

Do you have a child in foster care? If yes, read this!

In June 2010, Governor Paterson signed a new law, Chapter 113, which amended New York's Social Service Law, sections 384-b and 409-e. These sections are part of what is commonly known as the Adoption and Safe Families Act (ASFA).

What changes are in the new law?

- **IF YOU ARE IN PRISON OR IN A RESIDENTIAL DRUG TREATMENT PROGRAM, foster care agencies do not have to file termination of parental rights papers (TPR) even if your child has been in foster care for 15 of the last 22 months.** They also do not have to file a TPR if you **were** in prison or a residential drug treatment program in the past and it was a "significant factor" in why your child has been in foster care for 15 months. The foster care agency can decide not to file a TPR only if there is no documented reason why it would be appropriate to file one.
- **The new law DOES NOT PREVENT an agency from filing to terminate your rights.** It just gives the agency more flexibility to consider the special circumstances facing you when determining if they must file a TPR. The new law allows the agency more time to work with you, evaluate your relationship with your child, and assess if you can keep your parental rights.
- **It is still critical for you to plan for your child and meet all your parental responsibilities,** including working with your caseworker, and staying in contact with your child (unless the court finds that it is not in the best interests of your child) to give yourself a chance to reunite with your child, if this is your plan. Ask your caseworker about your responsibilities and read about them in the attached information.
- In order to protect your parental rights, your caseworker must demonstrate that you **play a "meaningful role" in your child's life.** You can help by showing your caseworker the efforts you've been making to:
 - Stay in touch with your child, including letters, phone calls, and visits.
 - Plan for your child, including finding your child a non-foster care home while you're in prison or residential drug treatment program.
 - Work with your caseworker and other people providing services to you.

How does the new law affect me?

- **Your responsibilities haven't changed, but you do have new rights.** Your foster care caseworker is now required to tell you what your rights and responsibilities are.
- Read the attachments which explain all of your rights and responsibilities.

What does this law require foster care agencies to do?

- Inform you about your legal **RIGHTS & RESPONSIBILITIES** as a parent with a child in foster care.
- Tell you about **FAMILY VISITING SERVICES** while you're in prison or a residential drug treatment program and after you are released.
- Give you information about **REHABILITATIVE SERVICES** that can help you build a meaningful relationship with your child during and after incarceration, or residential drug treatment participation.
- Make sure your **FAMILY SERVICE PLAN** reflects and documents the special challenges facing you and your family because you are separated by prison or residential drug treatment program.
- Make every effort to include you in **CREATING & REVIEWING** your **FAMILY SERVICE PLAN**, including arranging for you to participate by video/teleconference if you can't be there in person.

What does this law require judges to do?

- Judges now have to take into consideration the **special challenges** facing parents in prison and residential treatment when deciding whether a parent has committed "**permanent neglect.**"
- Permanent neglect means that you have failed to maintain continuous contact with your child or to "plan for the future" of your child (which includes finding a non-foster care home) within a year or 15 of the last 22 months. It is one of the grounds that can lead to the termination of your parental rights.