate in the case conference and permanency planning meetings and, where possible, must include treatment that reflects the resources available at the facility where the parent is confined. The plan must provide for visitation

¹⁴³ Montgomery, “Support Senator Montgomery’s ‘Incarcerated Parents’ Bill,” 2009.

¹⁴⁴ Montgomery, “Support Senator Montgomery’s ‘Incarcerated Parents’ Bill,” 2009.

¹⁴⁵ Hager and Flagg, “How Incarcerated Parents Are Losing Their Children Forever,” 2018.

¹⁴⁶ “An Act Relating to the Rights of Parents Who Are Incarcerated,” SHB 1284, 63rd Legislature. (Wash. 2013).



opportunities, unless visitation is not in the best interests of the child.¹⁴⁷

On a smaller scale, Colorado has amended the ASFA to make incarceration an exception to the 15 of 22 Provision, stating that a TPR petition does not need to be filed within the 15-month timeline if the “child has been in foster care ... due to circumstances beyond the control of the parent such as incarceration of the parent for a reasonable period of time.”¹⁴⁸ Other states must take influence from New York, Washington, and Colorado to amend the ASFA in a way that protects the parental rights of incarcerated parents.

VIII. Conclusion

While the ASFA was well-intentioned, it inadvertently puts incarcerated parents at an extreme disadvantage when trying to retain relationships with their children. With extremely strict hearing requirements and inflexible timelines, incarcerated parents are unable to play an active role in their children's custody proceedings. In the eyes of the law, incarcerated parents are abandoning their children, which constitutes unfitness and a reason to terminate parental rights. To further protect the relationships between fit incarcerated parents and their children, amendments must be made to the ASFA to create accommodations for incarcerated parents. Exceptions for circumstances that are out of the parent's control must be implemented, as well as further reform of the ASFA, to ensure that fit and deserving parents are not punished by this neglectful law.

¹⁴⁷ “An Act Relating to the Rights of Parents Who Are Incarcerated,” SHB 1284, 63rd Legislature. (Wash. 2013).

¹⁴⁸ CO Rev Stat § 19-3-604 (2016).



Bibliography

- Americanbar.org, Council of State Governments Justice Center. "Foster Care and Permanence.", 1 June 2011, www.americanbar.org/groups/public_interest/child_law/resources/child_law_practiceonline/child_law_practice/vol30/june_2011/foster_care_and_permanence/.
- An Act Relative To the Best Interests of Children, Bill H. 1629, 192nd Court. (Mass. 2021). <https://malegislature.gov/Bills/192/H1629>
- An Act Relating to the Rights of Parents Who Are Incarcerated, SHB 1284, 63rd Legislature. (Wash. 2013) <https://lawfilesexternal.wa.gov/biennium/2013-14/Pdf/Bills/House%20Passed%20Legislature/1284-S.PL.pdf?q=20220503115425>.
- Beckerman, Adela. "Mothers in Prison: Meeting the Prerequisite Conditions for Permanency Planning," *Social Work* 39 (March 1994): 9-14.
- Beckerman, Adela. "Women in Prison: The Conflict between Confinement and Parental Rights." *Social Justice* 18, no. 3 (45) (1991): 178. <http://www.jstor.org/stable/29766626>.
- Besemer S, Farrington DP, Bijleveld CCJH (2017) "Labeling and intergenerational transmission of crime: The interaction between criminal justice intervention and a convicted parent." *PLoS ONE* 12(3): e0172419. <https://doi.org/10.1371/journal.pone.0172419>
- Child Welfare Information Gateway, and Children's Bureau. "Child Welfare Practice With Families Affected by Parental Incarceration," January 2021. https://www.childwelfare.gov/pubPDFs/parental_incarceration.pdf.
- Child Welfare Information Gateway, and Children's Bureau. "Grounds for Involuntary Termination of Parental



- Rights,” July 2021,
<https://www.childwelfare.gov/pubpdfs/groundtermin.pdf>.
- “Child Welfare: Implementation of the Adoption and Safe Families Act (P.L. 105-89).” EveryCRSReport.com. Congressional Research Service, November 8, 2004. https://www.everycrsreport.com/reports/RL30759.html#_Toc337126762.
- CO Rev Stat § 19-3-604 (2016).
<https://law.justia.com/codes/colorado/2016/title-19/article-3/part-6/section-19-3-604>
- Dallaire DH, Ciccone A, Wilson L. Teachers’ experiences with and expectations of children with incarcerated parents. *Journal of Applied Developmental Psychology*. 2010;31:281–290.
- Durkin, Allison, Destiny Lopez, and Eleanor Roberts. Rep. *Incarcerated Parents and Termination of Parental Rights in Connecticut: Recommendations for Reform*. Connecticut Voices for Children, n.d..
<https://ctvoices.org/wp-content/uploads/2021/03/REPORT-Incarcerated-Parents-and-Termination-of-Parental-Rights-in-Connecticut.pdf>.
- “Foster Care and Permanence.” *Americanbar.org*, Council of State Governments Justice Center, 1 June 2011, www.americanbar.org/groups/public_interest/child_law/resources/child_law_practiceonline/child_law_practice/vol30/june_2011/foster_care_and_permanence/.
- Hager, Eli, and Anna Flagg. “How Incarcerated Parents Are Losing Their Children Forever.” The Marshall Project, December 3, 2018.
<https://www.themarshallproject.org/2018/12/03/how-incarcerated-parents-are-losing-their-children-forever>.
- Halperin, Ronnie, and Jennifer L. Harris. “Parental Rights of Incarcerated Mothers with Children in Foster Care: A



- Policy Vacuum.” *Feminist Studies* 30, no. 2 (2004): 341. <https://doi.org/10.2307/20458967>.
- Halter, Emily. “Parental Prisoners: The incarcerated Mother’s Constitutional Right to Parent.” *The Journal of Criminal Law and Criminology* (1973-) 108, no. 3 (2018): 562. <https://www.jstor.org/stable/48572875>.
- Kasio, Martin. “Family Law Self-Help Center - Overview of Termination of Parental Rights.” *Family Law Self-Help Center - Overview of Termination of Parental Rights*, n.d. <https://www.familylawselfhelpcenter.org/self-help/adoption-termination-of-parental-rights/overview-of-termination-of-parental-rights>.
- La Vigne, Nancy, Elizabeth Davies, and Diana Brazzell. Rep. *Broken Bonds: Understanding and Addressing the Needs of Children with Incarcerated Parents*. Urban Institute Justice Policy Center, 2008. <https://www.urban.org/sites/default/files/publication/31486/411616-Broken-Bonds-Understanding-and-Addressing-the-Needs-of-Children-with-Incarcerated-Parents.PDF>.
- Montgomery, Velmanette. “Support Senator Montgomery's ‘Incarcerated Parents’ Bill.” NY State Senate, September 30, 2009. <https://www.nysenate.gov/newsroom/in-the-news/velmanette-montgomery/support-senator-montgomerys-incarcerated-parents-bill>.
- Nicholson, Emily. “Racing against the ASFA Clock: How Incarcerated Parents Lose More than Freedom.” *Duquesne Law Review* 45, no. 5 (2006): 85.
- Notkin, Susan, and Kristen Weber. Rep. *Intentions and Results A Look Back at the Adoption and Safe Families Act. About This Paper Series*. Urban Institute Center for the Study of Social Policy, 2021.



- Poehlmann, Julie et al. "Children's contact with their incarcerated parents: research findings and recommendations." *The American psychologist* vol. 65,6 (2010): 575-98. doi:10.1037/a0020279.
- Repeal ASFA. Accessed May 3, 2022. <https://www.repealasma.org/>.
- Seymour, Cynthia. "Children with Parents in Prison: Child Welfare Policy, Program, and Practice Issues," *Child Welfare* 11 (September 1998): 469.
- "Text - H.R.867 - 105th Congress (1997-1998): Adoption and Safe Families Act of 1997." Congress.gov, Library of Congress, 19 November 1997, <https://www.congress.gov/bill/105th-congress/house-bill/867/text>.
- Trice AD, Brewster J. The effects of maternal incarceration on adolescent children. *Journal of Policy and Criminal Psychology*. 2004;19:27–35.
- Wattenberg, Esther, Meghan Kelley, and Hyungmo Kim. "When the Rehabilitation Ideal Fails: A Study of Parental Rights Termination." *Child Welfare* 80, no. 4 (2001): 417. <http://www.jstor.org/stable/45400277>.
- Whitt-Woosley, Adrienne, and Ginny Sprang. "When Rights Collide: A Critique of the Adoption and Safe Families Act from a Justice Perspective." *Child Welfare* 93, no. 3 (2014): 113. <https://www.jstor.org/stable/48623440>.

Interviews

Attorney Michael Day

Attorney Kate Barry

