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## **Reinstating Parental Rights for Youth in Care**

### **Reinstatement of Parental Rights.**

National Conference of State Legislatures.

2010

Every State has statutes providing for the termination of parental rights by a court. Termination of parental rights, which can be voluntary or involuntary, ends the legal parent-child relationship. Once parental rights have been terminated, the child is legally free to be placed for adoption. Approximately nine states have legislation in place that allows for the reinstatement of parental rights following termination of parental rights. If a permanent placement has not been achieved within a specific timeframe, a petition may be filed with the court requesting reinstatement of the parent's rights. If the court determines that the parent is now able to provide a safe home for the child, the request may be granted. The laws were developed in response to children who were aging out of the foster care system and re-establishing ties with parents and family members.

(Author abstract)

<http://www.ncsl.org/?tabid=21770>

### **Grounds for Involuntary Termination of Parental Rights**

*State Statutes Series*

Child Welfare Information Gateway

2010

Includes State statutes on termination as well as reinstatement of parental rights.

[http://www.childwelfare.gov/systemwide/laws\\_policies/statutes/groundtermin.cfm](http://www.childwelfare.gov/systemwide/laws_policies/statutes/groundtermin.cfm)

[http://www.childwelfare.gov/systemwide/laws\\_policies/statutes/groundtermin.pdf](http://www.childwelfare.gov/systemwide/laws_policies/statutes/groundtermin.pdf)

### **A Second Chance for Children and Families: A Model Statute to Reinstatement Parental Rights After Termination (article in *A Not So Happy Birthday: The Foster Youth Transition from Adolescence into Adulthood -- Special issue of Family Court Review*).**

O'Donnell, Randi J.

2010

*Family Court Review*

48 (2) p. 362-379



There are more than half a million children in foster care in the United States. Some of these children are adopted into loving families, but many are considered hard to adopt and never find a permanent family. Research suggests that the outlook for the teens who exit or age out of foster care without a permanent home or a meaningful adult relationship is bleak. They are more likely to face homelessness, joblessness, drug addiction, early pregnancy, mental health problems, and prison time. With such grim statistics, states should explore every possible permanent family resource for youth in foster care. This Note proposes that, in limited circumstances, it is in the best interest of the child to vacate a final order of termination and reinstate parental rights. It calls for states to adopt a model state statute based on the five state statutes currently in place that already allow for the reinstatement of parental rights. (Author abstract)  
<http://www.americanbar.org/content/dam/aba/migrated/child/PublicDocuments/randintote2010.authcheckdam.pdf>

### **Resurrecting Parents of Legal Orphans: Un-Terminating Parental Rights.**

Taylor, Lashanda.

2010

*Virginia Journal of Social Policy and the Law*

Recognizing the need for more uniform solutions to the problems created when a child loses legal rights to his or her biological parents without those rights being replaced through adoption, this article examines the efforts currently being made to address the increasing number of legal orphans created each year. After recounting both state and individual initiatives, this article proposes that states enact legislation providing for a temporary termination of parental rights order entered after a bifurcated hearing on the parent's fitness and the child's best interests. Section I provides a brief overview of the Adoption and Safe Families Act, a federal law enacted in 1997, and its possible impact on the creation of legal orphans. Section II presents an overview of current state efforts to provide a mechanism by which parental rights may be reinstated. Section III explores court responses to individual requests to recreate parent-child relationships after termination of parental rights. Section IV outlines arguments related to res judicata and equal protection that may be used by parents when the court denies standing. Finally, section V proposes a method of temporarily terminating parental rights which ensures that children do not exit the foster care system without legal parents. Further, this section discusses situations when the option may be most appropriate. (Author abstract)

[http://www.americanbar.org/content/dam/aba/migrated/child/PublicDocuments/resurrecting\\_parents.doc](http://www.americanbar.org/content/dam/aba/migrated/child/PublicDocuments/resurrecting_parents.doc)



**Substance using parents, foster care, and termination of parental rights: The importance of risk factors for legal outcomes.**

Meyer, Andrea S. McWey, Lenore M. McKendrick, Wachell. Henderson, Tammy L.  
2010

*Children and Youth Services Review*

32 (5) p. 639-649

Using mixed methods, we compared appellate court foster care cases where parents' rights were terminated to those in which decisions to terminate parental rights were reversed or remanded to better understand the experiences of parents struggling with alcohol and drug use. A content analysis of 60 cases was conducted; 30 cases in which parental rights were terminated, and 30 where decisions to terminate parental rights were overturned or remanded to the lower court. Parents whose rights were terminated were more likely to have mental health problems and experienced incarceration. In addition, when a composite score of risk factors was analyzed, parents whose rights were terminated had significantly more risk factors. For both groups, poverty was an equally common risk factor. Implications include universal assessments for alcohol and drug abuse for parents involved in the child welfare system and timely referrals to appropriate treatment. Further, collaboration between mental health providers, substance use treatment programs, and caseworkers to address the integration of potential risk factors may help promote successful outcomes for parents whose children are in foster care. (Author abstract)

**Reinstatement of Parental Rights: An Important Step Toward Solving the Problem of Legal Orphans.**

Carter, Melissa. Widner, Kirsten.

Georgia Office of the Child Advocate.

2009

Legal orphans are children whose ties to their birth families have been legally severed through termination of parental rights, but who have not yet been adopted.<sup>5</sup> For children who cannot be reunited with their parents, adoption is the preferred plan because it offers the greatest degree of legal permanence for the child within his new family. In order to free a child for adoption, the court must first terminate the legal rights of the child's biological parents. However, when courts act either without an identified adoptive family for the child or with an adoptive resource that had been identified but subsequently fails, the termination renders the child a legal orphan. The Proposed Model Code for Georgia (PMC), recently released by the State Bar of Georgia Young Lawyers Division Juvenile Law Committee, prescribes a remedy to the problem

of legal orphans worthy of thoughtful consideration by the child advocacy community, the public, and state legislators. If enacted, it would create a process by which children can seek to have their parents' legal rights restored following an involuntary termination of parental rights if certain conditions are met. This white paper explains the value of the PMC provision for reinstatement of parental rights by taking a closer look at how the problem of legal orphans plays out in Georgia, examining current Georgia law, and analyzing the relevant PMC provision and its projected impact. (Author abstract)

<http://childwelfare.net/activities/legislative2009/CarterWidnerReinstatingParentalRights.pdf>

**Permanence and Impermanence for Youth in Out-of-Home Care. (Chapter 5 in Achieving Permanence for Older Children and Youth in Foster Care.)**

Barth, Richard P. Chintapalli, Laura K.  
2009

Research findings regarding the reunification of youth with their birth families and reentry rates for youth who are reunified with their birth families are discussed. Placement instability and its role in youth impermanence is then considered, focusing on the use of congregate care for adolescents and on runaways. Finally, the challenges of impermanent permanence when reunifications are not successful and when termination of parental rights does not lead to adoption are explored. 1 table and 42 references.

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**Restoring Parental Rights: Giving Legal Orphans a Chance at a Family.**

*Copyright*

Schmidt, Cameryn. Dabney, Brenda.  
2007

*ABA Child Law Practice*

25 (11) Creating legal orphans is a decades-old problem. Recently, legal advocates and judges working with abused and neglected children in California's child welfare system got creative to solve it. The result was groundbreaking legislation that allows California's juvenile courts to reinstate parental rights when in a child's best interest. Advocates and policymakers nationwide might consider modeling similar efforts on California's work so that more children have the option of exiting legal orphanhood. (Author abstract)

[http://www.americanbar.org/content/dam/aba/migrated/child/PublicDocuments/restoring\\_parental\\_rights.authcheckdam.pdf](http://www.americanbar.org/content/dam/aba/migrated/child/PublicDocuments/restoring_parental_rights.authcheckdam.pdf)

**After TPR: Birth Parents as Family Resources.**

Casey Family Services. Annie E. Casey Foundation.  
2007

*Connections Count*

2 2 html pages

This fact sheet discusses the benefits of birth family reconnections with foster youth and the reunification of older adolescents with their birth parents, despite the termination of parental rights (TPR). It lists issues that need to be considered in assessing the likelihood of reunification, and then describes how legal relationships between youth and parents whose right have been terminated can best be re-established. Options discussed include legal guardianship with the parent, adoption by the parent, and reversal of the TPR.

<http://www.caseyfamilyservices.org/index.php/connectionscount/article1/205>

**Permanence Can Mean Going Home.**

Riggs, Diane.

North American Council on Adoptable Children.

2006

*Adoptalk*

The bond between parents and children, even in families where abuse and neglect occurs, can be quite strong. Children who enter foster care after spending years with their birth family never forget their family of origin, and some never lose the primal desire to return home. For teens in foster care who lack other permanency resources, connections with birth family members, including those whose rights were legally severed, can be a link to meaningful permanence. This article describes when placing a youth back with birth parents can work, how to support birth parent placements, and methods of post-termination of parental rights (TPR) placement. (Author abstract modified)

<http://www.nacac.org/adoptalk/permanence.html>