

Are you incarcerated or in a residential drug treatment program?

Do you have a child in foster care?

If you answered yes, read below for critical information about your rights and what you must do to keep custody of your children.

WHAT ARE MY RIGHTS AS A PARENT IN PRISON OR RESIDENTIAL DRUG TREATMENT WITH A CHILD IN FOSTER CARE?

YOU HAVE THE RIGHT TO:

- **Know why your child is in foster care** and what you need to do to reunify with him/her. Make sure you are aware of the Adoption and Safe Families Act (ASFA), the amendments to ASFA enacted in 2010, and the importance of staying in contact with your child. Maintaining contact can help prevent termination of your parental rights if your child has been in foster care for 15 of the last 22 months.
- **Know who your foster care caseworker is** and how to contact him or her and his or her supervisor with questions or concerns about your child. If your child's caseworker changes, you have a right to be notified of this change in a timely manner.
- **Identify, with your family caseworker, who you would like your child to live with**, either as an alternative to foster care or to become foster parents. The agency will assess your suggestions and make a determination.
- **Be assigned an attorney** to represent you in Family Court and also between court dates.
- **Know your child's permanency goal** and participate in developing this goal. The permanency goal is the goal for your child in the future – for example, to return to you, be placed with a relative, be adopted, or remain in foster care.
- **Be informed about your legal rights and responsibilities** as a parent with a child in foster care and to receive information about family visiting and other services that can help you build a meaningful relationship with your children while you are away and after you are released.
- **Receive services** to help you address the issues that led to your child's placement in foster care (for example, parenting classes, substance abuse treatment, etc.).
- **Know what's in your family service plan**, what steps you need to take to be reunified with your child and what goals you are expected to achieve. A service plan outlines what services your children need for their healthy development, and what services you need in order to be reunified as a family.
- **Have a service plan that includes the special challenges** facing you and your family because you are separated by prison or a residential drug treatment program.
- **Participate in reviews of your service plan**, called Service Plan Reviews (SPR), which happen every 6 months. If you are in prison or residential drug treatment and can't be there in person, you can participate via phone which can be arranged through your counselor or caseworker. You should get a letter stating the date of your SPR 14 days in advance and you should get a copy of the service plan within 10 days after the SPR happens.
- **Have visits with your child**, at least **monthly** if you are in prison or jail in New York State and at least **bi-weekly** if you are in drug treatment and the permanency goal is reunification, unless the Court finds that visits are not in the best interests of your child or has ordered other arrangements. You can also ask about video/teleconferencing as an option if in-person visits aren't possible. You can contact your family case worker with any questions or concerns.

- **Be notified of upcoming Family Court dates and request to be produced for them.** If you have a court date, ask your lawyer, caseworker and, if you are in prison, your correctional counselor to help you be produced for court. You can also write the judge yourself and request to be produced. If you can't be in court for an important reason (for example, you have to see the parole board that day or you will lose your spot in a required program), tell this to your lawyer, caseworker and judge.
 - **Be kept up to date on your child's health and development** (including copies of medical reports), and your child's behavior and progress in school (including copies of report cards).
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WHAT ARE MY RESPONSIBILITIES?

If you don't plan for your child and maintain regular contact with your child and your caseworker, your parental rights may be terminated. You can help avoid termination by:

- ✓ **Staying in regular contact with your child.**
- ✓ **Finding a non-foster care home for your child to live in while you are away.**
- ✓ **Knowing the name and phone number for your caseworker and your attorney.**
- ✓ **Staying in regular contact with your caseworker and your attorney.**
- ✓ **Completing any programs your service plan says you are expected to take.**
- ✓ **Working with the foster care agency to achieve the goals stated in your service plan.**
- ✓ **Working with your attorney and writing the judge to be produced for any Court hearings, or, if you can't make it, telling your attorney, caseworker and judge why.**

YOU ARE RESPONSIBLE FOR:

- **Showing that you are involved in your child's life and are planning for his/her future.**

This includes finding a permanent home for your child while you are away, especially if you will be released soon. Your plan can be for your child to live with a relative or friend who has been approved by the foster care agency or some other legal arrangement. If you can't find a permanent place while you are away, your child will probably be placed with a foster parent/family that is willing to adopt him/her if reunification with you is not possible. Keep in mind that foster care is supposed to be temporary and is not meant to last more than 15 months, with some exceptions.

- **Staying in regular contact with your child.**

Although this can be challenging while you are away, you are still expected to make efforts to communicate with your child. It's very important for you to keep all papers about your case and document every time you contact or attempt to contact your child. Keep a list of every scheduled visit (even if it didn't happen); every phone call you make to the caseworker, your child, and your child's caretaker (even if you left a message or no one answered the phone); and every letter, birthday card or other mail you send (even if you don't get a reply). This will help you show your caseworker and the judge that you've made every effort to stay in contact with your child and the foster care agency.

- **Working with the foster care agency and completing the goals stated in your service plan.**

This includes staying in regular contact with the agency, helping to develop your family's service plan, and completing any programs the service plan says you are expected to do. If you refuse to work with the agency or "fail to plan" for your child, the agency may go to Court and ask to be relieved of their responsibility to make additional efforts to help you reunify with your child. They may also ask the court to terminate your parental rights. You have the right to speak to your attorney, your caseworker, and your caseworkers' supervisor about any issues with your case.

- **Notifying your caseworker of your whereabouts.**

If you are transferred to a different facility or if your address changes you must notify your caseworker as soon as possible after a location change. If a period of **6 months** goes by and you haven't had contact with your child, your caseworker, or the foster care agency, it can be considered **abandonment** of your child, which may result in the agency filing for termination.

- **Staying informed about your case and working with your lawyer and the judge to be produced for Court hearings.**

Your lawyer is an advocate for you and can help you stay informed. Get your lawyer's name, phone number and address and contact him/her if you have questions. Try to talk with your lawyer before every court date, even if it is difficult. Bring all your documents with you to every court date, and, if you can, also send copies of them to your lawyer but keep the originals. If you can't be in court for an important reason (for example, you have to see the parole board that day or you will lose your spot in a required program), tell this to your lawyer, caseworker and judge.

*Language adapted from **Out of Sight, NOT Out of Mind: Important Information for Incarcerated Parents whose Children are in Foster Care** by ACS' Children of Incarcerated Parents Program.
To order a free copy, contact CHIPP at the address below.*

Who can I contact for more information?

Children of Incarcerated Parents Program (CHIPP)
NYC Administration for Children's Services (ACS)
2 Washington St., 20th fl., NYC 10004 (212) 487-8577
nyc.gov/html/acs/html/advocacy/office_advocacy.shtml

Office of Advocacy Collect Hotline: (212) 619-1309
Inmate Collect Call Hotline **for visits only**:
(212) 487-9698

NYS Office of Children and Family Services (OCFS)
www.ocfs.state.ny.us

New York City: 80 Maiden Lane, 24th Fl. NY,
NY 10038, (212) 383-1811

Albany: Capital View Office Park, 52 Washington St.
Rm. 261W Rensselaer, NY 12144, (518) 473-7793

Buffalo: Ellicott Square Bldg., 295 Main St.,
Rm. 545 Buffalo, NY 14203, (716) 847-3742

Rochester: 259 Monroe Avenue, Rm. 307
Rochester, NY 14607, (585) 238-8289

Syracuse: The Atrium, 100 S. Salina St., Ste.
350 Syracuse, NY 13202, (315) 423-1200

Spring Valley: 11 Perlman Drive, Spring
Valley, NY 10977, (845) 708-2498

Legal Information for Families Today (LIFT)
350 Broadway, 12th fl. NY, NY 10013
Free Hotline: (212) 343-1122 www.liftonline.org
Call to order LIFT's **Family Law Resource Guide**

Center for Family Representation (CFR)
116 John Street, 19th fl., New York, NY 10038
(212) 691-0950 www.cfrny.org

Brooklyn Family Defense Project
177 Livingston Street, 7th fl., Brooklyn, NY 11201
(212) 613-5000 www.legalservicesnyc.org

The Bronx Defenders, Family Defense Project
860 Courtlandt Avenue, Bronx, NY 10451
(718) 838-7878 www.bronxdefenders.org

Osborne Association, Family Resource Center
175 Remsen Street, 8th fl., Brooklyn, NY 11201
Collect call line: (800) 344-3314 www.osborneny.org

Women's Prison Association, WPA Law Project
110 2nd Avenue, New York, NY 10003
(646) 336-6100 www.wpaonline.org

Child Welfare Organizing Project (CWOP)
80 East 110th Street, #1E, New York, NY 10029
(212) 348-3000 www.cwop.org

Call to order CWOP's **Survival Guide to the NYC Child Welfare System: A Workbook by Parents for Parents**