

Children of Incarcerated Parents Series

MYTH: Child welfare agencies do not need to plan family reunification for children in foster care if they have incarcerated parents.

FACT: Child welfare agencies should make efforts to involve parents in planning for children in foster care, even if the parents are incarcerated.

Child welfare agencies are required to engage parents, including absent, noncustodial or incarcerated parents, in case planning for their children in foster care whenever possible and appropriate. Incarceration alone should not be considered an obstacle that changes the child welfare agency's efforts:

- to work with the child's parents through caseworker visits or contacts with the parent;
- to identify relatives who may be able to serve as a resource for the child;
- to encourage, where appropriate, parent visitation or contacts with the child;
- to work to preserve the parent-child relationship; and
- to involve the parent in case planning for the child.

Reunification between incarcerated parents and their children in foster care is not always feasible, but social workers can and should plan for reunification when possible. While federal child welfare law requires child welfare agencies to initiate Termination of Parental Rights (TPR) if a child is in foster care for 15 out of the most recent 22 months, the law provides exceptions to this mandatory TPR rule at the option of the state in the following circumstances:

- The child is being cared for by a relative.
- The state agency has documented in the case plan a compelling reason that filing such a petition would not be in the best interests of the child.

- The state has not provided to the child's family the required services necessary for the safe return of the child to the home.

These exceptions give child welfare agencies flexibility to work within the TPR requirements and work towards unifying incarcerated parents with their children after release.

For More Information:

When a Parent is Incarcerated Guide:

<https://cbexpress.acf.hhs.gov/index.cfm?event=website.viewArticles&issueid=133§ionid=5&articleid=3443>

A Toolkit for Working with Children of Incarcerated Parents:

<https://cbexpress.acf.hhs.gov/index.cfm?event=website.viewArticles&issueid=115§ionid=17&articleid=2856>

The Adoption and Safe Families Act: Barriers to Reunification between Children and Incarcerated Mothers:

<https://cbexpress.acf.hhs.gov/index.cfm?event=website.viewArticles&issueid=139&articleID=3641&keywords=parental%20rights>

Child Welfare State Policies:

http://www.childwelfare.gov/systemwide/laws_policies/state/

What is the Reentry Myth Buster/Children of Incarcerated Parents Series?

This Reentry Myth Buster is one in a series of fact sheets intended to clarify federal policies that affect formerly incarcerated individuals and their families. On any given day, nearly two million children under 18 have a parent in prison – and many more have had an incarcerated parent at some point during their childhood. Children of incarcerated parents often face financial instability, changes in family structure, and social stigma from their community. This series is designed to help these children, their caregivers, and the service providers who work with them.