

You don't have to stop being a parent while you are incarcerated



Your parental rights

When a child is in foster care for an extended period of time, a social services or foster care agency can file a petition to terminate a parent's rights and free the child for adoption. However, the law allows the agency to decide **not** to file for termination of parental rights under certain circumstances, such as when the child is living with a relative foster parent, when there is a compelling reason why termination is not in the child's best interests, and when the parent is incarcerated or in a residential substance abuse treatment program and has maintained a meaningful role in the child's life. These decisions are made on a case-by-case basis, with a focus on the best interests of the child.

If your child is in foster care, you have the right to:

- **Identify an appropriate person you would like to care for your child**, such as a relative or friend.
- **Be informed about the foster care agency responsible for your child's care**, the name of your child's caseworker, and how to contact the caseworker and his/her supervisor.
- **Know how to reach your family caseworker**, if that person is different from your child's caseworker.
- **Participate in planning** for your child.
- **Take advantage of services** to help you address the issues that led to your child's placement in foster care (parenting classes, substance abuse treatment, etc.).
- **Participate in meetings about your Family Service Plan**, which should address the special challenges facing you and your family due to your incarceration.
- **Receive information about family visiting and other services** that can help you build a meaningful relationship with your child while you are incarcerated and after your release.
- **Visit with your child**, unless a court order prohibits visits. Ask about video/teleconferencing if in-person visits are not possible.
- **Be kept up to date on your child's health**, development, and progress in school.
- **Be informed about court proceedings** and attend them, if possible.
- **Be assigned an attorney**, if you are financially eligible.

You have the responsibility to:

- **Make regular contact with your child and/or the foster care agency.** Although this can be difficult while you are incarcerated, you are expected to make efforts to communicate with your child unless a court order prevents this. You must be able to show your caseworker and the judge that you have made this effort.
- **Show that you're planning for your child's future.** Identify someone who can care for your child while you are away.
- **Stay in touch with your child's caseworker, your family caseworker, and your attorney.** If you haven't had contact with the caseworker, Social Services, or the foster care agency for six months, *it can be considered abandonment of your child and a petition could be filed to terminate your parental rights.*
- **Complete any programs** your Family Service Plan requires.
- **Participate in Family Court proceedings.** Contact your attorney if you are unable to attend a court proceeding. Make sure your attorney has copies of all of your relevant documents.



New York State
Office of
Children &
Family Services

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