

The IMPACT

**of the Adoption and Safe
Families Act on Children of
Incarcerated Parents**

Critical Issues

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Child Welfare League of America

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Child Welfare League of America • Washington, DC

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I

INTRODUCTION

On November 9, 1997, President Clinton signed the Adoption and Safe Families Act of 1997 (ASFA) to improve the safety of children, to promote adoption and other permanent homes for children, and to support families. The changes in ASFA are important to ensure the safety of children and increase their likelihood of placement in permanent homes. The change that requires close examination is the timeline for initiating termination of parental rights (TPR) proceedings. Under ASFA, TPR proceedings must be brought if:

- the child has been in foster care for 15 of the most recent 22 months, or
- the court has determined that the child is “an abandoned infant.”

Exceptions can be made to these requirements if a child is being cared for by a relative, the state agency documents a compelling reason why filing is not in the best interest of the child, or the state agency has not provided the child’s family with the services deemed necessary to return the child to a safe home.

Many people have questioned whether these changes, if applied in their strictest terms, have had a detrimental effect on children of prisoners, because a large percentage of incarcerated parents are sentenced to longer than two years in prison. This book examines the potential effect of ASFA’s TPR requirements on children of prisoners. It considers four questions:

- At what rate are children of incarcerated parents becoming the subjects of TPR hearings?
- Are these hearings triggered by the timelines delineated in ASFA?

- Has there been an increase in the rate of TPR for children of prisoners since ASFA's inception?
- Are children of prisoners becoming the subjects of TPR at a higher rate than other children in foster care, despite the potential for reunification, as an unintended consequence of ASFA?

To answer these questions, the Child Welfare League of America's (CWLAs) Federal Resource Center for Children of Prisoners, the American Bar Association's (ABA's) Center on Children and the Law, and Columbia University's School of Law joined forces to examine available information. Data collection involved gathering information about both state laws regarding TPR and the frequency of TPR of incarcerated parents, and conducting a case review of sample cases.

The United States has more incarcerated citizens than any other country in the world. At mid-year 2001, one in every 145 U.S. residents was incarcerated. Many of those prisoners are parents. Approximately 1,638,538 U.S. children currently have an incarcerated parent—a 57% increase since 1990 (Mumola, 2000). Thousands of other children have experienced the incarceration of a parent at some point in their lives.

As a result of parental incarceration—and the criminal behaviors that prompt it—thousands of children have endured traumatic and often lengthy separations from their parents. As jurisdictions across America mandate stiffer sentences and build and fill bigger prisons, growing recognition exists that a large population of children is being left behind. From 1990 through 2001, the number of female prisoners increased 114%, and by June 30, 2001, women accounted for 6.7% of all U.S. prisoners. On any given day, more than 100,000 women are being held in jails and prisons across the country, and 6% of these women entering prison are pregnant. Incarcerated women are often the sole caregivers of their children (Beck et al., 1992). It is important to note that:

- Approximately 767,919 incarcerated parents are sentenced to more than one year in prison.
- Approximately 4.5% of children in foster care are removed because of parental incarceration.

- Approximately 10% of the children of female prisoners and 2% of the children of male prisoners are in a foster home or institution. (Mumola, 2000)

Substance abuse is a critical issue involving both incarcerated mothers and children in foster care:

- In 1996, more than one-third of female offenders were serving time for drug-related offenses (Gilliard & Beck, 1998).
- In 1994, parental substance abuse accounted for 75% of all children entering foster care (U.S. General Accounting Office, 1994).
- In 1999, 85% of states named substance abuse as one of the top two problems (the other was poverty) challenging families reported to child protection services agencies (CWLA, 2001).

This book examines the intersection of parental incarceration and ASFA. It also identifies the emergence of substance abuse as a clear third significant element in how our policies affect children of prisoners.

ASFA was the first major legislation addressing the issues of permanence since the Adoption Assistance and Child Welfare Act (P.L. 96-272) in 1980. P.L. 96-272 was the first law to focus attention on the large numbers of children in out-of-home care and the importance of stability, continuity, and family connectedness to a child's healthy growth and development. To assist the states in achieving more timely permanence for children, P.L. 96-272 introduced new requirements for judicial oversight and clear timelines for decisionmaking in child welfare cases.

Between 1979 and 1985, the number of children in out-of-home care significantly decreased from about 500,000 to 270,000 (U.S. House of Representatives, 2004). Due to family stressors such as HIV/AIDS, drug addiction, poverty, and violence, however, the number of children in out-of-home placements increased by 74% between 1986 and 1995 (U.S. House of Representatives, 2004). The system struggled to provide the level of service each case needed to be successfully resolved. Large caseloads created an erosion in the capacity of child welfare agencies to achieve permanence for children in foster care.

The incarceration of women has important implications for child welfare agencies because most female inmates are mothers of minor children, and many are single parents. The question has been raised

many times, and is supported by anecdotal evidence, although some have contended that incarcerated mothers have historically been neglected by the child welfare system:

The ideology of family reunification...never has been applied with enthusiasm to prisoner mothers. This is in part due to the distance foster care workers must travel to provide visits for children with mothers in prison, and caseworkers' unfamiliarity with prison regulations, resources, programming and staff. It is also due in large part to a widespread bias against reuniting children with a mother in prison...ASFA has exacerbated the plight of women prisoners and their children. (Smith, 2000)

It is important to note that another possible explanation for the lack of services is related to the lack of potential for reunification due to the parents' history of neglect or abuse of the child.

In December 2001, the ABA's Center on Children and the Law published an article in its *Child Law Practice* examining some of the early ASFA cases focusing on incarcerated parents and providing practice tips for judges and lawyers who represent parents, children, and the child welfare agency in abuse and neglect cases. The article discussed several topics, including the right of the parent to participate in hearings, reasonable efforts, the decision to not provide a parent with reasonable efforts toward reunification, and TPR. The case law and practice tips all point to the need for courts, attorneys, and other child welfare practitioners to seek a balance between protecting the incarcerated parent's rights and ensuring that agencies meet ASFA's permanency timelines and goals (including reunification, adoption and guardianship, or placement with kin) for the child (Laver, 2001).

The importance of maintaining family relationships while parents are incarcerated and the difficulties of doing so have been documented in numerous articles and studies (see, e.g., Genty, 2003, and sources cited therein). Despite all of the research that practitioners have done on these issues, public policy aimed at preserving family relationships during and after incarceration is still severely lacking.

One reason for this is the absence of meaningful coordination between criminal justice and child welfare agencies. These two systems

see their missions as distinct—criminal justice policymakers are concerned with sentencing and punishment, whereas child welfare officials are concerned with safety and permanence for children. In addition, as sentences become longer, permissible foster care time frames become shorter. The two systems make decisions that, with respect to family relationships, may conflict.

It is, therefore, essential that the criminal justice and child welfare systems work together to develop coordinated policies for incarcerated parents and their families. It is impossible to do this, however, without reliable data. The importance of determining what portion of the child welfare caseload involves parental incarceration seems obvious, but state agencies do not track this information. The assessment of the needs of the children of incarcerated parents (as well as children whose parents were previously incarcerated), and the development of sound policies to address these needs, require that agencies develop ways of collecting these data.

As a result of the questions raised and the lack of empirical evidence, the Vera Institute conducted one of the first large-scale studies of this issue, examining cases in New York City involving incarcerated women and children in foster care. Ehrensaft, Khashu, Ross, and Wamsley (2003) found that:

most of the incarcerations occurred in the year after the child's placement, a pattern similar to that found for arrests leading to incarceration...The timing of arrest, conviction and placement suggests that children are removed in the midst of a downward spiral in the mother's life that continues after the removal. (p. 2)

Although Ehrensaft et al.'s (2003) work identified the link between foster care placement and maternal substance abuse preceding incarceration, however it did not reach the question of how parental rights are ultimately affected. This book will begin to address these unanswered questions.

QUESTIONS PRESENTED

- At what rate are children of incarcerated parents becoming the subjects of TPR hearings? Are these hearings triggered by the timelines delineated in ASFA?

- Has there been an increase in the rate of TPR for children of prisoners since the inception of ASFA?
- Are children of prisoners becoming the subjects of TPR at a higher rate than other children in foster care, despite the potential for reunification, as an unintended consequence of ASFA?

To answer these questions, the CWLA's Federal Resource Center for Children of Prisoners, the ABA's Center on Children and the Law, and Columbia University's School of Law joined forces to examine available information. Data collection involved:

1. Gathering information about both state laws regarding TPR and the frequency of TPR of incarcerated parents by conducting a comprehensive, state-by-state review of the relevant statutes and case law; developing a survey instrument; mailing the survey to a representative sample of selected courts, public defenders, and child welfare agencies; and conducting follow-ups by e-mail and phone.
2. Conducting a case review of sample cases by selecting two courts for a case record review, engaging reviewers and training them to ensure interrater reliability, conducting and thoroughly documenting reviews, and compiling and analyzing results.

The researchers' theory was that by identifying several different but related data points, they could begin to construct a picture of how children of incarcerated parents are affected by the changes in child welfare laws. What emerged was a picture of how children are affected by the intersection of three different trends: shorter timelines under ASFA, extended sentencing timelines, and the increase in the number of parents incarcerated for drug-related criminal offenses. The results of this data collection effort are detailed in the following chapters.

LIMITATIONS

The findings presented in this book need to be considered in light of the limitations associated with this study. The limitations are primarily based on the sampling frame and the availability of case information that is both reported and within the files. Most state trial court cases

and some intermediate appellate cases are not reported and do not show up in a search. A second, related limitation is that the cases obtained through such a search depend on each state's reporting procedures, which vary considerably. Specifically, the limitations include the following:

- The researchers drew a case file review sample of incarcerated parents from two counties, which may not be representative of incarcerated parents across the nation. Both counties were located on the East Coast, and the size of the court varied.
- The sample does not offer a proportionately representative sampling. This limits its generalizability.
- The researchers selected cases from 1997 to represent trends occurring prior to ASFA's implementation and cases from 2002 to represent ASFA's effects. Due to the relatively small number of 2002 cases available, however, one must interpret these comparisons carefully.
- Another limitation of this study is the limited sample. The original sample identified for the survey was representative of judges, attorneys, and child welfare agency representatives in the child welfare community. Due to the low number of respondents, the opinions found may not represent all judges, attorneys, and child welfare agency representatives.

To address the issues raised by the limitations, the researchers designed the study to rely on several different but related data points to create a framework for addressing the questions.

FINDINGS

ASFA was enacted in 1997, and all states enacted conforming legislation in the following years. At present, 36 states have TPR statutes that deal explicitly with parental incarceration. Of these, 25 have statutes that are primarily time driven, such as permitting rights to be terminated based on the length of incarceration.

In reviewing reported TPR cases, the significant overall increase in the number of termination cases involving incarcerated parents that were filed from 1997 to 2002 suggests that ASFA has had an important

effect. The results from the surveys of judges, attorneys, and child welfare representatives were:

- judges, attorneys, and to some extent, child welfare agency representatives believe that ASFA affects children of incarcerated parents differently than other children;
- most child welfare agency representatives feel that incarceration does not affect the likelihood of TPR or change the manner in which the agency handles children since ASFA was enacted;
- a high percentage of judges believe that parental rights are more likely to be terminated as a result of incarceration of parents in child abuse and neglect cases compared with those who are not incarcerated;
- judges believe incarceration expedites TPRs in cases of children of incarcerated parents, whereas child welfare agency representatives feel timeliness is not affected; and
- disagreement exists among judges and attorneys with regard to whether incarceration may be grounds for TPR, with a high percentage of attorneys responding positively to this but only a very small number of judges agreeing.

The results obtained in the case file reviews highlight the following:

- TPR was granted in 81.5% of the cases involving parents incarcerated due to drug-related offenses.
- The most common reason for incarceration was a drug-related charge.
- TPR was granted in 92.9% of the cases in which the mother was incarcerated.
- TPR was granted for 91.4% of the incarcerated fathers.
- When both parents were incarcerated, TPR was granted in 100% of the cases.
- The parental rights were terminated in 94.4% of the cases with custodial parents and 100% of the cases with noncustodial parents.

Given the information in this book, it is urgent to develop improved programs, policies, and practices for children of incarcerated parents. The field should pay particular attention to the need for family-based and community-based substance abuse treatment programs, the lack of which appears to influence the frequency of TPR in cases involving incarcerated parents and their children. Another recommendation is the basic application of the principles and elements of good child welfare practice to the children and families affected by parental incarceration.

In addition, although this book provides a great deal of new and useful information, its answers and analyses are incomplete. Therefore, this work provides structure and direction for future research, most particularly examining the intersection of ASFA, mandated sentencing policies for drug-related crimes, and the lack of available community-based substance abuse treatment programs.

An important next step in the study of ASFA's influence on children of incarcerated parents is replicating these findings. The current study generates several questions that researchers could use to expand the current research agenda on children of incarcerated parents. A few possible research questions are:

- What is the relationship between the lack of community-based substance abuse treatment programs, drug sentencing policies, and ASFA?
- Is the lack of available treatment and enhanced sentences resulting in higher rates of TPR for parents incarcerated for drug-related offenses?
- Does ASFA affect the rate of TPR and adoption for children of incarcerated parents in more recent case filings (i.e., 2004)?

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2

ANALYSIS OF STATE TPR STATUTES RELATING TO PARENTAL INCARCERATION

ASFA was enacted in 1997, and all states enacted conforming legislation in the following years. As of 2005, 36 states have TPR statutes that deal explicitly with parental incarceration.¹ Of these, 25 have statutes that are primarily time driven, that is, that permit rights to be terminated based on the length of incarceration.² Twelve of these states have parental incarceration statutes with specific time frames (see Table I).

Table I
States with Specific Time Frames

State	Description of Termination Grounds
Colorado	“Long-term confinement of the parent of such duration that the parent is not eligible for parole for at least six years after the date the child was adjudicated dependent or neglected or...if the child is under six years of age at the time a petition is filed...the long-term confinement of the parent of such duration that the parent is not eligible for parole for at least thirty-six months after the date the child was adjudicated dependent or neglected.”

¹ The states are: Alabama, Alaska, Arizona, Arkansas, California, Colorado, Delaware, Florida, Georgia, Idaho, Illinois, Iowa, Kansas, Kentucky, Louisiana, Massachusetts, Michigan, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Mexico, New York, North Dakota, Ohio, Oklahoma, Oregon, Rhode Island, South Dakota, Tennessee, Texas, Utah, Vermont, Wyoming.

² Some of these states provide other incarceration-related grounds for termination as well. For example, Delaware, Illinois, Louisiana, and Ohio provide for termination on the grounds of repeated incarceration, as well as for incarceration for a specified minimum time period.

Table I continued

State	Description of Termination Grounds
Illinois	“The parent had little or no contact with the child or provided little or no support for the child, and the parent’s incarceration will prevent the parent from discharging his or her parental responsibilities for the child for a period in excess of 2 years after the filing of the petition or motion for termination of parental rights”; statute also provides for termination on the basis of repeated incarceration, murder conviction, or three felony convictions.
Iowa	The parent has been imprisoned and it is unlikely that the parent will be released from prison for a period of five or more years.
Kentucky	Aggravated circumstance excusing reasonable reunification efforts where “the parent is incarcerated and will be unavailable to care for the child for a period of at least one (1) year from the date of the child’s entry into foster care.”
Louisiana	“The parent has been convicted and sentenced to a period of incarceration of such duration that the parent will not be able to care for the child for an extended period of time, considering the child’s age and his need for a safe, stable, and permanent home...A sentence of at least five years of imprisonment raises a presumption of the parent’s inability to care for the child for an extended period of time.” Statute also provides for termination on basis of repeated incarceration.
Michigan	“The parent is imprisoned for such a period that the child will be deprived of a normal home for a period exceeding 2 years”; statute also provides for termination based on convictions for murder, rape, or repeated violent felonies.

Table I continued

State	Description of Termination Grounds
Montana	“Present judicially ordered long-term confinement” is a ground for termination of parental rights, and a treatment plan is not required where “the parent is or will be incarcerated for more than 1 year and reunification of the child with the parent is not in the best interests of the child because of the child’s circumstances, including placement options, age, and developmental, cognitive, and psychological needs.”
North Dakota	Aggravated circumstance excusing reasonable reunification efforts, where the parent “has been incarcerated under a sentence for which the latest release date is: (1) In the case of a child age nine or older, after the child’s majority; or (2) In the case of a child, after the child is twice the child’s current age, measured in days.”
Ohio	Incarcerated parent “will not be available to care for the child for at least eighteen months after the filing of the motion for permanent custody or the dispositional hearing”; statute also permits termination on basis of repeated incarceration.
Tennessee	“The parent has been confined in a correctional or detention facility of any type, by order of the court as a result of a criminal act, under a sentence of ten (10) or more years, and the child is under eight (8) years of age at the time the sentence is entered by the court.”
Texas	“Confinement or imprisonment and inability to care for the child for not less than two years from the date of filing the petition.”
Utah	“Sentence is of such length that the child will be deprived of a normal home for more than one year”; statute also permits termination if circumstances of crime show parental unfitness.

Note: Appendix A includes the references for quotations in this table.

Table 2
States Without Definite Time Frames

State	Description of Termination Grounds
Alaska	Termination grounds where “the period of incarceration that the parent is scheduled to serve during the child's minority is significant considering the child's age and the child's need for an adult's care and supervision,” and reasonable reunification efforts may be excused if this ground exists.
Arizona	“The sentence of that parent is of such length that the child will be deprived of a normal home for a period of years” ; statute also provides for termination on basis of nature of conviction.
Arkansas	“The parent is sentenced in a criminal proceeding for a period of time that would constitute a substantial period of the juvenile's life.”
Delaware	The parent “is incapable of discharging parental responsibilities due to extended or repeated incarceration.”
Florida	“The period of time for which the parent is expected to be incarcerated will constitute a substantial portion of the period of time before the child will attain the age of 18 years.”
Idaho	The parent is “incarcerated and has no possibility of parole.”
Massachusetts	“A felony that the court finds is of such a nature that the child will be deprived of a stable home for a period of years.”
Mississippi	Substantial erosion of the relationship between the parent and child which was caused at least in part by the parent's...prolonged imprisonment.”
Missouri	“The conviction of the parent of a felony offense that the court finds is of such a nature that the child will be deprived of a stable home for a period of years.”

Note: Appendix A includes the references for quotations in this table.

Thirteen of these states' statutes are generally worded, that is, they are not framed in terms of definite time periods (see Table 2).

Of the other 10 states with termination statutes dealing with parental incarceration, three states simply include a felony conviction and imprisonment as a factor in a termination proceeding,³ three provide for termination based on the nature of the conviction,⁴ three permit termination based on the qualitative effect of the parent's incarceration on the parent-child relationship,⁵ and one provides for reunification services to incarcerated parents but does not include incarceration as grounds for termination.⁶

A few states have language that recognizes the special needs of families of incarcerated parents and ameliorates the harshness of the termination provisions. Some states explicitly provide that incarceration, by itself, cannot be grounds for termination.⁷ Colorado, Nebraska, and New Mexico provide for added flexibility in cases involving incarcerated parents.⁸ California and New York require the provision of reunification

³ Alabama, Kansas, Wyoming.

⁴ California ("facts of the crime...are of such a nature so as to prove the unfitness of the parent or parents to have the future custody and control of the child"), Nevada ("facts of the crime are of such a nature as to indicate the unfitness of the parent to provide adequate care and control to the extent necessary for the child's physical, mental or emotional health and development"), and Vermont ("crime of violence...facts of [which]...indicate unfit[ness] to maintain a relationship of parent and child with the minor").

⁵ Georgia ("conviction of the parent of a felony and imprisonment therefore which has a demonstrable negative effect on the quality of the parent-child relationship"), Oklahoma ("the continuation of parental rights would result in harm to the child based on consideration of the following factors, among others: the duration of incarceration and its detrimental effect on the parent/child relationship; any previous incarcerations; any history of criminal behavior, including crimes against children; the age of the child; the evidence of abuse or neglect of the child or siblings of the child by the parent; and the current relationship between the parent and the child and the manner in which the parent has exercised parental rights and duties in the past") and Oregon ("criminal conduct that impairs the parent's ability to provide adequate care for the child").

⁶ New York.

⁷ Louisiana, Massachusetts, Missouri, New Hampshire, Oklahoma.

⁸ Colorado: The general rule requiring termination proceedings to be brought after child has been in care for 15 months does not apply if "the child has been in foster care under the responsibility of the county department for such period of time due to circumstances beyond the control of the parent such as incarceration of the parent for a reasonable period of time"; Nebraska: "A petition shall not be filed on behalf of the state to terminate the parental rights of the juvenile's parents or, if such a petition has been filed by another party, the state shall not join as a party to the petition if the sole factual basis for the petition is that...(b) the parent or parents of the juvenile are incarcerated"; New Mexico: "The department shall not file a motion, and shall not join a motion filed by another party, to terminate parental rights when the sole factual basis for the motion is that a child's parent is incarcerated."

efforts specifically designed to address the particular needs of incarcerated parents and their families.⁹ ASFA has had a significant effect on the statutory termination provisions relating to parental incarceration. Since the enactment of ASFA in 1997, 17 states have modified their statutes (see Table 3).

In addition, ASFA requires every state to include as grounds for TPR a conviction of the parent for specifically enumerated crimes in which the child or another child of the parent is the victim. Because these statutory provisions are virtually identical in every state, they are not included in the tables or otherwise discussed in this report. Appendix A summarizes and reproduces the relevant portions of the statutes.

⁹ California: "Services may include, but shall not be limited to, all of the following: (A) Maintaining contact between the parent and child through collect telephone calls. (B) Transportation services, where appropriate. (C) Visitation services, where appropriate. (D) Reasonable services to extended family members or foster parents providing care for the child if the services are not detrimental to the child. An incarcerated parent may be required to attend counseling, parenting classes, or vocational training programs as part of the service plan if these programs are available...The presiding judge of the juvenile court of each county may convene representatives of the county welfare department, the sheriff's department, and other appropriate entities for the purpose of developing and entering into protocols for ensuring the notification, transportation, and presence of an incarcerated or institutionalized parent at all court hearings involving proceedings affecting the child." New York: "Diligent efforts' shall mean reasonable attempts by an authorized agency to assist, develop and encourage a meaningful relationship between the parent and child, including but not limited to:...(5) making suitable arrangements with a correctional facility and other appropriate persons for an incarcerated parent to visit the child within the correctional facility, if such visiting is in the best interests of the child. When no visitation between child and incarcerated parent has been arranged for or permitted by the authorized agency because such visitation is determined not to be in the best interest of the child, then no permanent neglect proceeding under this subdivision shall be initiated on the basis of the lack of such visitation. Such arrangements shall include, but shall not be limited to, the transportation of the child to the correctional facility, and providing or suggesting social or rehabilitative services to resolve or correct the problems other than incarceration itself which impair the incarcerated parent's ability to maintain contact with the child. When the parent is incarcerated in a correctional facility located outside the state, the provisions of this subparagraph shall be construed to require that an authorized agency make such arrangements with the correctional facility only if reasonably feasible and permissible in accordance with the laws and regulations applicable to such facility."

Table 3
States That Have Modified Their Statutes Since the Adoption
and Safe Families Act

State	Modification
Alaska	Added provision excusing reasonable reunification efforts on basis of long-term incarceration.
Arkansas	Eliminated threshold requirement that parent be serving sentence of at least 15 years and substituted more general provision that parent be sentenced for “period of time that would constitute a substantial period of the juvenile's life.”
Colorado	Added provision exempting parental incarceration for reasonable period of time from general requirement that termination proceeding be brought after child has been in care for 15 months.
Florida	Added incarceration ground.
Illinois	Added provisions permitting termination on basis of incarceration in excess of two years or repeated incarceration.
Kentucky	Added provision excusing reasonable reunification efforts on basis of incarceration.
Louisiana	Added repeated incarceration as a type of “parental misconduct” that can serve as the basis for a termination proceeding; created presumption that parent's sentence of at least five years renders parent unable to care for the child for an extended period of time, which establishes basis for termination.
Michigan	Added repeated violent felonies as grounds for termination.
Missouri	Added incarceration grounds.

Table 3 continued

State	Modification
Nebraska	Added provision precluding filing of termination petition if sole basis is incarceration of parent.
Nevada	Added provision excusing reasonable reunification efforts if parent is convicted of murder or voluntary manslaughter.
New Mexico	Added provision precluding filing of termination petition if sole basis is incarceration of parent.
North Dakota	Added provision excusing reasonable reunification efforts on basis of incarceration.
Oklahoma	Eliminated requirement of 10-year minimum sentence before termination proceeding could be brought on basis of incarceration.
Oregon	Added provision permitting termination on basis of "criminal conduct that impairs the parent's ability to provide adequate care for the child or ward."
South Dakota	Added provision excusing reasonable reunification efforts on basis of incarceration.
Texas	Added incarceration ground.

Note: Appendix A includes the references for quotations in this table.

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SURVEY OF NATIONAL CASES FROM 1992 THROUGH 2002

To try to measure ASFA's effect on incarcerated parents, the researchers ran a Lexis search to yield TPR proceedings involving incarcerated parents. The search yielded approximately 2,900 cases for the years 1992 through 2002—the five years preceding enactment of ASFA, the year of enactment, and the five years following enactment. The researchers reviewed these cases to eliminate those picked up by the search that did not fit the subject matter criteria (i.e., cases not involving termination proceedings, cases not involving parental incarceration, etc.). Of the relevant cases, they only reviewed the 394 sampled cases for 2002 in depth. The 2002 sample is described in more detail in the following.

Two important qualifications must be made. First, the search results are, at best, proxies for more precise case data. Apart from the imperfections inherent in any word search, most state court cases are not reported and do not show up in a search. A second, related limitation is that the cases obtained through such a search depend on each state's reporting procedures, which vary considerably. For example, although most states generally report only appellate cases, a large number of Connecticut trial-level cases are available on Lexis. Thus, although Connecticut initially appeared to have a disproportionate number of cases, the review of the cases revealed that this was due to the large number of trial-level cases in the sample. An additional variation is that Lexis provides unpublished decisions for some states but not others; that is why a large number of Ohio cases are in the sample.¹⁰ Because

¹⁰ California presented a particular challenge. Although an early run of the search yielded 23 California cases for 2002, later runs yielded more than 400. An examination of these cases revealed that Lexis has recently made available unpublished California cases for 2001 and later years, and this change accounted for the apparent dramatic increase in California cases between 2000 and 2002 (from 16 to 403). Unpublished decisions for the earlier years are not available for comparison with the later cases. For that reason, this report uses the original, lower numbers for 2001 and 2002.

of these differences, the data obtained cannot be broken down meaningfully by state, and this report only uses aggregate nationwide data.

RESULTS

Table 4 illustrates the breakdown of TPR proceedings involving incarcerated parents for 1992 through 2002.

Table 4
Termination of Parental Rights Proceedings

Year	Number of Cases	Percentage Change from Prior Year
1992	113	—
1993	100	-12
1994	116	16
1995	114	-2
1996	142	25
1997	189	33
1998	265	40
1999	280	6
2000	347	24
2001	407	17
2002	394	-3

Note: Cumulative percentage change from 1992 through 1997: 67%; cumulative percentage change from 1997 through 2002: 108%.

Analysis of 2002 Cases

The 2002 cases involved many variations of parental incarceration (see Table 5).

ASFA's effect was apparent in many cases. Although ASFA was explicitly mentioned in only eight cases, the ASFA timelines were cited

Table 5
2002 Cases

Case	
Mother currently incarcerated	50 ^a
Mother incarcerated in past	62 ^b
Mother awaiting trial	2
Mother in Alternative to Incarceration program	1
Father currently incarcerated	146 ^c
Father incarcerated in past	63 ^d
Father awaiting trial	1
Father in Alternative to Incarceration program	1
Father in mental hospital	1
Both parents currently incarcerated	14
Both parents previously incarcerated	16
Both parents awaiting trial	1
Father currently/mother previously incarcerated	9
Mother currently/father previously incarcerated	3
Details of parental incarceration unclear from case	24

^a In two of these cases, the mother was due to be released within a very short period of time. In one additional case, the mother was in and out of prison during the pendency of the hearing.

^b In three of these cases, the mother was released during the pendency of the termination hearing or shortly after the hearing.

^c In four of these cases, the father was due to be released within a short period of time. In one additional case, the father was in and out of prison during the pendency of the hearing.

^d In eight of these cases, the father was released during the pendency of the termination hearing or shortly after the hearing. In one additional case, the proceeding was adjourned specifically for the purpose of waiting for the father's release.

in many other cases. ASFA provides that a permanency decision must generally be made within 12 months of the date the child entered foster care (42 U.S.C. §675[5][c]). In addition, ASFA also sets a general limit on the duration of foster care placements by requiring, with limited exceptions, that petitions to terminate parental rights be filed whenever a child has been in foster care for 15 of the past 22 months (42 U.S.C. §675[5][E]).¹¹ These time frames were expressly applied in 45 of the sampled cases, although ASFA itself was not mentioned.

The effect of ASFA's push for early permanence for children was also apparent in the 32 cases in the sample in which termination proceedings were brought because the parent would be incarcerated for an extended period of time or because the parent had been repeatedly incarcerated.¹² Nineteen of these 32 cases occurred in the states whose ASFA enactments had added long-term or repeated incarceration as a grounds for termination, or which had tightened previously existing time frames for incarcerated parents.¹³

Thus, ASFA had a clear effect in approximately 18% of the cases in the 2002 sample (72 of 394).¹⁴ For the other cases, it is unclear what effect, if any, ASFA had. Many of these, such as cases involving serious child abuse or ongoing substance abuse problems, would probably have been brought prior to the enactment of ASFA. Nonetheless, the significant overall increase in the number of termination cases involving incarcerated parents that were filed from 1997 to 2002 suggests that ASFA has had an important effect. Appendix B shows the 2002 case chart.

¹¹ Many of the states, in their versions of ASFA, have set shorter time limits. For example, Iowa's time limit is 12 out of the past 18 months for older children and 6 out of 12 months for younger children.

¹² These 32 cases are in addition to the 45 cases described in the previous paragraph.

¹³ Arkansas (eliminated threshold requirement that parent be serving sentence of at least 15 years and substituted more general provision that parent be sentenced for "period of time that would constitute a substantial period of the juvenile's life"), Florida (added long-term incarceration ground: "Period of time for which the parent is expected to be incarcerated will constitute a substantial portion of [child's minority]"), Illinois (added provisions permitting termination on basis of incarceration in excess of two years or repeated incarceration), Louisiana (created presumption that parent's sentence of at least five years renders parent unable to care for the child for an extended period of time, which establishes basis for termination), and Texas (added long-term incarceration ground: "Confinement or imprisonment and inability to care for the child for not less than two years from the date of filing the petition"). (See Appendix A for references for these quotations.)

¹⁴ This includes the 8 cases in which ASFA was explicitly mentioned, the 45 cases in which the ASFA timelines were applied, and the 19 cases brought on the basis of long-term or repeated incarceration in states in which the state's version of ASFA had added or tightened these grounds.

4

STATEWIDE SURVEY: JUDGES, ATTORNEYS, AND CHILD WELFARE AGENCY REPRESENTATIVES

This chapter and the following are based on information gathered through nationwide surveys mailed to judges, attorneys, and child welfare agency representatives, as well as case file reviews. The survey data represent the current views of the child welfare community. The case file data provide comparisons between cases with an incarcerated parent and those without, as well as the length of time until TPR prior to and after the implementation of ASFA.

The ABA research staff developed the surveys and case file review instrument, and they reviewed and revised them based on comments from CWLA staff responsible for this project as well as Columbia University Law School Professor Philip Genty.

This section discusses the procedure for mailing the surveys to each group, the response rate, the procedures for case file reviews, and the analyses conducted; it also includes a summary and comparison of the results. The chapter also provides recommendations based on the findings.

SURVEY SAMPLE

The researchers obtained the lists of respondents from several sources: They obtained the list of judges from the National Council of Juvenile and Family Court Judges' (NCJFCJ's) database, and they obtained the lists for attorneys and welfare agency representatives from the National Adoption Information Clearinghouse and the National Association of Council for Children.

Analysis of Judges

On February 9, 2004, the researchers sent an initial mailing to a list of judges. The list contained names and contact information of 154 judges obtained from NCJFCJ. This first mailing generated 31 responses. A second mailing on March 12, 2004, generated an additional 22 responses. Overall, the researchers received 53 judges' surveys, for a response rate of 34.42%.

Most judges who responded identified themselves as general jurisdiction judges (18), family court judges (13), or juvenile court judges (13).

Cases devoted to child abuse and neglect as well as voluntary placement appear to make up little of these judges' total caseloads. Of those that responded, 56.5% indicated that these cases make up less than a fifth of their work. Cases in which the parents are incarcerated are even less prevalent, with the vast majority (89.1%) of judges indicating that these types of cases make up less than a fifth of their total caseload.

The sample of judges appears to be knowledgeable about ASFA. More specifically, 67.4% identified themselves as either "aware" or "fully aware" of ASFA, and 60.9% answered that they were either "familiar" or "very familiar" with the timeliness provisions of ASFA (see Figures 1 and 2). When asked to list the three things they considered most important about ASFA, most judges appeared to be guided by concerns about timeliness and permanence. Of the 53 judges, 24 mentioned timelines as one of the three most important things. They expressed that timelines are important in providing definite deadlines for certain actions to take place and help move cases along. Twenty of the judges mentioned permanence as an important part of ASFA. The general consensus was that ASFA has allowed for faster permanence and encouraged permanency planning. Other notable aspects of ASFA that the judges identified as important were attention given to the child's safety, reasonable efforts requirements, and judicial oversight throughout the process. When asked to identify the most important timeline, "12 months to permanence" and "TPR at 15 of the past 22 months" were most often mentioned.

Slightly more than 58% of judges responding believed that ASFA affects children of incarcerated parents differently than other children.

Figure 1
Knowledge of ASFA

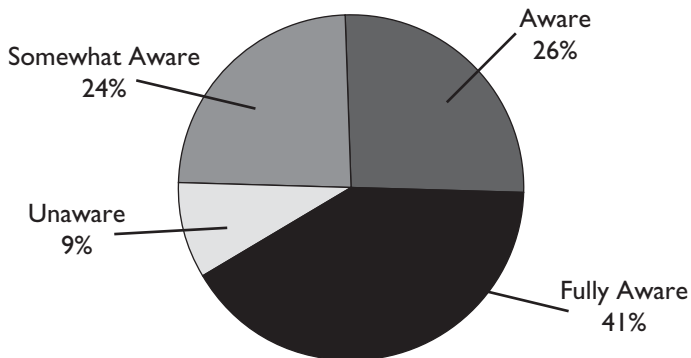
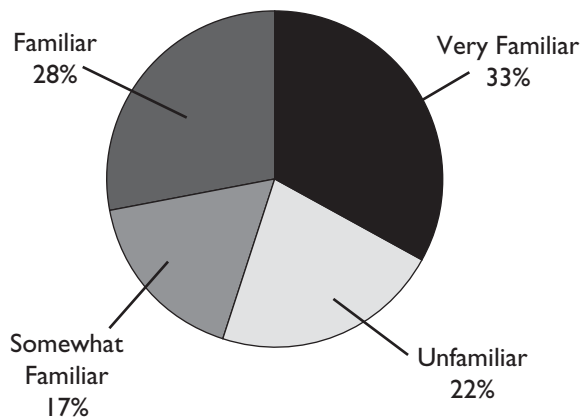


Figure 2
Familiarity with ASFA Timeliness Provisions



Most of them pointed to difficulties that arise because of the parent's incarceration, including the unavailability of the parents and inability to complete case plans while incarcerated. Some mentioned the lack of services available to incarcerated parents. Judges also noted an increase in TPR and adoption as a way children of incarcerated parents were affected differently than their peers, with most of the judges pointing out that these effects are negative. A few, however, believe the effects are positive, in that ASFA allows these children to be freed for adoption.

Approximately 55% of judges answered that it is "likely" or "very likely" that incarceration is considered a grounds for TPR (see Figure 3). Also, most agreed that incarceration may expedite the decision for TPR, with only 4.8% answering that this effect was "not likely" (see Figure 4). Judges reported that they take into account both the length of the parent's incarceration (92.9%) and the reason for incarceration (95.2%) when considering TPR.

When asked about the overall effect of ASFA on children of incarcerated parents, the most common responses were that it increased the likelihood of TPR and adoption or just that it sped up permanence in general. Less than half of the respondents (48%) reported that ASFA had no effect or that it simply codified what was already being done.

Slightly more than 76% of the judges reported that the likeliness that children of incarcerated parents will be placed with family members or relatives is similar to that of other children. Most judges were unable to report the amount of cases that resulted in TPRs in 1997 and 2001. Those who responded, however, indicated that TPRs may have increased slightly.

As to changes that should be made with regard to children of incarcerated parents, 26 judges provided some suggestions for changes to be made. Of those, eight maintained that more services should be offered to incarcerated parents. Four suggested facilitating communication between the child and incarcerated parents and emphasized the importance of seeking out relatives. Eight judges, however, suggested that they do not believe any changes need to be made.

Judges reported that the most common results of non-TPR cases were either a reunification with the parents or placement with relatives.

Figure 3
Incarceration Is Considered Grounds for TPR

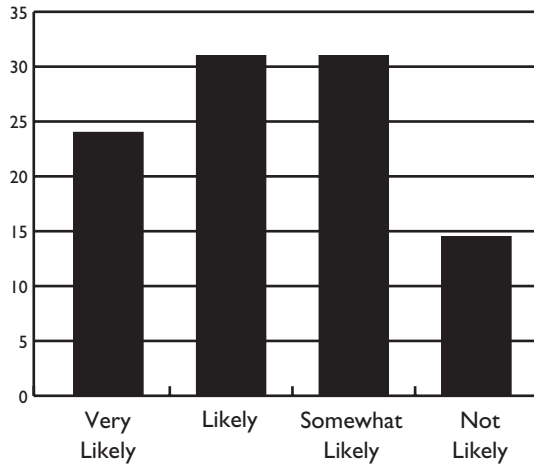
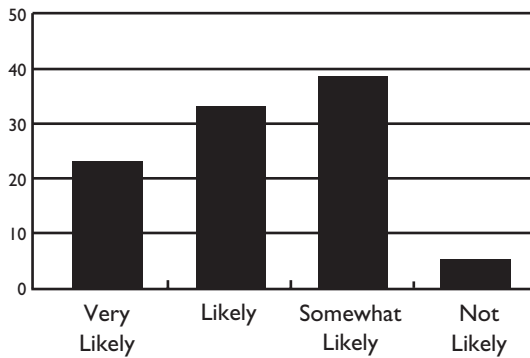


Figure 4
Incarceration May Expedite Decision for TPR



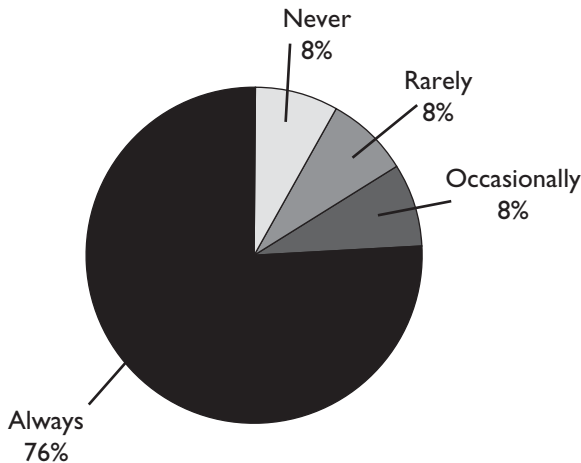
Analysis of Attorneys

On February 9, 2004, the researchers sent an initial mailing to 113 attorneys (children's, parents', and agency). This mailing generated 21 responses. They sent a second mailing on March 12, 2004, which resulted in an additional 16 responses, totaling 37 attorneys' surveys received, a 32.74% response rate.

Of the 37 responses, nine (24.32%) were children's attorneys, 18 (48.65%) were parents' attorneys, and 10 (27.03%) were agency attorneys. Nine (8%) responded stating that the survey was inapplicable to them.

Cases devoted to child abuse, neglect, and voluntary placement make up the majority of these attorneys' total caseload. Of those that responded, 17 (45.96%) indicated that these cases make up 81% to 100% of their work. When it comes to cases involving incarcerated parents, however, most respondents (64.86%) indicated that such cases make up only 0% to 20% of their total caseload. Most of the attorneys who responded said that they were "always" (72.97%) at every hearing for a case of child abuse, neglect, or voluntary placement (see Figure 5).

Figure 5
Attendance at Hearings



Most of the attorneys who responded are either “fully aware” (56.76%) or “aware” (27.03%) of ASFA. Only six (16.22%) attorneys responded that they were “unaware” or only “somewhat aware” of ASFA. The researchers received a similar response when they asked if attorneys were familiar with ASFA timeline provisions. A majority indicated they were either “very familiar” (59.46%) or “familiar” (27.03%) with ASFA’s timelines. Only five (13.52%) responded that they were “unfamiliar” or “somewhat familiar.” When asked what is the most important ASFA timeline, responses ranged from disposition within 30 days to the 12-month permanency hearing requirement. It appears that respondents use the timelines to guide service plans and delivery.

As with the judges, the majority of responding attorneys (56.76%) thought that children of incarcerated parents are affected differently by ASFA. Most (54.05%) also thought that TPR is more likely for incarcerated parents. Approximately 41% of the attorneys thought that TPR is just as likely for incarcerated parents as for others. When asked about the timeliness of TPR for incarcerated parents, a majority (59.46%) indicated that it occurred at the same rate as for others, but 21.62% of respondents thought it occurred faster than in other cases. An overwhelming majority (70.27%) indicated that children of incarcerated parents were just as likely to be placed with family members and relatives as other children. When asked about recommendations for children of incarcerated parents, most responses indicated a need to find relatives sooner, a need to consider the child’s wishes for placement, and a need for increased visitation and contact with the incarcerated parents. Some respondents suggested that finding a place outside the prison for visits would be beneficial to children and encourage more phone calls and letter writing. One attorney suggested shortening the length of time to TPR for incarcerated parents.

Only agency attorneys were asked about the likelihood of using incarceration as a ground for TPR (see Figure 6). Fifty percent thought this was “not likely.” Only 2 of the 10 agency attorneys that responded indicated that this was “very likely.” Three agency attorneys, however, indicated that it was “very likely” TPR would be expedited for incarcerated parents (see Figure 7). In addition, most of the agency attorneys indicated that the length of incarceration (60%) and reasons for incarceration (50%) would be factors for TPR (see Figures 8 and 9).

Figure 6
Incarceration Considered Grounds for TPR

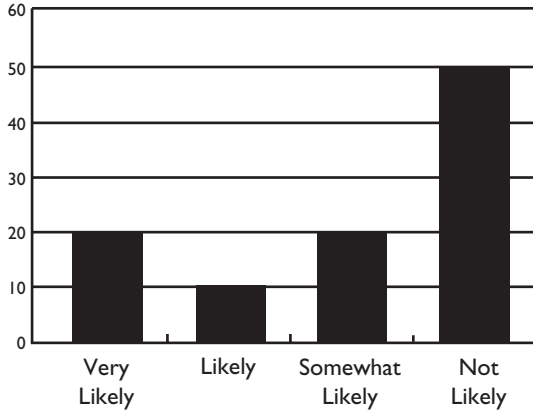


Figure 7
TPR Expedited for Incarcerated Parents

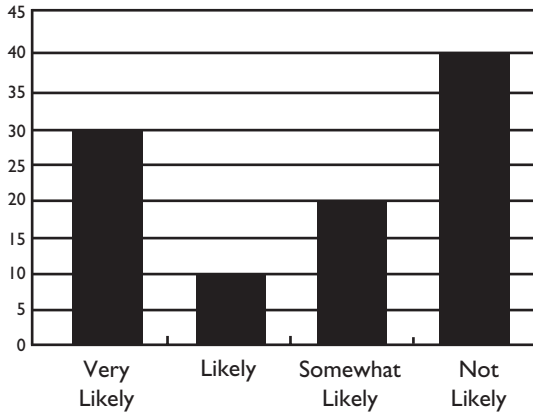


Figure 8
Length of Parents' Incarceration a Factor for TPR

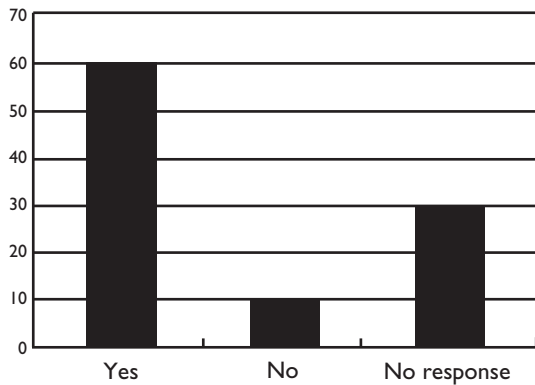
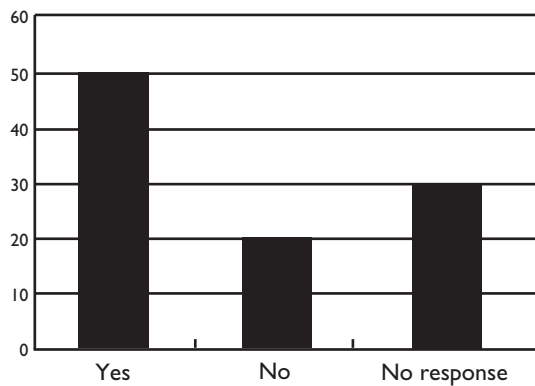


Figure 9
Reason for Parents' Incarceration a Factor for TPR



Only a few attorneys responded when asked to pick a frequency percentage range of cases of incarcerated parents experiencing TPR in 1997 and 2001. Of those that responded, 50% (7 of 14) believed that in 1997, only 1% to 25% of cases of children of incarcerated parents resulted in TPR. Five out of 14 respondents thought this was the case in 2001. More respondents in 2001 (six for 2001 vs. two for 1997) believed that 76% to 100% of cases of children of incarcerated parents resulted in TPR.

Analysis of Child Welfare Agency Representatives

On February 9, 2004, the researchers sent an initial mailing to 99 child welfare agency representatives. This mailing generated 25 responses. They sent a second mailing on March 12, 2004, which generated an additional 23 responses. Also, nine agency representatives responded via telephone. Overall, 57 child welfare agency representatives' surveys were received, for a response rate of 57.57%.

Many of the responses came from foster care managers (13) and adoption specialists (12). Many also chose the "other" (20) category. In this "other" category, most people designated themselves as members of the permanency (three), adoption (five), or policy units (five) at their particular agency.

Most of the sample of agency representatives appears to be "fully aware" of ASFA, with 81.82% of respondents stating this was the case. Only five respondents identified themselves as only "aware," and only one respondent chose "unaware" of ASFA. The response to familiarity with ASFA timeline provisions was similar. This time, however, all respondents identified themselves as either "familiar" (10.91% of respondents) or "very familiar" (81.82% of respondents) with ASFA timelines. When asked what is the most important ASFA timeline, most responses indicated the 12-month permanency hearing requirement and TPR if a child has been in care the past 15 of 22 months. It appears that agency representatives also use the timelines to guide service plans and delivery.

When asked if children of incarcerated parents are affected differently by ASFA, 56.36% of respondents did not think this was the case, whereas 25.45% of respondents thought that this was true. Most of

the agency representatives who responded (54.55%) thought incarceration did not affect the likelihood of TPR (see Figure 10). Approximately 31% thought incarceration made TPR more likely, whereas only one respondent thought incarceration decreased the chances of TPR.

The majority of the agency representatives who responded (56.36%) also thought that incarceration did not affect the timeliness of TPR (see Figure 11). Almost an equal number responded that

Figure 10
Likelihood of TPR for Incarcerated Parents

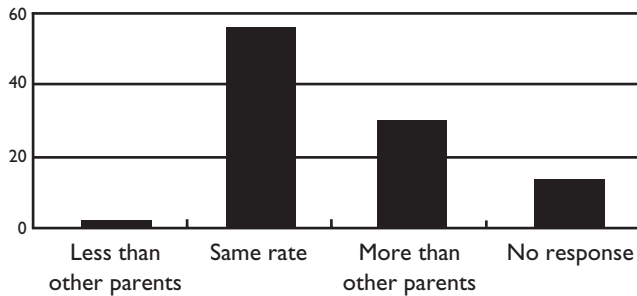
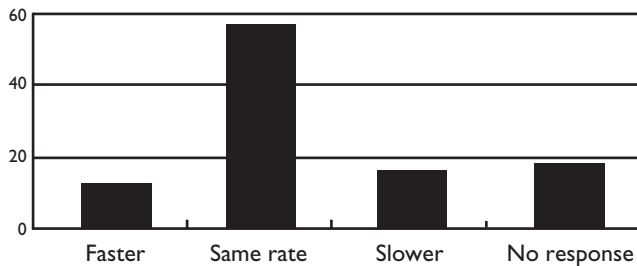


Figure 11
Timeliness of TPR for Incarcerated Parents



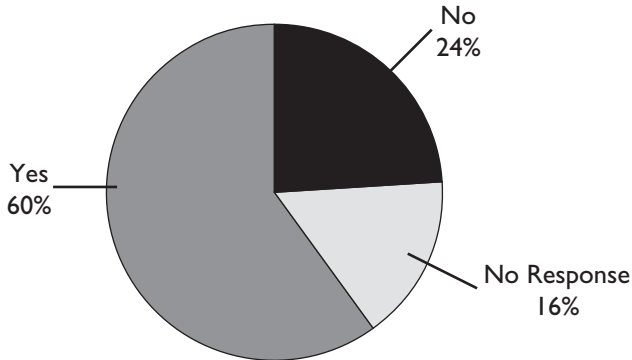
incarceration resulted in a faster TPR (12.73%) and in a slower TPR (14.55%) than in other child abuse, neglect, and voluntary placement cases. In response to the question of what is done differently when the parents are incarcerated, answers included: distinguishing between tasks for the parents to complete while in jail and other tasks to complete after their release, delaying TPR if the parents will be released in a reasonable amount of time, and focusing on maintaining parent-child contact by providing children with transportation to the jail and telephone and video media to enable the parents to be at hearings, if they cannot be physically present.

Most agency representatives (54.55%) believe that it is just as likely that children of incarcerated parents are placed with other family members or relatives as other children. Approximately 35% thought that it was “more likely” that children of incarcerated parents would be placed with other family members or relatives, whereas only one response indicated it was “less likely” that placement with other family members or relatives would occur. When asked about recommendations for children of incarcerated parents, most responses indicated a need to find relatives sooner, maintain consistent visitation, promote prevention resources, and shorten the length of time to TPR.

The majority of respondents (63.64%) did not believe the agency’s handling of children of incarcerated parents’ cases had changed since ASFA was enacted. Thirteen respondents (23.64%) did believe changes had been made. Most respondents (60%), however, believed that since ASFA’s enactment, a parent’s incarceration had influenced their opinions about when to recommend TPR. Thirteen respondents (23.64%) did not think that incarceration influenced their opinion about recommending TPR (see Figure 12).

Agency representatives had very few responses when asked to pick a frequency percentage range of cases of incarcerated parents experiencing TPR in 1997 and 2001. Of those that responded for 1997, 10 out of 12 believed that in 1997, only 1% to 25% of cases of children of incarcerated parents resulted in TPR. Nine out of 15 respondents thought this was the case in 2001. More respondents in 2001 (five for

Figure 12
Does Parents' Incarceration Influence Opinion About
Recommending TPR



2001 vs. one for 1997) believed that 26% to 50% of cases of children of incarcerated parents resulted in TPR. One respondent went so far as to report that in 2001, the frequency was 76% to 100%.

COMPARISON OF RESPONSES OBTAINED FROM JUDGES, ATTORNEYS, AND CHILD WELFARE AGENCY REPRESENTATIVES

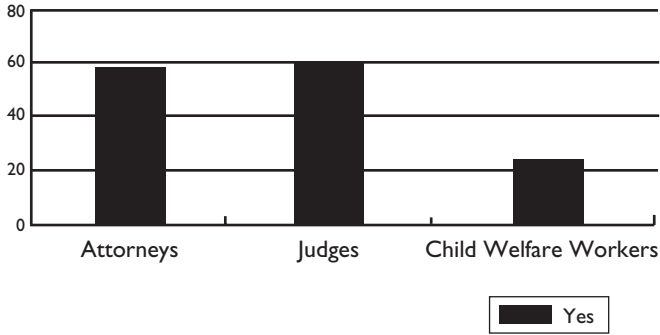
The surveys administered to judges, attorneys, and child welfare agency representatives included some similar questions. This section summarizes the results of these questions and provides comparison among these responses.

Were children of incarcerated parents affected differently by ASEA compared with other children?

As Figure I3 shows, approximately 59% of the judges responded positively to this question, and a similar percentage of attorneys (56.7%) provided similar answers, whereas only 25% of the child welfare workers provided this response.

Figure I3

Children of Incarcerated Parents Affected Differently by ASFA

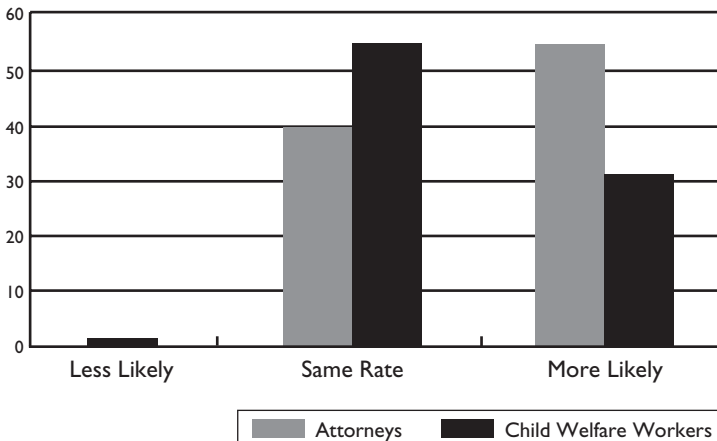


How likely and timely are parental rights of incarcerated parents to be terminated in cases of child abuse and neglect or voluntary placement, compared with those of other parents?

Most attorneys believe that incarceration of parents does affect the likelihood of terminating parental rights of incarcerated parents. For example, 54% of the attorneys responded that this is “very likely,” whereas only 31% of the child welfare agency reported so (see Figure I4).

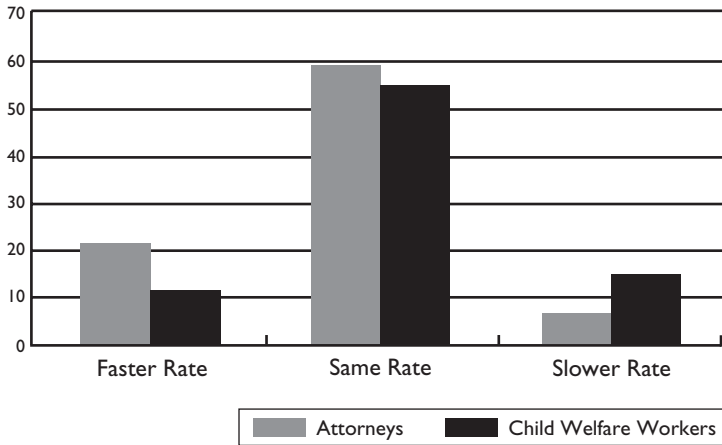
Figure I4

Likelihood of TPR



When asked about the timeliness of TPR of incarcerated parents, both attorneys and child welfare agency representatives believe that timeliness is not significantly affected by the fact that the parents are incarcerated. Only 22% of the attorneys and 13% of the child welfare agency representatives believed that timeliness of TPR is increased by the fact that the parents are incarcerated (see Figure I5).

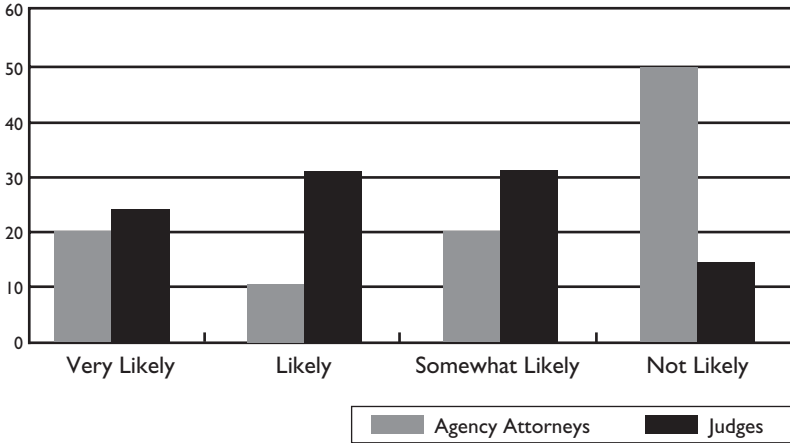
Figure I5
Timeliness of TPR



In your opinion, how likely is it that incarceration of parents is considered to be a grounds for the decision for TPR in child abuse, and neglect, and voluntary placement cases?

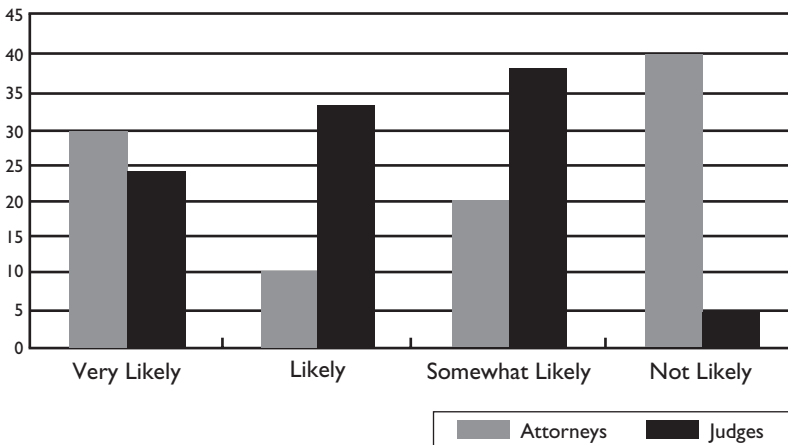
Judges provided higher estimates compared with agency attorneys. More specifically, approximately 24% of judges reported that this is “very likely,” 31% of them reported that it is “likely,” and 31% of them reported that this is “somewhat likely,” whereas 20% of the attorneys reported that this is “very likely,” only 10% reported that this is “likely,” and 20% reported that this is “somewhat likely.” As a result, 50% of the agency attorneys believed that incarceration is not considered to be a grounds for expediting the decision for TPR in child abuse and neglect or voluntary placement cases, whereas only 14.3% of the judges believed so (see Figure I6).

Figure I6
Incarceration a Ground for TPR



In your opinion, how likely is it that incarceration of parents expedites the decision for TPR in child abuse and neglect or voluntary placement cases?
The answers provided reveal that 40% of the agency attorneys believe that this is “not likely,” whereas only 4.8% of the judges believe so (see Figure I7).

Figure I7
Incarceration Expedite Decision for TPR



SUMMARY

- Judges, attorneys, and to some extent, child welfare agency representatives believe that ASFA affects children of incarcerated parents differently than other children.
- Most child welfare agency representatives feel that incarceration does not affect the likelihood of TPR or change the manner in which the agency has handled children since ASFA was enacted.
- A high percentage of judges believe that parental rights are more likely to be terminated as a result of incarceration of parents in child abuse and neglect cases compared with those who are not incarcerated.
- Judges believe incarceration expedites TPRs in cases of children of incarcerated parents, whereas child welfare agency representatives feel timeliness is not affected.
- Disagreement exists among judges and attorneys with regard to whether incarceration may be a grounds for TPR, with a high percentage of attorneys responding positively to this, whereas a very small number of judges believe so.

5

CASE FILE REVIEW

SAMPLE

The researchers obtained the case files from two separate jurisdictions: New York State and Pennsylvania. Philip Genty reviewed the New York files, and ABA staff reviewed the Pennsylvania files. The New York court provided a random sample of approximately 250 dependency case files from 1997 and 2002, and these were culled to separate out the cases in which at least one parent had been incarcerated at some point during the child's foster care placement. The researchers used a similar procedure for the review of the Pennsylvania cases. The data set included information on 350 children involved in child abuse, neglect, and voluntary placement cases during 1997 and 2002. Of these children, 90 had at least one parent incarcerated while the case moved through the judicial system, and 260 did not have an incarcerated parent. Parental incarceration was based on information obtained during the case file review. Each case represents one child from a family.

Incarcerated Parents

From the sample of 90 children, the researchers found that on average, these children spent 31 months in a foster care placement until the TPR petition was filed. In the current sample, 42 (46.7%) of the children had finalized adoptions. Foster families adopted 38 children, 1 child was adopted by his or her aunt and uncle, 1 child was adopted by his or her grandparents, and 2 children were adopted by out-of-state parents. On average, children's adoptions were finalized 543 days (18.1 months) after the TPR decision date.

Adoptions had not been finalized for 22 children (24.4%), and information for 26 children (28.8%) was not available. Of the 22 children who were not adopted, three cases ended with a suspended judgment

and one petition was withdrawn. Most children (72.3%) who were not adopted were reported as living with their foster families. One child was living independently, two were living with their grandparents, six were living with their mother (three of these cases were suspended judgment, one involved withdrawal of the TPR petition, and the other two involved an incarcerated father whose rights were terminated), one was living with an older sibling, and one was living with relatives. Information for two of the children could not be obtained from the files. See Figure I8 for a comparison of adopted and nonadopted children's placements.

In the sample of incarcerated parents, 24 children had a parent who signed a voluntary relinquishment, whereas the other 66 children's parents did not. Of the 24 parents who did sign a voluntary relinquishment, 6 signed it before the TPR petition was filed, and 10 signed it after the TPR petition was filed. No information was available for eight of the cases.

For 84 cases in which parental rights were terminated, four cases had incarceration, reason for incarceration, and length of incarceration as grounds set forth in the petition. When the judge issued a written decision, incarceration was a factor identified in 15 of the cases.

In 10 cases, the TPR decision was appealed. The mother appealed in four cases, the father in three, and both parents in one case; for two of the cases, it was not clear who filed the appeal. For the cases in which the basis of the appeal was available, incarceration was listed for only one case, however, the basis of appeal was not provided for 7 of the 10 cases. The appellate court upheld the TPR decision in all 10 cases. Two of the cases were upheld at the state's highest court as well.

In all of the cases, the identity of the mother was known. The identity of 66 children's fathers (73.3%) was known prior to the petition, and 24 fathers' identities (26.7%) remained unknown through the life of the case.

In terms of representation, 53 mothers had an attorney (58.9%), 32 mothers did not have an attorney due to their failure to appear at the preliminary hearing (35.6%), and the remaining 5 mothers (5.6%) did not require an attorney because their parental rights had been surrendered or terminated (see Figure I9). Of the mothers with representation,

Figure 18
Percentage of Adopted and Non-adopted Children in Each Placement

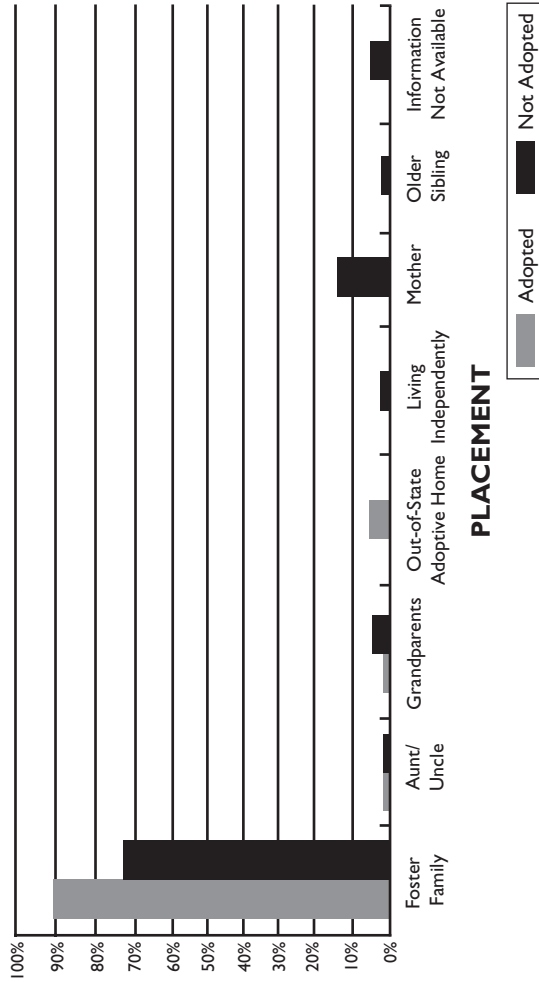
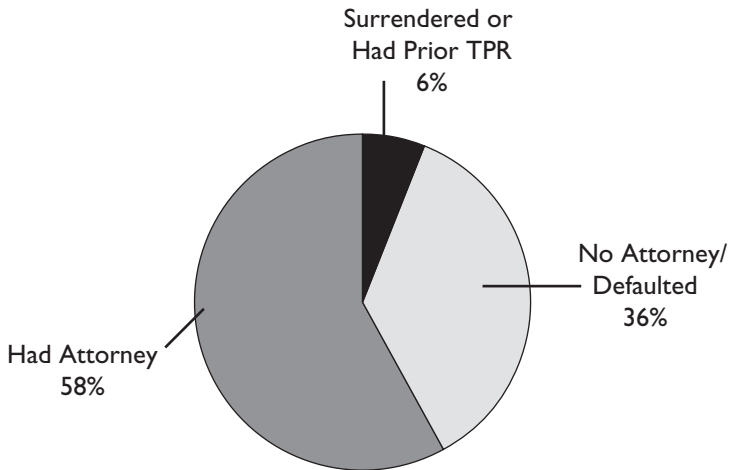


Figure 19
Percentage of Mothers with Attorneys



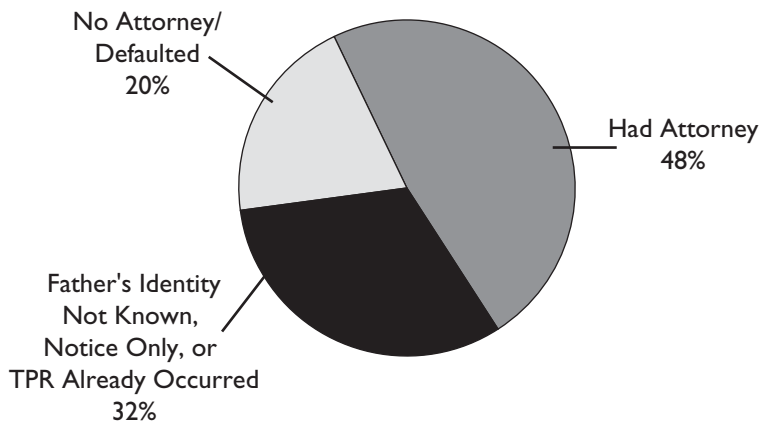
49 had their attorney appear at the hearing whereas 2 did not, and another mother did not have an attorney and defaulted.

In the sample, the identity of 66 fathers was known. Out of this group, 43 fathers had an attorney, 18 fathers did not have an attorney because they defaulted, and 29 fathers did not have an attorney because their identity was not known, they were served only the notice, or parental rights had been terminated previously (see Figure 20). With regard to the father's attorney being present, 39 were present at the hearing and 4 were not. All of the children were assigned a guardian ad litem (GAL), and 87 of them appeared at the hearing.

The researchers reviewed the case files to determine which parent was incarcerated during the course of the case. They found that 42 children had incarcerated mothers, 35 had incarcerated fathers, and 13 children had both parents incarcerated. Furthermore, 54 of the children had their custodial parent incarcerated, whereas 12 did not, and information on custody was not available for 24 of the children.

During the TPR process, 46 of the children's incarcerated parents were present at the TPR hearing, 36 were not, and for eight of the cases, it was not known if the incarcerated parent was present. The

Figure 20
Percentage of Fathers with Attorneys



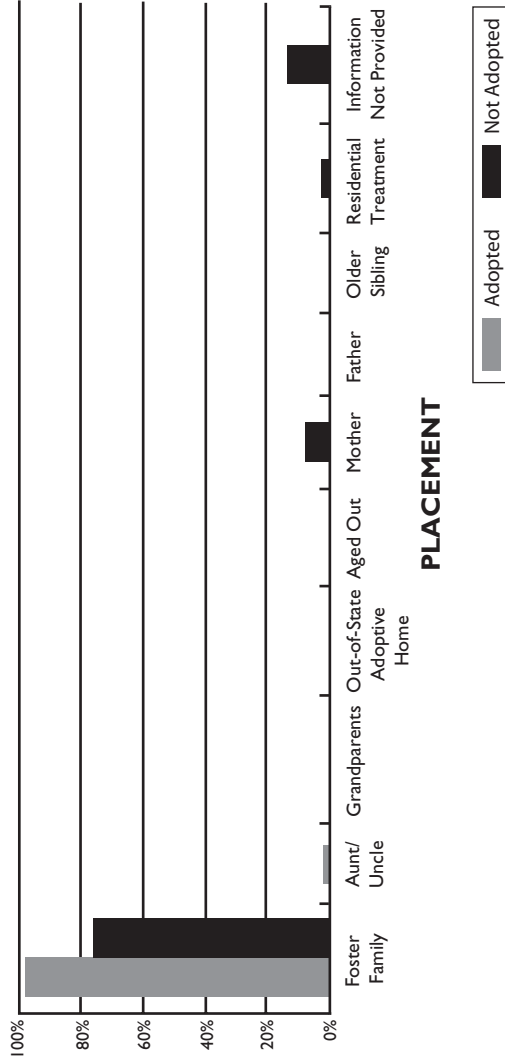
judge granted TPR in 84 cases, returned a suspended judgment for two of the children, and two TPR petitions were withdrawn.

Non incarcerated Parents

The sample of cases included 260 cases in which the parents were not incarcerated. For these cases, children spent an average of 38 months in foster care before the TPR petition was filed. Adoption had been finalized for 85 (32.3%) of the children. Of the children adopted, 82 (96.5%) were adopted by their foster family, and 3 (3.5%) were adopted by their aunt and uncle. The average number of days between the TPR decision and the finalization of the adoption was 550 days (18.3 months).

The remaining children were either not adopted or the information was not provided in their case files. Out of this subset of children, 129 (74.1%) were living with foster families, 16 (9.2%) were living with their mother, 1 (0.6%) was living with his or her aunt, 1 (0.6%) had aged out of foster care, 5 (2.9%) had been placed in residential treatment, and 1 (0.6%) was living with his or her father. Information was not provided for the remaining 21 (12.1%) of the children. See Figure 21 for a comparison of adopted and nonadopted children's placements.

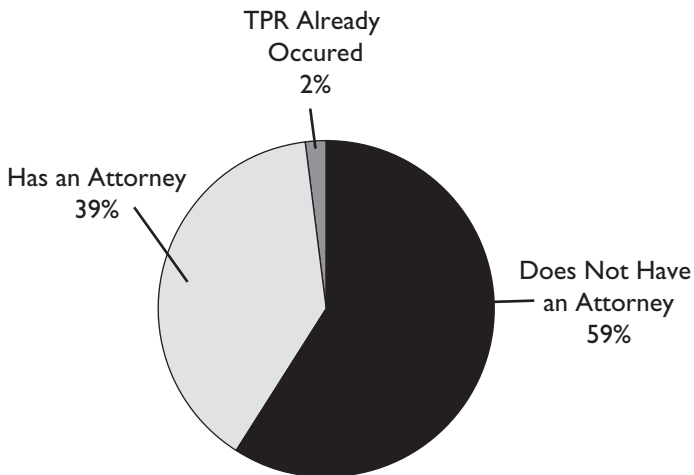
Figure 21
Percentage of Adopted and Non-adopted Children of Non-incarcerated Parents in Each Placement



In the sample of non incarcerated parents, 28 (10.8%) had signed a voluntary relinquishment. Out of those 28 cases, four voluntary relinquishments occurred prior to the filing of the TPR petition and 24 occurred after the TPR petition had been filed. In this sample of cases, the identity of the mother was known for all cases and the identity of the father was known for 171 (65.8%) of the cases.

In a total of 100 (38.5%) of the cases, the mother had an attorney, and 154 (59.2%) did not have an attorney because they had defaulted. In the remaining six cases, TPR had already occurred (see Figure 22). For cases in which the mother had an attorney, 98 records indicated the mother's attorney was present at the hearing.

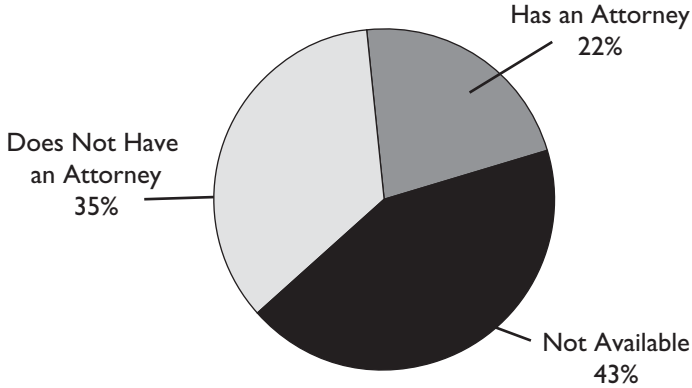
Figure 22
Percentage of Mothers with Attorneys from the Non incarcerated Cases



In 56 (21.5%) of the cases, the father had an attorney, whereas in 90 (34.6%) of the cases, the fathers did not have attorneys because they defaulted, and information was not available for 114 (43.1%) of the cases (see Figure 23). For the 56 cases in which the father had an attorney, 55 appeared at the hearing. In all cases, the child was assigned a GAL who appeared at the hearing.

Figure 23

Percentage of Fathers with an Attorney from the
Non incarcerated Cases



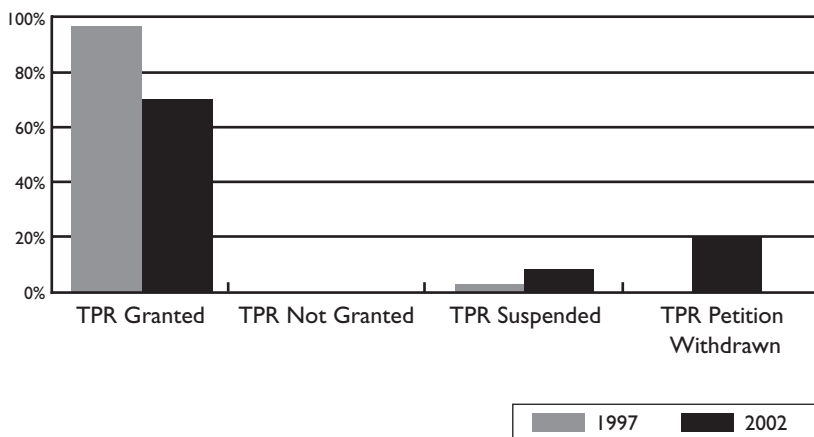
Of the sample of non incarcerated parent cases, 68 (26.2%) had at least one parent at the TPR hearing, whereas 188 (72.3%) did not. Out of the 260 cases, 232 (89.2%) had TPR granted, 18 (6.9%) did not have TPR granted, and the remaining 10 (3.8%) had a suspended judgment. An appeal was filed in eight of the cases. In three cases, the appeal was filed by both parents, in two cases by the father, and in one case by the mother. The remaining two cases did not provide the information. In four of the cases, the appellate court upheld the decision, and information was not provided in the remaining four cases.

COMPARISON OF CASE FILE REVIEWS FROM 1997 AND 2002

A comparison of files from 1997 and 2002 allows for a more accurate assessment of the effect of ASFA. Of the 90 cases that involved incarcerated parents, 80 cases were from 1997 and 10 cases were from 2002. All of the cases from 2002 were from the case file review conducted in New York. Little difference existed in the average amount of time children spent in foster care between the 1997 (30.5 months) and 2002 (31.6 months) case file reviews.

The rate at which TPR was granted slightly varied based on the year (see Figure 24). For cases in 1997, 77 (96.3%) resulted in TPR compared with 7 (70%) of the cases from 2002. The case files from 1997 had three (3.8%) suspended judgments, whereas the 2002 case files indicated there was one (10%) suspended judgment. In 1997, no TPR petitions were withdrawn, however, two were (20%) withdrawn in 2002. The data concerning the voluntary relinquishment of parental rights suggest that more parents voluntarily surrendered their rights in 1997 (28.8%) than in 2002 (10%).

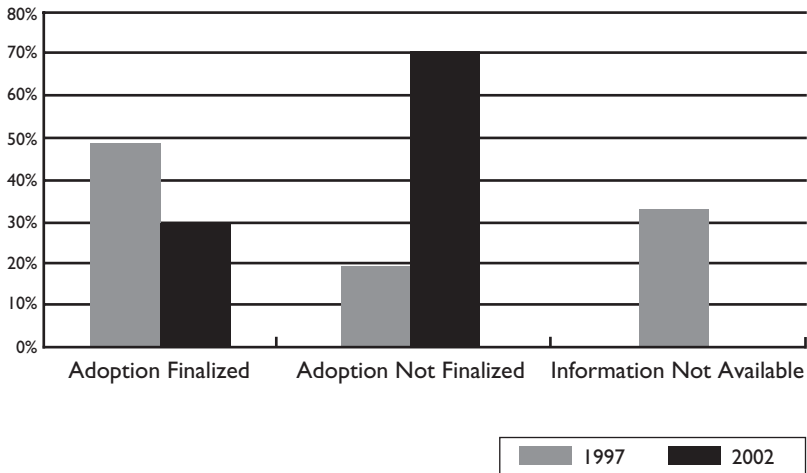
Figure 24
TPR Decision for 1997 and 2002



With regard to the TPR petition, incarceration was a grounds set forth and the reason for incarceration was included in 6% of the 1997 cases and 11.1% of the 2002 cases. Also, the length of incarceration was a grounds set forth in the petition for none of the 1997 petitions and 11.1% of the 2002 petitions. The use of incarceration as a factor in decisionmaking, if a written decision was provided, was relatively similar for the two time samples: 26% for 1997 and 22.2% in 2002.

Based on the cases sampled, a higher rate of finalized adoptions existed in the 1997 case file reviews (48.8%) compared with the 2002 case file review (30%; see Figure 25).

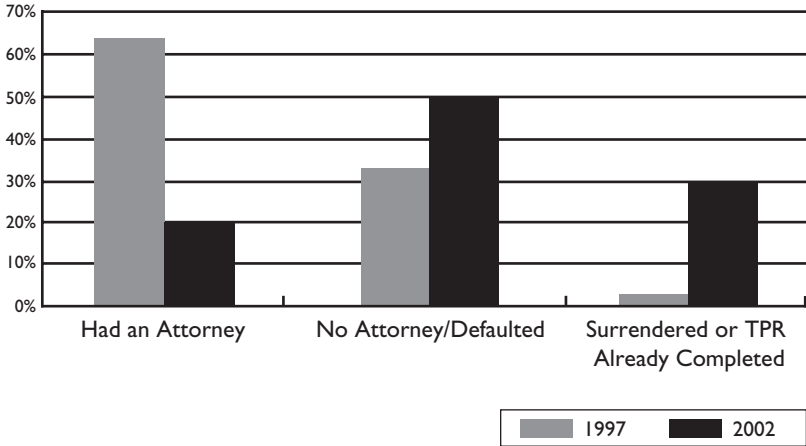
Figure 25
Adoption Status in 1997 and 2002



The number of days reported between the TPR decision date and the finalization of adoption varied between 1997 and 2002 as well. In 1997, finalization of adoption took an average of 555 days (18.5 months), whereas in 2002, it took an average of 91 days (3 months; however, this is based on one case that provided both the TPR and adoption finalization dates).

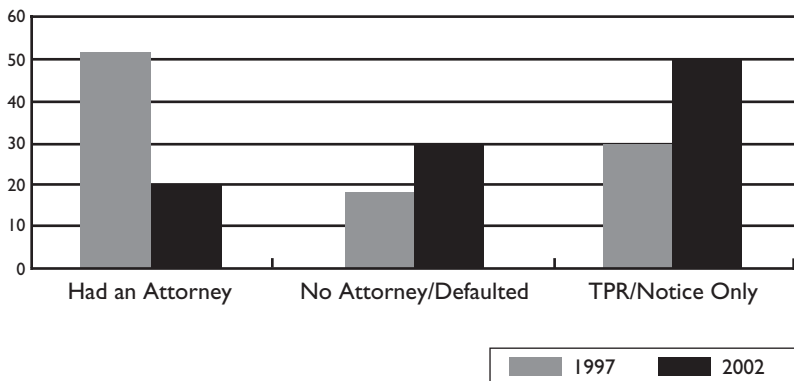
Differences were also found in the representation of parents. The cases files from 1997 indicated that 63.8% of the mothers had an attorney, 33.8% did not have an attorney and defaulted, and the remaining 2.5% of the mothers had either surrendered or had their rights terminated. In 2002, 20% of the mothers had an attorney, 50% did not have an attorney because they had defaulted, and 30% had either surrendered or had their rights terminated (see Figure 26).

Figure 26
Representation of Mothers in 1997 and 2002



In 1997, 51.3% of the fathers had an attorney, and 18.8% did not have an attorney because they had defaulted. In 2002, 20% of the fathers had an attorney, 30% did not have an attorney and had defaulted, and 50% either received a notice only or had the TPR petition withdrawn (see Figure 27).

Figure 27
Representation of Fathers in 1997 and 2002



Data concerning the appeal of the TPR decision indicated that 10 (12.5%) of the parents in 1997 appealed, however, no parents in the 2002 sample filed an appeal. The appeals filed in 1997 were filed by the mother only (four), the father only (three), or both parents (one); the care record did not include the appellant in two cases.

The findings summarized in this section should be interpreted with caution due to the small number of cases in the 2002 sample. Further research is needed to demonstrate the trends identified with the current data set.

REASON FOR INCARCERATION

The incarcerated parents were convicted of a wide range of crimes ranging from probation violations to manslaughter. Some parents were incarcerated for multiple crimes. Table 6 breaks down the reasons parents were incarcerated. Figure 28 provides the average amount of time children spent in foster care based on the reason the parent was incarcerated.

The most common reason for incarceration was a drug-related charge. Children from these families spent an average of 31 months in foster care prior to TPR being granted. Of the 27 cases involving drug-related charges, 15 involved the custodial parent. TPR was granted in 22 (81.5%) of the cases, 4 (14.8%) of the cases received a suspended judgment, and 1 case had the TPR petition withdrawn. The reason for incarceration was a grounds set forth in the petition in four cases. Also, the nine cases with a written decision issued by the judge identified incarceration as a factor in the decisionmaking.

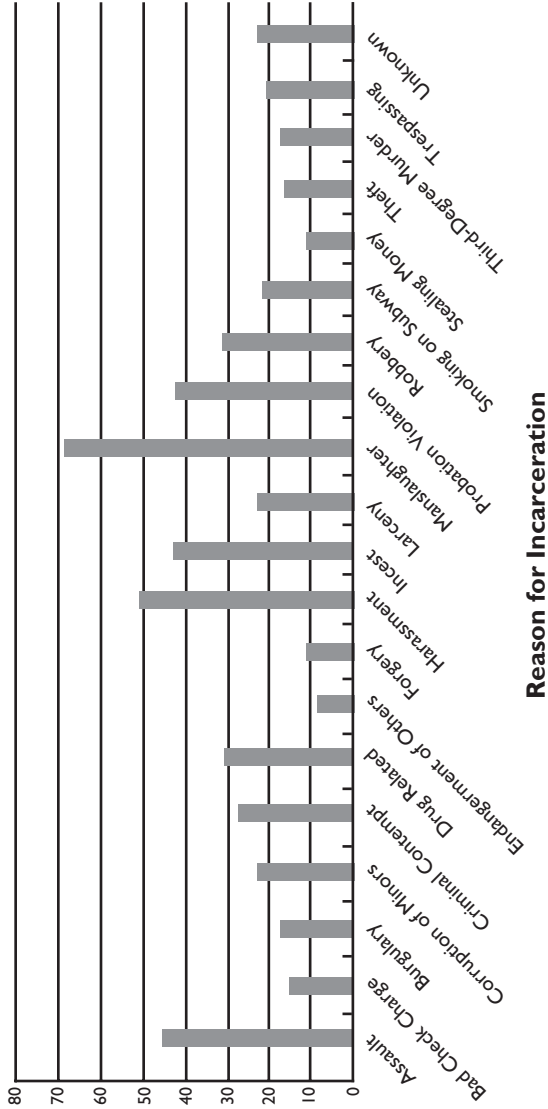
Three cases in which TPR was granted were appealed. One was appealed by the father, one by the mother, and one by both parents. The appellate court upheld the TPR decision for all three cases. The finalization adoption date was provided for 11 (40.7%) of the children involved in drug-related cases. In eight drug-related cases, adoption was not finalized. For adopted children, an average of 390 days (13 months) passed between the TPR date and the adoption finalization date. In six of the cases, the birthparents signed a voluntary relinquishment after the TPR petition had been filed.

The second most common reason parents were incarcerated was due to assault charges (11%). The average length of time children

Table 6
Reason for Incarceration

Reason	N	Percentage
Assault	11	11
Bad check charge	2	2
Burglary	1	1
Corruption of minors	4	3
Criminal contempt	1	1
Drug related	27	25
Endangerment of others	1	1
Forgery	1	1
Harassment	4	3
Incest	2	2
Larceny	6	6
Manslaughter	1	1
Probation violation	1	1
Robbery	4	3
Smoking on subway	1	1
Stealing money	1	1
Theft	1	1
Third-degree murder	2	2
Trespassing	2	2
Unknown	35	32
Total	108	100

Figure 28
Average Number of Months Children Spent in Foster Care Until Termination of Parental Rights



whose parents were incarcerated due to assault charges spent in foster care was 45 months. TPR was granted in all of these cases. In three cases, the judge issued a written decision that included incarceration as a factor. No appeals were filed in relation to this subset of cases. The date of adoption finalization was provided for five (45.5%) of the children, two (18.2%) were not adopted, and information could not be obtained for the remaining four (36.4%) cases. The five children who were adopted were all adopted by their foster families an average of 120 days (four months) after the TPR decision date. Three of the cases involved the parent voluntarily relinquishing his or her parental rights before the TPR petition was filed.

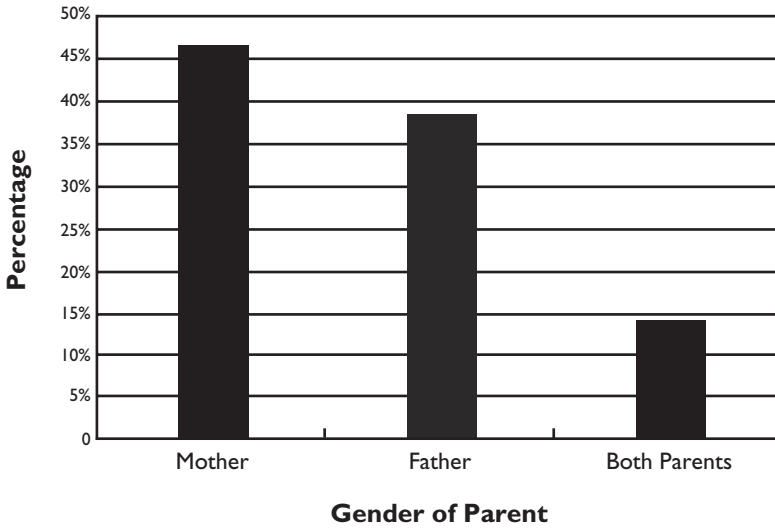
Another important reason to consider for incarceration is incest. Only two cases involved conviction of incest in the current sample, and they were siblings. The custodial parent was the father of both siblings. The children spent an average of 43 months in foster care prior to the filing of the TPR petition. TPR was granted for both children, and the father voluntarily relinquished his parental rights after the petition had been filed. Both children were adopted by their foster care family, which took 178 days (5.9 months) after the TPR decision date.

INCARCERATED MOTHER COMPARED WITH INCARCERATED FATHER

The sample of 90 cases involving incarcerated parents contained 42 (46.7%) cases in which the mother was incarcerated, 35 (38.9%) in which the father was incarcerated, and 13 (14.4%) in which both parents were incarcerated (see Figure 29). The average length of time the child was in foster care until the TPR petition was filed varied based on which parent was incarcerated. Children with incarcerated mothers spent an average of 30 months in foster care, children with incarcerated fathers spent an average of 34 months in foster care, and children with both parents incarcerated spent an average of 24 months in foster care.

TPR was granted in 39 (92.9%) of the cases in which the mother was incarcerated. A suspended judgment was made for three (7.1%) of the incarcerated mothers. TPR was granted for 32 (91.4%) of the

Figure 29
Which Parent Was Incarcerated



incarcerated fathers, whereas one (2.9%) had a suspended judgment, and the TPR petition was withdrawn for the remaining two (5.7%) cases. When both parents were incarcerated, TPR was granted in 100% of the cases.

The TPR petition was available for 29 of the 39 mothers whose parental rights were terminated. In those cases, incarceration was a grounds in the petition for three (10.3%), whereas the reason and length of incarceration were not used as grounds for any of the TPR petitions.

The TPR petition was available for 25 of the incarcerated fathers whose parental rights were terminated. In one petition, incarceration was a grounds set forth in the petition. In three of the cases, the reason for incarceration was a grounds set forth in the petition. The length of incarceration was a grounds set forth in the petition in one case. When both parents were incarcerated, there was one case in which the reason for incarceration was a grounds set forth in the petition. In cases in which the judge issued a written decision, he or she included incarcer-

ation as a factor in 10 (34.5%) of the 39 cases involving incarcerated mothers, 4 (14.8%) of the cases with incarcerated fathers, and 1 (33.3%) case in which both parents were incarcerated.

The rate of voluntary relinquishment for incarcerated mothers and fathers was similar (16.7% and 17.1%, respectively). For cases with both parents incarcerated, however, the percentage of voluntary relinquishment was much higher (84.6%). Of the seven incarcerated mothers, three signed the voluntary relinquishment prior to the TPR petition filing, however, information was not available for the four remaining mothers. Of the six incarcerated fathers, five signed the voluntary relinquishment after the TPR petition had been filed, and information was not available for the other incarcerated father.

Adoption was finalized for 23 (54.8%) of the children whose mothers were incarcerated, 9 (25.7%) of the children whose fathers were incarcerated, and 10 (76.9%) of the children with both parents incarcerated. The average amount of time it took for children's adoptions to be finalized from the date of the TPR decision varied depending on which parent was incarcerated. For children with an incarcerated mother, the average number of days was 721, for fathers it was 480 days, and for children with both parents incarcerated it was 263 days.

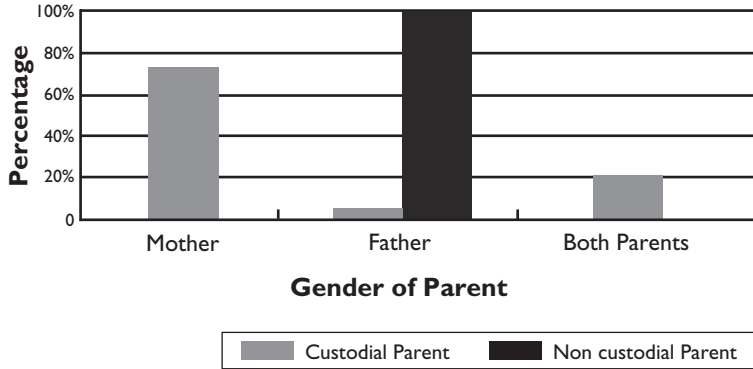
INCARCERATION OF CUSTODIAL PARENT

Another interesting question is the effect of having a custodial versus noncustodial parent incarcerated during the life of the case. Of 90 cases, 54 involved the incarceration of custodial parents, whereas 12 involved noncustodial parents and information was not available for the remaining 24 cases. The average length of time the child was in foster care until the TPR petition was filed was 29 months for cases with custodial parents and 34 months for cases with noncustodial parents.

Of the cases involving custodial parents, 40 (74%) involved the incarceration of the mother, 2 involved the incarceration of the father, and 12 involved the incarceration of both parents. For the noncustodial cases, 12 (100%) involved the incarceration of the father (see Figure 30).

Parental rights were terminated in 51 (94.4%) of the cases with custodial parents and 12 (100%) of the cases with noncustodial parents.

Figure 30
Percentage of Custodial and Non custodial Parents
Who Were Incarcerated



For three cases in which parental rights were not terminated, the judge entered a suspended judgment. Nine of the cases involving custodial parents were appealed—one by both parents, two by the father, and four by the mother, and information was not available for two cases. The basis of one appeal was incarceration, however, information was not available on the remaining eight cases. The appellate court upheld the decision for eight of the cases, and information was not provided for the remaining case. None of the TPR decisions were appealed in cases involving noncustodial parents.

Adoption was finalized for 34 (63%) of the cases with custodial parents and 3 (25%) of the noncustodial parent cases. The average number of days between the TPR decision and the finalization date of adoption was 554 for custodial parents and 274 for noncustodial parents.

LENGTH OF TIME BETWEEN RELEASE DATE AND TPR

Based on dates provided in the juvenile court records, it was possible to establish a length of incarceration for 36 of the 90 cases. In this

subsample of cases, the length of incarceration varied from zero days (released same day) to 12 years. The mean length of time that parents spent incarcerated was 33 months. The researchers performed a correlational analysis to determine the relationship between the length of incarceration, length of time spent in foster care, and time to finalize adoption (see Table 7).

Table 7

Correlational Matrix for Length of Incarceration, Length of Time Spent in Foster Care, and Time to Finalization of Adoption

	Length of Incarceration	Length of Time in Foster Care	Time to Finalization of Adoption
Length of incarceration	1.00		
Length of time in foster care	.466**	1.00	
Time to finalization of adoption	-.381	.222*	1.00

* Correlation is significant at the 0.05 level (2-tailed).

** Correlation is significant at the 0.01 level (2-tailed).

The researchers found a significant correlation between the length of incarceration and the length of time children spent in foster care. The longer the parent was incarcerated, the longer children spent in foster care prior to the TPR petition being filed. They also found a nonsignificant correlation between length of incarceration and the time it took to finalize the adoption, however, the correlation was negative. This indicates a possible general trend for the finalization of adoption to take less time the longer the parent is incarcerated. This relationship might be significant with a larger sample.

Another question of interest was whether the parent was incarcerated at the time of the TPR petition filing or had already been released. A subsample of 43 cases provided incarceration release dates and TPR

decision dates. Of this sample, 28 of the cases (65%) involved parents who were released prior to the TPR decision date, and the remaining 15 cases (35%) involved parents who were still incarcerated at the time of the TPR decision date. The range of release time to TPR decision varied from 12 years prior to the TPR decision date to 6 years and 7 months after the TPR decision date, with an average of being released 6 months prior to the TPR decision date.

The researchers performed a correlational analysis to determine the relationship between the length of time between release and TPR decision date, length of time spent in foster care, and time to finalization of the adoption (see Table 8).

The correlation found for the length of time between release date and TPR decision date and length of time in foster care was negative, however, it was not significant. A trend appears to show that the longer the time a parent will be incarcerated after TPR, the less time the child will spend in foster care. The researchers also found a negative correlation for the length of time between the release date and TPR decision date and finalization of adoption. This correlation was not significant, however, it is strong enough to support a trend that the longer the parent is to be incarcerated after the TPR decision date, the less time it takes for the adoption to be finalized. These correlations must be interpreted with caution due to the limited sample size.

SMALL AND LARGE COURT COMPARISON

As mentioned previously, the researchers collected data from two different locations. The location in New York is a large court, whereas the cases reviewed in Pennsylvania are representative of a small court. This allowed the researchers to perform comparisons for small and large court systems and incarcerated parents. Of the 90 cases involving incarcerated parents, 66 were from New York and 24 were from Pennsylvania. Children in New York spent an average of 34 months in foster care, and children in Pennsylvania spent an average of 21 months in foster care.

The rate of TPR between New York and Pennsylvania differed. TPR was granted for 90.9% of the cases in New York, was suspended

Table 8
Correlational Matrix for Length of Time Between Release Date and Termination of Parental Rights (TPR) Decision Date, Length of Time Spent in Foster Care, and Time to Finalization of Adoption

	Length of Time Between Release Date and TPR Decision Date	Length of Time in Foster Care	Time to Finalization of Adoption
Length of time between release date and TPR decision date	1.00		
Length of time in foster care	-.125	1.00	
Time to finalization of adoption	-.418	.222*	1.00

* Correlation is significant at the 0.05 level (2-tailed).

for 6.1% of the cases, and was withdrawn for 3%. In Pennsylvania, TPR was granted for all of the cases (see Figure 31). Court officials provided the cases selected in Pennsylvania, and they may only represent those cases in which TPR had been granted instead of all cases involving a TPR petition.

A comparison of the percentage of finalized adoptions reflects a higher rate in Pennsylvania than New York. For cases in which TPR was granted in Pennsylvania, 83.3% of the cases had a finalized adoption, whereas only 33.3% of the cases in New York had information indicating an adoption had been finalized (see Figure 32). On average, in New York it took 770 days (25.6 months) for adoptions to be finalized after the TPR decision date, and in Pennsylvania it took 229 days (7.6 months).

Figure 31

Percentage of TPRs Granted, Suspended, and Withdrawn

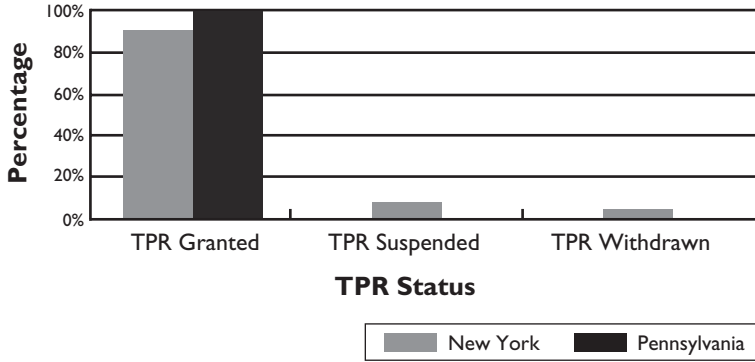
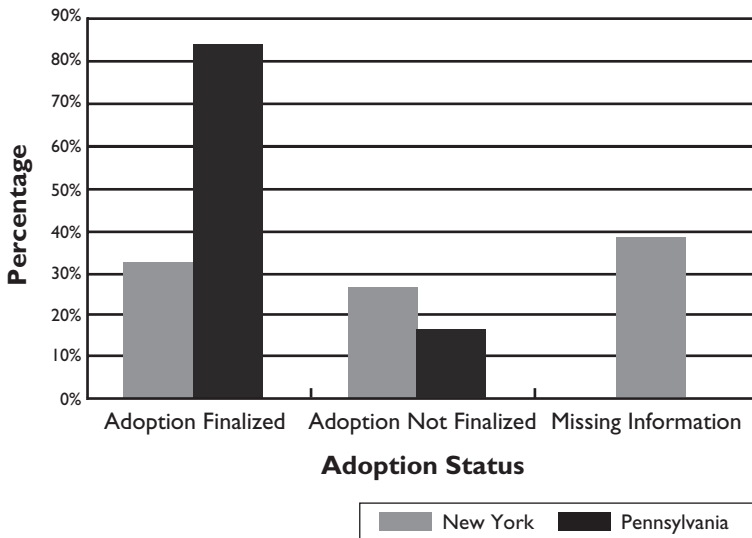


Figure 32

Percentage of Finalized Adoptions



When considering which parent was incarcerated, a higher percentage of incarcerated mothers were in New York, and a higher percentage of both parents were incarcerated in Pennsylvania (see Figure 33).

Also, as demonstrated previously, the role of custody is an important consideration. A comparison of the two courts demonstrated that in New York, 51.5% of the incarcerated parents were custodial parents, compared with Pennsylvania, where 83.3% of the incarcerated parents were custodial parents.

The two courts also differed in the representation offered to parents. In New York, 48.5% of the mothers had an attorney, 45.5% did not have an attorney because they defaulted, and the remaining 6.1% did not have an attorney due to TPR having already occurred or their having surrendered their parental rights. In Pennsylvania, 87.5% of the mothers had an attorney, and 8.3% did not due to the mother defaulting (see Figure 34).

Figure 33
Small and Large Court Comparison of Gender
of Incarcerated Parent

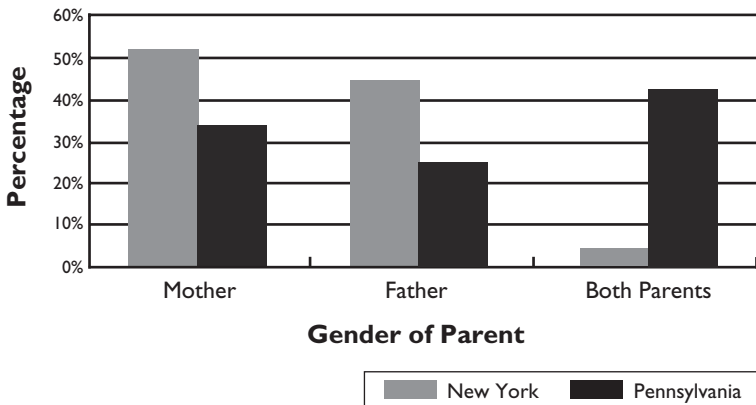
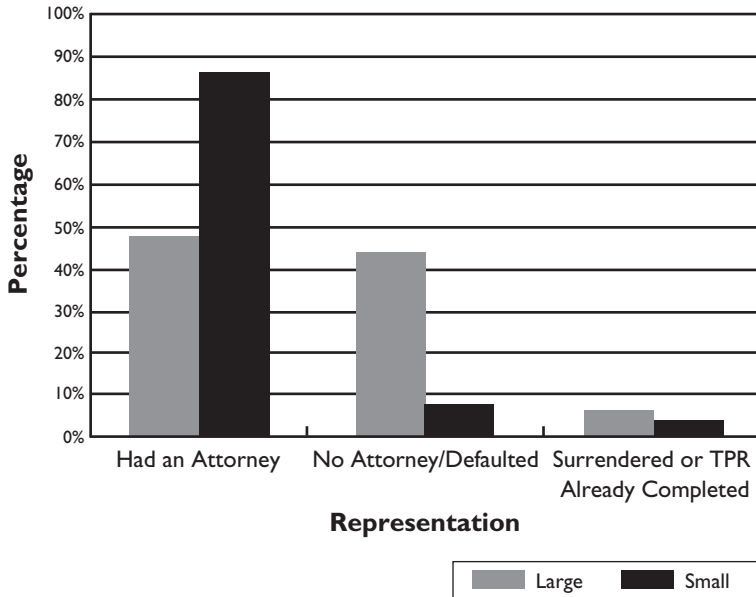


Figure 34
Comparison of Mother's Representation
in a Large and Small Court



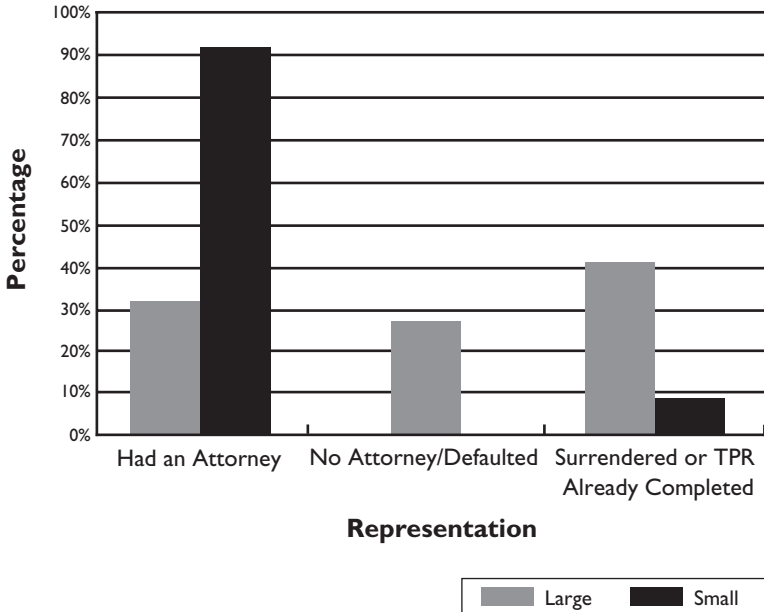
In New York, 31.8% of the fathers had an attorney, 27.3% did not have an attorney because they defaulted, and 40.9% did not require an attorney. In Pennsylvania, 91.7% of the fathers had an attorney, and 8.3% did not require one (see Figure 35).

A comparison that could not be performed was the presence of incarceration, reason for incarceration, and length of incarceration as grounds set forth in the TPR petition. The small court (Pennsylvania) maintained separate case files for TPR petitions, which were not available for data collection.

SUMMARY OF CASE FILE REVIEWS

- TPR was granted in 81.5% of the cases involving parents incarcerated due to drug-related offenses.
- The most common reason for incarceration was a drug-related charge.

Figure 35
Representation of Fathers in Large and Small Courts



- TPR was granted in 92.9% of the cases in which the mother was incarcerated.
- TPR was granted for 91.4% of the incarcerated fathers.
- When both parents were incarcerated, TPR was granted in 100% of the cases.
- TPR occurred in 94.4% of the cases with custodial parents and 100% of the cases with noncustodial parents.
- Children of incarcerated parents spend slightly less time in foster care than children of non incarcerated parents. Also, the two groups had similar lengths of time between TPR and finalization of adoption.
- Children of incarcerated parents have a similar rate of granted TPRs and a slightly lower number of finalized adoptions compared with children of non incarcerated parents.

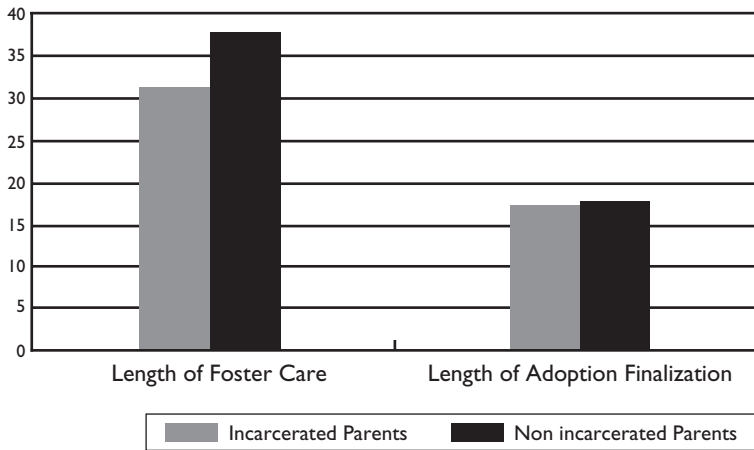
- Incarcerated parents were more likely to voluntarily relinquish their parental rights than non incarcerated parents.
- The length of time children of incarcerated parents spent in foster care was similar in 1997 and 2002.
- A slightly lower rate of TPRs occurred in 2002 than 1997 for children of incarcerated parents.
- The researchers found a higher rate of voluntary relinquishment for the 1997 sample of children with incarcerated parents.
- A higher number of finalized adoptions occurred for children of incarcerated parents in 1997 than in 2002.
- Children of parents who were incarcerated for incest or assault had a higher rate of TPR and a shorter length of time between TPR and adoption finalization compared with children whose parents had been incarcerated due to drug-related charges.
- TPR and adoption rates depend on whether only one parent or both parents are incarcerated.
- Incarceration of the custodial parent increases the rate at which a TPR petition is filed and the number of finalized adoptions.
- Length of incarceration was related to the length of time children spent in foster care and the length of time between TPR and adoption.
- Court size influenced rate of TPR and adoption.

COMPARISON OF SURVEY DATA TO CASE FILE REVIEW DATA

Slightly more than 58% of the judges believed that ASFA affects children of incarcerated parents differently than other children. One way they felt children of incarcerated parents were treated differently was in an increase in TPR and adoption. Most attorneys (59.46%) felt the timeliness of TPR for incarcerated parents occurred at the same rate as for others. Also, most agency representatives (56.36%) indicated that incarceration did not affect the timeliness of TPR. The data from the

case file reviews indicated that children of incarcerated parents spent an average of 31 months in foster care until the TPR petition was filed and children of non incarcerated parents spent an average of 38 months in foster care. The length of time from TPR until the finalization of adoption was also comparable for both groups (see Figure 36).

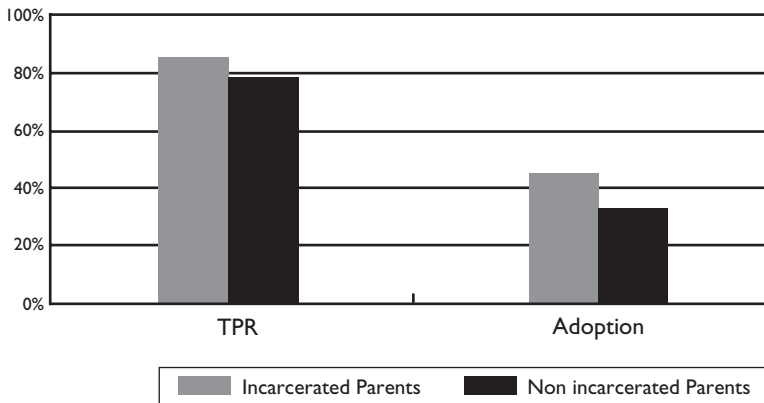
Figure 36
Comparison of Children of Incarcerated Parents
to Children of Non incarcerated Parents



The judges also felt that ASFA influenced the number of TPRs that would be granted. The most common response for judges was that incarceration would increase the likelihood of TPR and adoption. Most attorneys (54.05%) also felt that TPR was more likely for incarcerated parents. In contrast, most agency representatives (54.55%) indicated that incarceration did not affect the likelihood of TPR for incarcerated parents. The current case file review supports the views of the agency workers. A slight difference existed in the percentage of cases ending in termination between incarcerated parents (93.3%) and non incarcerated parents (89.2%). The number of finalized adoptions was slightly higher for children of incarcerated parents (46.7%) than

for children of non incarcerated parents (32.3%). The finding on finalization of adoption supports the views of judges that ASFA leads to an increase in the number of adoptions of children with incarcerated parents. See Figure 37 for a comparison of TPR and finalized adoptions.

Figure 37
Comparison of TPR and Adoption Rates of
Incarcerated and Non incarcerated Parents



Another survey of interest is the use of incarceration, length of incarceration, and reason for incarceration as a grounds set forth in the TPR petition. Most judges (55%) felt that it was “likely” or “very likely” that incarceration would be considered a grounds for TPR. Judges also reported that they take into account both the length of the parent’s incarceration (92.9%) and the reason for incarceration (95.2%) when considering TPR. The agency attorneys indicated that using incarceration as grounds for TPR was “not likely” (50%). In addition, most agency attorneys indicated that the length of incarceration (60%) and reasons for incarceration (50%) would be factors for TPR. Some agency workers indicated they would delay filing a TPR petition if the parents would be released in a reasonable amount of time. The case file reviews from New York indicated that in less than 5% of the TPR petitions filed, incarceration, length of incarceration,

and reasons for incarceration were grounds set forth in the TPR petition. In approximately 18% of the cases in which a judge issued a written decision, incarceration was a factor identified. The case file review data supports the views of attorneys that incarceration was not a significant grounds set forth in the TPR petitions.

6

LIMITATIONS

One must consider the survey and case file review findings in light of the limitations associated with this study. The original purpose of the study was to provide a demographic representation of incarcerated parents and the possible influence of ASFA. Limitations associated with the study are primarily based on the sampling frame and the availability of case information in the files.

One limitation of the study is the limited sample. The original sample identified for the survey was representative of judges, attorneys, and child welfare agency representatives in the child welfare community, however, the response rates for judges (34.4%), attorneys (32.74%), and child welfare agency representatives (57.7%) were relatively low. Due to the low number of respondents, the opinions found may not represent those of all judges, attorneys, and child welfare agency representatives. A strength of the survey was the inclusion of all three groups to provide a stronger representation of those directly involved with children and families in the child welfare system.

The case file review sample of incarcerated parents was drawn from two counties and may not be representative of incarcerated parents across the nation. Both counties were located in the East Coast, and the size of the courts varied. A medium-size court is not represented in the study, and one would provide valuable information. A consideration for future research would be to involve a sample of small, medium, and large courts from a wider range of locations. This would allow for additional comparisons and allow the results to be more broadly generalized.

Another limitation of the sample was the low number of cases involving incarcerated parents (90) compared with cases involving non incarcerated parents (260). The sample does not offer a proportionately

representative sampling. This limits the generalizations that can be made. In addition, the researchers gathered all of the non incarcerated parents' cases from the New York case sample.

The researchers selected cases from 1997 to represent trends occurring prior to the implementation of ASFA and cases from 2002 to represent the effects of ASFA. Due to the relatively low number of 2002 cases available (10 cases), however, one must interpret these comparisons carefully. In the future, researchers should examine more cases from 2002 to make further comparisons possible.

The availability of case files to review was another obstacle in the study. The researchers requested court files in which TPRs were filed in 1997 and 2002. Some of the files that met these criteria were either not available for review or were missing information needed for the study. This limited the cases that the researchers could use for comparisons and also limited the sample size. The information maintained in the cases files was also another challenge. Often, specific information on incarcerated parents was not located in the juvenile case files, and researchers had to pull it from other sources or gather it from agency reports.

Although the study had limitations, the results still make an important contribution to the field. The findings offer descriptive information for future researchers to replicate and use to form research questions.

7

NEXT STEPS

Throughout the United States, positive changes are already occurring and success is becoming more visible in the programs and services available to children affected by parental incarceration. Despite the growing awareness that children of prisoners are adversely affected by the collision of a number of public policy trends, however, changes in those policies are slow.

Given the information in this book, it is urgent to develop improved programs, policies, and practices. In addition, although this text provides a great deal of new and useful information, its answers and analyses are incomplete. Therefore, this work provides structure and direction for future research, particularly that examining the intersection of ASFA, mandated sentencing policies for drug-related crimes, and the lack of available community-based substance abuse treatment programs.

The following lists examples of programs, policies, practices, and research questions that are generated by the following question: How does ASFA affect children of incarcerated parents?

PROGRAM EXAMPLES

Program activities should include support groups for children and caregivers, transportation to visits, facilitated contact with parents, individual and family therapy, and reunification services for recently released prisoners. Examples of programs that focus on children in foster care who have incarcerated parents include:

Treatment for Residents with Incarcerated Parents Program

- Provides individual and group therapy to address children's emotional issues, including guilt, shame, identity development difficulties, and negative self-esteem.

- Provides regular visitation with incarcerated parents and ongoing family therapy with child, incarcerated parent, and other family members.

Incarcerated Mothers Program, Edwin Gould Services for Children

- Prevents children from entering foster care, reduces length of stay in foster care, and strengthens family functioning and stability.
- Provides educational, recreational, and supportive group activities for children.

Rikers Island Visiting Program, Administration for Children and Families

- Focuses on children in foster care.
- Provides facilitated visits with incarcerated mothers and fathers detained on Rikers Island.

St. Rose Residence

- Provides family reunification services for prisoners and their children.
- Includes facilitated visits and foster parent training.

See Appendix E for additional program examples.

POLICY RECOMMENDATIONS

Future consideration needs to be given to changing the opinions held by the child welfare community with respect to ASFA and its effect on children of incarcerated parents. Based on the survey, it appears that some aspects of the child welfare system could be strengthened to support ASFA for this subset of children and families:

- A concern expressed by judges was the lack of services available to incarcerated parents.
- Agencies should support and encourage family communication (i.e., visits, letters, and calls) while a parent is incarcerated if reunification is the permanency plan.
- The best interest of the child must always be the primary factor in decisionmaking.

Corrections

Correctional agencies should review policies, practices, and facilities to ensure that they support family/child relationships, including:

- Addressing barriers to visitation and parent/child relationships: location of facilities in remote areas, telephone costs, mail restrictions, visitation eligibility, unfriendly visitation space, rules prohibiting contact, and treatment of visitors—especially children.
- Identifying staff training needs: understanding the effect of incarceration on children, families, and communities; age-appropriate interactions; community resources; and so forth.
- Developing programs and activities that support family and parent/child relationships: using telephone conferencing to permit incarcerated parents to participate in parent/teacher conferences; using videoconferencing to allow “virtual” visitation when parents are more than 100 miles from their families; developing “books on tape” programs, in which incarcerated parents read a book onto a tape that is sent home to the child; establishing “family days” that allow longer visitation hours or family activities; and creating children’s areas in visitation rooms with parent/child activities.
- Identifying barriers to collaborating with child welfare agencies in the joint provision of services to incarcerated parents and their children in foster care, kinship care, or the community: cross-training, joint manuals of resources and services, and so forth.

Child Welfare

Child welfare agencies should develop policies addressing the role of child protective services (CPS) at the time of arrest. Such policies should address the following questions:

- When a parent is arrested or detained, what role should CPS play?
- How can law enforcement and CPS work together most effectively to ensure the safety of children whose parents are arrested or detained?
- Can community-based organizations play a role by offering voluntary services that support child and family well-being?

- How can community-based interventions be made more available and accessible?

Child welfare agencies should develop policies addressing family preservation services for families affected by incarceration using the following questions:

- How can we make preventative services more available to families affected by criminal behavior or incarceration?
- Can we provide family preservation services to families when parents are sentenced to an alternative-to-incarceration programs?
- What is the best way to make family support services more accessible to kinship families caring for children with incarcerated parents?
- What role can community-based organizations play in providing preventative or supportive services?
- How can agencies involve kinship caregivers and relatives early in the placement and visitation process?

Child welfare agencies should develop policies and protocols for family reunification services when a parent is incarcerated:

- What procedures can help workers facilitate parent-child visits when a parent is in prison?
- How can workers help children and families keep in touch when parents are incarcerated at facilities far from where the children reside? When parents are incarcerated in facilities that are not hospitable to children? When caregivers are reluctant to facilitate visits? When incarcerated parents or their children express an unwillingness to visit?
- Is there a role for community-based organizations in facilitating visits and other forms of parent-child contact? (Adapted from Seymour, 1998)

Child welfare agencies should focus more attention on finding and licensing kinship caregivers:

- What methods can agencies use to locate kinship caregivers?
- What services can agencies provide to such caregivers?

Agencies should also apply the principles and elements of good child welfare practice to the children and families affected by parental incarceration (see Appendix F). Finally, child welfare agencies' and courts' data collection efforts should include elements for tracking the incarceration status of parents involved in the system.

Courts

- Services to incarcerated parents should be considered part of reasonable efforts. For example, California and New York both set out explicit statutory requirements for services to incarcerated parents as part of reasonable efforts.
- Courts should engage in joint collaborations with child welfare agencies, corrections departments, and other important groups.
- Courts should appoint higher quality attorneys. Attorneys should communicate better with parents who are incarcerated, including identifying kinship and relative resources, bringing them to court hearings, and encouraging parent involvement in the court process.

FUTURE RESEARCH QUESTIONS

An important next step in the study of ASFA's influence on children of incarcerated parents is replicating these findings. This study generates several questions that researchers could use to expand the current research agenda on children of incarcerated parents. A few possible research questions are:

- What is the relationship between the lack of community-based substance abuse treatment programs, drug sentencing policies, and ASFA?
- Are enhanced sentences and the lack of available treatment resulting in higher rates of TPR for parents incarcerated for drug-related offenses?
- Does ASFA affect children of incarcerated parents' rate of TPR and adoption in more recent case filings (i.e., 2004)?
- What is the effect of ASFA in medium-sized courts?

- When a representative sample is used, what is the effect of ASFA?
- Does the age of the child influence the effect of ASFA if the parents are incarcerated?
- Does the gender of the child influence the effect of ASFA if the parents are incarcerated?
- Does the number of children in the family in foster care affect the length of time to TPR and adoption?
- Does the current placement of children in foster care include the rate or length of TPR?
- Do the length of the prison term (e.g., 1 month, 5 years) or the possibility of parole influence the rate or length of TPR?
- What effects, if any, do the quantity and quality of visitation between children in foster care and their incarcerated parents have on permanency outcomes such as TPR?
- What factors influence the voluntary relinquishment of parental rights (i.e., foster care placement)?
- What issues are related to representation of incarcerated parents?

REFERENCE

Seymour, C. (1998). Children with parents in prison: Child welfare policy, program, and practice issues. *Child Welfare*, 474.

APPENDIX A

SUMMARY OF STATUTES

State	Relevant Statutory Sections	Grounds for Termination and Key Provisions	Adoption and Safe Families Act Changes
Alabama	Michie's Alabama Code; Title 26, Infants and Incompetents Chapter 18, child protection; § 26-18-7: termination of parental rights.	Conviction and imprisonment for felony is a factor in termination proceeding.	
Alaska	Title 47, Welfare, Social Services and Institutions; Chapter 10, Children in Need of Aid; Article 1, Children's Proceedings; Sec. 47.10.080, judgments and orders; Sec. 47.10.086, reasonable efforts.	The period of incarceration that parent is scheduled to serve during child's minority is significant, considering child's age and need for adult care and supervision. Reasonable efforts may be excused on basis of above.	Added provision excusing reasonable reunification efforts on basis of long-term incarceration.
Arizona	Title 8, Children Chapter 5, Child Welfare and Placement Article 2, termination of parent-child relationship; § 8-533, petition, who may file, grounds.	Sentence is of such length that child will be deprived of a normal home for a period of years; or the parent is deprived of civil liberties due to the conviction for a felony if the felony...is of such nature as to prove the unfitness of that parent to have future custody and control of the child [including but not limited to federal list of crimes in which child was victim]	

State	Relevant Statutory Sections	Grounds for Termination and Key Provisions	Adoption and Safe Families Act Changes
Arkansas	Arkansas Code of 1987 Annotated Official Edition 2004 Title 9, Family Law Subtitle 3, Minors Chapter 27, Juvenile Courts and Proceedings Subchapter 3, juvenile code; § 9-27-341, termination of parental rights.	Parent is sentenced for a period of time that would constitute a substantial period of child's life.	Eliminated threshold requirement that parent be serving sentence of at least 15 years and substituted more general provision that parent be sentenced for "period of time that would constitute a substantial period of the juvenile's life."
California	Deering's California Codes, Annotated Family Code; Division 12, Parent and Child Relationship; Part 4, Freedom from Parental Custody and Control; Chapter 2, Circumstances Where Proceeding May Be Brought; § 7825. Parent convicted of felony; Welfare and Institutions Code Division 2; Children Part 1, Delinquents and Wards of the Juvenile Court; Chapter 2, Juvenile Court Law; Article 6, Dependent Children- Jurisdiction; § 300, persons subject to jurisdiction of	Parent convicted of a felony, the facts of which show unfitness to have future custody and control. Includes very detailed provisions regarding reunification services to be provided to incarcerated parents: If the parent or guardian is incarcerated or institutionalized, the court shall order reasonable services unless it determines, by clear and convincing evidence, those services would be detrimental to the child. In determining detriment, the court shall consider the age of the child, the degree of parent-child bonding, the length of the sentence, the nature of the treatment, the nature of the crime or illness, the degree of detriment to the child if services are not offered, and, for children 10 years of age or older, the	

State	Relevant Statutory Sections	Grounds for Termination and Key Provisions	Adoption and Safe Families Act Changes
	juvenile court; Article 10, Dependent Children—Judgments and Orders; § 361.5, reunification services.	child's attitude toward the implementation of family reunification services, and any other appropriate factors. Reunification services are subject to the applicable time limitations imposed in Subdivision A. Services may include, but shall not be limited to, all of the following: (a) maintenance of contact between the parent and child through collect telephone calls; (b) transportation services, where appropriate; (c) visitation services, where appropriate; and (d) reasonable services to extended family members or foster parents providing care for the child if the services are not detrimental to the child. An incarcerated parent may be required to attend counseling, parenting classes, or vocational training programs as part of the service plan if these programs are available.	
Colorado	Title 19, Children's Code Article 3, Dependency and Neglect Part 6, Termination of the parent-child legal relationship; 19-3-604, criteria for termination.	Long-term incarceration of the parent of such duration that the parent would not be eligible for release for at least six years after court finding of dependency (three years if the child younger than 6). Rule that termination proceeding be filed when child has been in care for 15 of past 22	Added provision exempting parental incarceration for reasonable period of time from general requirement that termination proceeding be brought when child has been in care for 15 of past 22 months.

State	Relevant Statutory Sections	Grounds for Termination and Key Provisions	Adoption and Safe Families Act Changes
		months does not apply if the length of foster care placement is beyond the parent's control, including incarceration for a reasonable period of time.	
Delaware	Title 13, Domestic Relations Chapter 11, Termination and Transfer of Parental Rights in Adoption Proceedings; § 1103, grounds for termination of parental rights.	Parent is incapable of discharging parental responsibilities due to extended or repeated incarceration, except that the court may consider the post-conviction of the parent as a mitigating factor.	
Florida	Title 5, Judicial Branch; Chapter 39, Proceedings Relating to Children; Part 11, Termination of Parental Rights; § 39.806, grounds for termination of parental rights.	Period of time parent is expected to be incarcerated will constitute a substantial portion of time before the child turns 18, or continuation of the relationship would be harmful to the child.	Added incarceration grounds.
Georgia	Title 15, Courts Chapter 11; Juvenile Proceedings Article 2, Termination of Parental Rights; § 15-11-94, grounds for termination, other dispositions.	Factors in termination proceeding are conviction of the parent of a felony and imprisonment that has a demonstrable negative effect on the quality of the parent-child relationship.	

State	Relevant Statutory Sections	Grounds for Termination and Key Provisions	Adoption and Safe Families Act Changes
Idaho	Probate Code Title 16, Juvenile Proceedings Chapter 20, Termination of Parent and Child Relationship; § 16-2005, conditions under which termination may be granted.	Parent is incarcerated without chance of parole.	
Illinois	Chapter 750, Families Adoption Act; § 750 ILCS 50/1, Definitions Sec. 1 D, definitions: D. "unfit person."	An "unfit person" whose parental rights may be terminated: a person convicted of three felonies in five years, or of first or second murder (rebuttable presumption of unfitness); parent is incarcerated, prior to incarceration parent had little or no contact with the child or provided little or no support for the child, and parent's incarceration will prevent parent from discharging parental responsibilities for the child for a period in excess of two years after termination of parental rights proceeding; or parent is incarcerated, parent has been repeatedly incarcerated as a result of criminal convictions, and parent's repeated incarceration has prevented parent from discharging parental responsibilities for the child.	Added provisions permitting termination on basis of incarceration in excess of two years or repeated incarceration.

State	Relevant Statutory Sections	Grounds for Termination and Key Provisions	Adoption and Safe Families Act Changes
Iowa	Title VI; Human Services Subtitle 5, Juveniles Chapter 232; Juvenile Justice Division 4, Termination of Parent-Child Relationship Proceeding; 232.116, grounds for termination.	Parent is imprisoned and unlikely to be released within five years. Factor in considering long-term safety and interests of child is whether parent's ability to provide for the child's needs is affected by imprisonment for a felony.	
Kansas	Chapter 38; Minors Article 15, Kansas Code for Care of Children Termination of Parental Rights; 38-1583, considerations in termination of parental rights, permanent guardianship.	Factor in determining parental unfitness termination proceeding is parent's conviction of felony and imprisonment.	
Kentucky	Title 51, Unified Juvenile Code Chapter 600, Introductory Matters; § 600.020, definitions for KRS Chapters 600 to 645.	Aggravated circumstances excusing reunification efforts are parent is incarcerated and unable to care for child for at least one year.	Added provision excusing reasonable reunification efforts on basis of incarceration.

State	Relevant Statutory Sections	Grounds for Termination and Key Provisions	Adoption and Safe Families Act Changes
Louisiana	Louisiana Children's Code Title 10, Judicial Certification of Children for Adoption; Chapter 4, Grounds of Involuntary Termination; Art. 1015, Grounds; Chapter 8, Hearing, Art. 1036, proof of parental misconduct.	Parent is incarcerated for a period of such duration that parent is unable to care for the child for an extended period of time, considering the child's need for a safe, stable and permanent home. A sentence of at least five years of imprisonment raises a presumption of the parent's inability to care for the child for an extended period of time, although incarceration of parent shall not in and of itself be sufficient to deprive parent of parental rights. Additional grounds are a pattern of repeated incarceration of parent that has rendered parent unable to care for the immediate and continuing physical or emotional needs of the child for extended periods of time.	Added repeated incarceration as a type of "parental misconduct" that can serve as the basis for a termination proceeding; created presumption that parent's sentence of at least five years renders parent unable to care for the child for an extended period of time, which establishes basis for termination.
Massachusetts	Part I, Administration of the Government Title 17; Public Welfare Chapter 119; Protection and Care of Children, and Proceedings Against Them Protection of Children; § 26. Hearing	A factor in termination proceeding is conviction of parent for a felony that court finds is of such a nature that the child would be deprived of a stable home for a period of years. Incarceration by itself is not a ground for termination of parental rights.	

State	Relevant Statutory Sections	Grounds for Termination and Key Provisions	Adoption and Safe Families Act Changes
	<p>Procedure; Order of Commitment; Petition for Review; Part 2, Real and Personal Property and Domestic Relations Title 3; Domestic Relations Chapter 210; Adoption of Children and Change of Names Adoption of Children; § 3. Consent Not Required in Certain Cases.</p>		
Michigan	<p>Michigan Compiled Laws Service; Chapter 701-713 Probate Code Probate Code of 1939 Chapter 12a; Jurisdiction, Procedure, and Dispositions Involving Minors; § 712A.19b, termination of parental rights to child, petition, hearing, record, notice, findings, order, “concerned person” defined.</p>	<p>Parent is imprisoned for such a period that the child will be deprived of a normal home for a period exceeding two years, parent has not provided for the child’s proper care and custody, and no reasonable expectation exists that parent will be able to provide proper care and custody within a reasonable time considering the child’s age; or parent has been convicted of murder, rape, or repeated violent felonies and court determines that continuing parent-child relationship with parent would be harmful to the child.</p>	<p>Added repeated violent felonies as a grounds for termination.</p>

State	Relevant Statutory Sections	Grounds for Termination and Key Provisions	Adoption and Safe Families Act Changes
Mississippi	Mississippi Code of 1972 Annotated; Title 93, Domestic Relations Chapter 15, Termination of Rights of Unfit Parents; § 93-15-103, factors justifying adoption, grounds for termination of parental rights, alternatives.	Parent's prolonged imprisonment has caused extreme and deep-seated antipathy by the child toward parent or other substantial erosion of the relationship between the parent and child.	
Missouri	Title 12, Public Health and Welfare Chapter 211; Juvenile Courts Termination of Parental Rights; § 211.447, petition to terminate parental rights filed, when juvenile court may terminate parental rights, when investigation to be made, grounds for termination.	A factor in termination proceeding is conviction of a felony of such a nature that the child will be deprived of a stable home for a period of years. Incarceration by itself is not a ground for termination.	Added incarceration grounds.
Montana	Title 41, Minors; Chapter 3, Child Abuse and Neglect; Part 6, Parent-Child Legal Relationship Termination; 41-3-609, criteria for termination.	A factor in determining parental unfitness in termination proceeding is the parent's long-term judicially ordered confinement. Treatment plan (reunification services) not required if parent is incarcerated for more than one year and reunification is not in the child's best interests, considering his or her age and developmental, cognitive, and psychological needs.	

State	Relevant Statutory Sections	Grounds for Termination and Key Provisions	Adoption and Safe Families Act Changes
Nebraska	Chapter 43, Infants and Juveniles; Article 2, Juvenile Code (G) Disposition; § 43-292.02, termination of parental rights, state, duty to file petition, when.	State shall not file or join termination proceeding if the sole factual basis is incarceration of parent.	Added provision precluding filing of termination petition if sole basis is incarceration of parent.
Nevada	Title 11, Domestic Relations, Chapter 128; Termination of Parental Rights; § 128.106, specific considerations in determining neglect by or unfitness of parent; Title 38, Public Welfare Chapter 432b; Protection of Children from Abuse and Neglect Protective Services and Custody; § 432B.393, preservation and reunification of family of child to prevent or eliminate need for removal from home before placement in foster care and to make safe return to home possible; determining whether reasonable efforts have been made.	A factor in determining unfitness in termination proceeding is conviction of felony if the facts of the crime are of such nature as to indicated unfitness and inability of parent to provide adequate care and control necessary for child. Reunification efforts not required if parent convicted of murder or voluntary manslaughter.	Added provision excusing reasonable reunification efforts if parent is convicted of murder or voluntary manslaughter.

State	Relevant Statutory Sections	Grounds for Termination and Key Provisions	Adoption and Safe Families Act Changes
New Hampshire	Title 12, Public Safety and Welfare, Chapter 170-C, Termination of Parental Rights; § 170-C:5; Grounds for Termination of the Parent-Child Relationship, Chapter 169-C, Child Protection Act; § 169-C:3, definitions 19, "neglected child."	Parent's conviction of felony, if felony offense is of such nature and period of incarceration imposed of such duration that the child would be deprived of proper parental care and protection and left in an unstable or impermanent environment for longer period of time than would be prudent. Incarceration by itself is not ground for termination.	
New Mexico	Michie's Annotated Statutes of New Mexico; Chapter 32A, Children's Code Article 4, Child Abuse and Neglect; § 32A-4-28, termination of parental rights, adoption decree; § 32A-4-2 (E), definitions, "neglected child."	Neglect, including incarceration, that is unlikely to change in the future. State shall not file or join termination proceeding if the sole basis is incarceration of parent.	Added provision precluding filing of termination petition if sole basis is incarceration of parent.
New York	Social Services Law; Article 6, Children; Title I, Care and Protection of Children; §384-b, guardianship and custody of destitute or dependent children; commitment by court order; (7)(f)(5).	"Diligent efforts" (reunification services) include making suitable arrangements with a correctional facility for an incarcerated parent to visit the child in the correctional facility, if such visiting is in the best interests of the child. Arrangements include transportation of the child to the correctional facility	

State	Relevant Statutory Sections	Grounds for Termination and Key Provisions	Adoption and Safe Families Act Changes
		and providing or suggesting social or rehabilitative services to resolve or correct the problems other than incarceration itself that impair the incarcerated parent's ability to maintain contact with the child. When the parent is incarcerated in a correctional facility located outside the state, visitation required only if feasible and permissible.	
North Dakota	North Dakota Century Code; Title 27, Judicial Branch of Government Chapter 27-20; Uniform Juvenile Court Act; § 27-20-02.(3), definitions "aggravated circumstances."	"Aggravated circumstances" relieving state of making reasonable reunification efforts include incarceration of parent under sentence for which latest release date is majority of child, if child is 9 or older, or twice child's current age if child is younger than 9.	Added provision excusing reasonable reunification efforts on basis of incarceration.
Ohio	Page's Ohio Revised Code Annotated; Title 21, Courts-Probate-Juvenile Chapter 2151; Juvenile Court Desertion of Child Under 72 Hours Old; § 2151.414, hearing on motion for permanent custody, notice, determinations necessary for granting motion.	Parent is incarcerated and unable to care for the child for at least 18 months or parent is repeatedly incarcerated, and the repeated incarceration prevents parent from providing care for the child.	

State	Relevant Statutory Sections	Grounds for Termination and Key Provisions	Adoption and Safe Families Act Changes
Oklahoma	Title 10, Children; Chapter 70, Oklahoma Children's Code Article 4; Termination of Parental Rights; § 7006-1.1, termination of parental rights in certain situations.	Parent incarcerated and continuation of relationship would result in harm to child based on following factors: the duration of incarceration and its detrimental effect on the parent/child relationship; any previous incarcerations; any history of criminal behavior, including crimes against children; the age of the child; the evidence of abuse or neglect of the child or siblings of the child by the parent; the current relationship between the parent and the child; and the manner in which the parent has exercised parental rights and duties in the past. Incarceration by itself is not grounds for termination.	Eliminated requirement of 10-year minimum sentence before termination proceeding could be brought on basis of incarceration.
Oregon	Title 34; Human Services; Juvenile Code; Corrections Chapter 419b; Juvenile Code: Dependency Juvenile Court Termination of Parental Rights; 419B.504, termination on finding of unfitness.	A factor in determining parental unfitness in termination proceeding is criminal conduct that impairs parent's ability to provide adequate care for the child.	Added provision permitting termination on basis of "criminal conduct that impairs the parent's ability to provide adequate care for the child."

State	Relevant Statutory Sections	Grounds for Termination and Key Provisions	Adoption and Safe Families Act Changes
Rhode Island	Title 15; Domestic Relations Chapter 7, Adoption of Children; § 15-7-7, termination of parental rights.	Incarceration of such duration that renders it impossible for parent to care for the child for an extended period of time.	
South Dakota	Title 26; Minors Chapter 26-8a, Protection of Children from Abuse or Neglect; § 26-8A-21.1, reunification with parent not required; § 26-8A-26.1, termination of parental rights—good cause considerations.	Parent is incarcerated and unavailable to care for the child during a significant period of child's minority, considering the child's age and the child's need for care by an adult. Reunification efforts not required if these factors exist.	Added provision excusing reasonable reunification efforts on basis of incarceration.
Tennessee	Title 36; Domestic Relations Chapter 1; Adoption Part 1, General Provisions; 36-1-102, part definitions; 36-1-113, termination of parental rights.	Parent confined in a correctional or detention facility as a result of a criminal act, under a sentence of 10 or more years, and the child is younger than 8 years of age at the time the sentence is entered by the court. "Aggravated circumstances" relieving state of providing reunification services are abandonment, if the parent is incarcerated for four months and has not provided support or visited during that time.	

State	Relevant Statutory Sections	Grounds for Termination and Key Provisions	Adoption and Safe Families Act Changes
Texas	Family Code Title 5, The Parent-Child Relationship and the Suit Affecting the Parent-Child Relationship; Subtitle B, Suits Affecting the Parent-Child Relationship; Chapter 161, Termination of the Parent-Child Relationship; Subchapter A, Grounds; § 161.001, involuntary termination of parent-child relationship.	Parent incarcerated and unable to care for child for two or more years at time of filing of termination proceeding.	Added incarceration ground.
Utah	Title 78; Judicial Code Part 1; Courts Chapter 3a; Juvenile Courts Part 4, Termination of Parental Rights Act; § 78-3a-408. Evidence of grounds for termination; Part 3, Abuse, Neglect, and Dependency Proceedings; § 78-3a-311, dispositional hearing, reunification services, exceptions.	Factors establishing parental unfitness in termination proceeding include: parent incarcerated for sentence of such length that child will be deprived of a normal home for more than one year or facts surrounding the crime are of such a nature as to indicate parent's unfitness to provide adequate care to child. State will provide reasonable reunification services to incarcerated parent unless services would be detrimental to the child. Factors to determine detriment include the age of the child; degree of parent-	

State	Relevant Statutory Sections	Grounds for Termination and Key Provisions	Adoption and Safe Families Act Changes
		child bonding; length of the sentence; nature of the treatment; nature of the crime or illness; degree of detriment to the child if services are not offered; for minors 10 years of age or older, the minor's attitude toward the implementation of family reunification services; and any other appropriate factors. Reunification services for an incarcerated parent are subject to 12-month limitation.	
Vermont	Title 15 A, Adoption Act, Article 3; General Procedure for Adoption, Part 5; Petition to Terminate Relationship Between Parent and Child; § 3-504, grounds for terminating relationship of parent and child.	Crime of violence showing unfitness to maintain parent-child relationship.	
Wyoming	Title 14, Children; Chapter 2, Parents; Article 3, Termination of Parental Rights; § 14-2-309, grounds for termination of parent-child relationship, clear and convincing evidence.	Parent is incarcerated for felony conviction and is shown to be unfit to have custody and control of child.	

APPENDIX B

REPORTED CASES

State	Case	Mother or Father Incarcerated	Currently Incarcerated At Time of Hearing	Grounds for Termination of Parental Rights	Adoption and Safe Families Act Reference	15 of 22 Months Reference	Other
Alabama	<i>D.F.L.C. v. Madison County Dept of Human Resources</i> , 2003 Ala. Civ. App. Lexis 137 (March 14, 2003)	Mother in prison during February 2001. Does not appear to be big issue in this case; mother's drug use over many years is main issue.	No; mother currently on two-year probation for "school violation" and theft charge; father has three prior convictions for assault and domestic violence, but not in prison now.	Primarily long-term cocaine abuse by parents; unwillingness to complete treatment.	No.	No.	Incarceration not a factor; is for short period and is barely mentioned.
	<i>State Dept of Human Resources v. A.K. and S.J.</i> , 2002 Ala. Civ. App. Lexis 295 (April 19, 2002)	Around 1996, father was convicted of felony theft of property, burglary, and	No; released on parole just before termination hearing. He was in prison when agency filed petition to terminate	Kids in and out of foster care for five years; mother and father abuse drugs and do not hold jobs; father was in prison for	No.	No.	

							No.
							No.
				past four years and still tests positive for drugs.			Determination that, pursuant to Sec. 26-18-7(a)(1), mother "abandoned" child; mother did not see child when
			mother's and father's parental rights. He was living in halfway house; had a few visits with kids, but no agency efforts made because petition to terminate already filed and father was still testing positive for drug use. Paid no support for children while in prison or after release.				No; released prior to hearing and filing of TPR.
		escape. Released on parole shortly before April 2001 termination hearing.					Mother incarcerated for five months; child with father; stepmother seeks to adopt.
							W.L.H. v. B.L.M., 829 So.2d 173 Ala. Civ.App. (March 8, 2002)

State	Case	Mother or Father Incarcerated	Currently Incarcerated or Time of Hearing	Grounds for Termination of Parental Rights	Adoption and Safe Families Act Reference	15 of 22 Months Reference	Other
				<p>she had joint custody (also left state for one year), signed custody over to father; then was imprisoned for five months; while in prison, she did not contact child and did not exercise her visitation rights after her release; she never paid child support and has moved to another state; has not visited child since day before she went to jail. Agency did not</p>			

	No.			
<p>have to make reasonable efforts because of aggravated circumstance of abandonment.</p>	<p>Agency involved with mother since 1989 due to problems including serious drug abuse, child abuse, sexual abuse by boyfriends, etc. Mother was incarcerated a few times, once for running a crack house in home. Court found that child was subject to conditions</p>			
	No.			
	<p>Mother in and out of prison a few times.</p>			
	<p>Erica A. v. State of Alaska, Dept. of Health & Social Services, Div. of Family & Youth Services, 2003 Alas. Lexis 24, Sup. Ct. Alaska (March 21, 2003)</p>			
<p>Alaska</p>				

State	Case	Mother or Father Incarcerated	Currently Incarcerated At Time of Hearing	Grounds for Termination of Parental Rights	Adoption and Safe Families Act Reference	15 of 22 Months Reference	Other
	<i>S.B. v. State of Alaska, Dept. of Health & Social Services, 61 P3d 6 Sup. Ct. Alaska (December 27, 2002)</i>	Mother spent 14 of last 17 years in prison, primarily for drug possession and prostitution.	Unclear if incarcerated during TPR hearing, but appears no.	rendering him or her in need of aid under AS 47.10011 and mother failed to remedy conditions in reasonable period of time; termination is in child's best interests.	No.	No.	This case is about mother's appeal of Alaska court's jurisdiction; issues relating to

<p>Uniform Child-Custody Jurisdiction and Enforcement Act. She is not appealing underlining determination.</p>			<p>father's ex-wife.</p>	<p>Does not say, but probably yes; sentenced to 19 yrs with 4 suspended for sexual abuse of his children.</p>	<p>Father convicted of five counts of sexual abuse against his children.</p>	<p><i>J.S. v. Alaska</i>, 50 P3d 388 Sup. Ct. Alaska (June 21, 2002)</p>	
	<p>No.</p>	<p>Yes; although ASFA does not govern this case (it is governed by Indian Child Welfare Act), court references ASFA as evidence of congressional policy "to not require reme-</p>	<p>Sexual abuse of his children.</p>				

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	<i>S.H. v. Alaska, Dept. of Health & Social Services, 42 P.3d 1119 Sup. Ct. Alaska (March 8, 2002)</i>	Father incarcerated; length and conviction unclear.	Father in prison; he testified that he would be out of prison and prepared to take responsibility as a parent 18 months from time of TPR trial.	After Department of Family and Youth Services' involvement since 1987, children were determined to be in need of aid (AS 47.10.088[a]). Parents' efforts to	No.	No.	
					dial measures in situations where a court has determined that a parent has subjected his or her child to sexual abuse."		

				<p>eliminate substance abuse and domestic violence from home and to care for children were insufficient to remedy their harmful conduct in a "reasonable amount of time" (AS 47.10.011). Would take "months and months" for mother to improve a little and kids were in need of permanence. As to incarcerated father, the court said "too little too late." He completed par-</p>				
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State	Case	Mother or Father Incarcerated	Currently Incarcerated or Time of Hearing	Grounds for Termination of Parental Rights	Adoption and Safe Families Act Reference	15 of 22 Months Reference	Other
				<p>entering classes in prison and signed up for a residential drug treatment program to begin after TPR trial. But little or no evidence exists that he attended to the medical or mental health needs of his children even when agency was helping him address his own problems and children's needs.</p>			

	<p><i>P.M. v. Alaska Dept. of Health & Social Services, 42 P3d 1127 Sup. Ct. Alaska (March 8, 2002)</i></p>	<p>Father:</p>	<p>Released a couple months before TPR trial; judge actually waited to hold trial until release.</p>	<p>Father abandoned (AS 47.10.013) and neglected (47.10.014) son; he saw son little if ever during first two years of life, then mother moved out of state; he made no effort ever to contact them. Son was then removed from mother; and agency found father in Washington prison. Agency prepared four case plans and father did not comply; "failed within a reasonable time to rem-</p>	<p>No.</p>	<p>No.</p>	
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State	Case	Mother or Father Incarcerated	Currently Incarcerated At Time of Hearing	Grounds for Termination of Parental Rights	Adoption and Safe Families Act Reference	15 of 22 Months Reference	Other
	<i>M.J.S. v. Alaska, Dept. of Health & Social Services, 39 P.3d 1123 Sup. Ct. Alaska (January 25, 2002)</i>	Mother was incarcerated when her child was born; department immediately took custody. Child went home with mother, but state took her again		edly the conduct or conditions in the home that placed the child at substantial risk of harm.”	No.	No.	

Arizona	Jesus M. and Yolanda M. v. Arizona Dept. of Economic Security, 203 Ariz. 278 AZ Ct.App. (July 18, 2002)	Father incarcerated for burglary five months after child's birth; he has up to two years left.	after approximately four years.		situation that placed child in danger—her drug abuse—in a reasonable time.	No.	No.		
					Rights terminated under 8-533(B)(4) based on length of his prison sentence. Length of sentence not dispositive, but father has never had a relationship with child, made no attempts to establish a relationship, and may be deported to Mexico on release from prison. Court rejects argument that it should dis-				

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Arkansas	<i>Hoggard v. Arkansas Dept. of Human Services</i> , 2002 Ark.App. Lexis 703 Ct.App. Ark. (December 11, 2002)	Father has 30-year federal sentence for aiding and abetting his minor children to	Yes.	Children deemed dependent-neglected (9-27-341 [b][3][B]) as a result of sexual abuse or exploitation (parents took porno-	No.	No; but, Ark. Ann. Code 9-27-341 (b)(3) (B)(i)(a) states if a juvenile "is adjudicated	
				regard four years already served, and just look to amount of time left in sentence. For purposes of 8-533(B)(4), what matters is total length of time parent is absent.			

		<p>engage in sexually explicit conduct to produce visual depiction; 13 years in state prison for rape of children. Mother (not appealing TPR) has 20 years on related charges.</p>		<p>graphic pictures of them, including mother engaging in oral sex with them); children have been out of the home for the requisite 12-month period, and parents have not remedied conditions; parents sentenced in criminal proceeding to “a substantial period” of juveniles’ lives.</p>		<p>dependent-neglected and has continued to be out of the home for 12 months,” it is not necessary that 12-month period immediately precede filing of TPR or that it be 12 consecutive months.</p>	
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State	Case	Mother or Father Incarcerated	Currently Incarcerated At Time of Hearing	Grounds for Termination of Parental Rights	Adoption and Safe Families Act Reference	15 of 22 Months Reference	Other
	<i>Verser v. Richardson</i> , 2002 Ark.App. Lexis 473 Ark. Ct.App. (September 4, 2002)	Father incarcerated for failing to make support payments.	No.	Father failed to support child without justifiable cause for more than one year. 9-207(a)(2) says parental consent to adoption is not required if noncustodial parent fails without cause to provide care and support for at least one year. Did not pay court-ordered support for three years; he was incarcerated as a result.	No.	No.	

	<p><i>Johnson II v. Arkansas Dept. of Human Services</i>, 78 Ark. App. 112 Ark. Ct. App. (June 26, 2002)</p>	<p>Father arrested on charges of aggravated robbery and theft of property; sentenced to 10 years in prison after case file initiated and permanency proceedings started.</p>	<p>Yes.</p>	<p>Kids adjudicated dependent-neglected; parents did not provide for them; children had been out of home for more than 12 months; agency made meaningful efforts, but father did not remedy conditions leading to dependent-neglected status. Father now sentenced to 10 years in prison; “mere fact” of incarceration “at the time of the termination hearing is not dispositive of the termination issue,” but</p>	<p>No.</p>	<p>No; but Arkansas law regarding one year out of home is referenced; see <i>Hoggard v. Arkansas Dept. of Human Services</i>.</p>	
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State	Case	Mother or Father Incarcerated	Currently Incarcerated or Time of Hearing	Grounds for Termination of Parental Rights	Adoption and Safe Families Act Reference	15 of 22 Months Reference	Other
				<p>imprisonment does not "toll a parent's responsibilities." 9-27-341(b)(3)(B)(vii)(a) states "if subsequent to filing of original petition for dependency-neglect, other factors arise that render return to home contrary to juvenile's best interests"; imprisonment of father for 10 years is such a factor, as no family home exists (mother's</p>			

												Child is with her mother's sister; she claims she has cared for child for past four years. Court still terminated mother's rights; no attempt to work out guardianship arrangement.		
												No; reg. to 9-27-341(b)(3)(B)(i); if child is out of home for 12 months and conditions causing removal have not been remedied, court says that child was		
												No.		
									rights terminated) and father's psychological evaluations have gotten worse.	Child taken into emergency custody and deemed neglected-dependent in June 2000, when police found her with mother in a crystal methadone lab. Mother incarcerated as a result in January 2001; agency motion for no reunification services granted—mother to be in prison at least one more	Yes; has at least one more year left.	Mother incarcerated after police found her with her child in crystal methadone lab.	<i>Rosamond v. Arkansas Dept. of Human Services</i> , 2002 Ark. App. Lexis 304 Ark Ct App. (May 8, 2002)	

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				<p>year, and evidence exists that child had been living primarily with aunt for last four years; court found mother subjected child to neglect and abuse and aggravating circumstances, therefore no reunification efforts required. TPR occurred March 2001.</p>		<p>dependent-neglected as a result of abuse that could endanger her life, and subjection to aggravating circumstances is sufficient even if 12 months requirement is not met.</p>	

California	<i>In re Joshua R.</i> , 104 Cal.App. 4th 1020 Cal. Ct.App. (December 9, 2002)	Man who may be the father; he is demanding paternity tests.	Yes and no; he was in prison during first three depen- dency hearings and waived his rights to attend them. He was out of prison for permanency hearing but did not show up. At fourth dependency hearing (child keeps going back to mother, who keeps having issues keeping him) father was in prison; rearrested and sentenced to three years.	This is not really TPR, as father here never had any rights to child; he was named as one of a few men who could have been father; at first he denied paternity, then said he was father; but was never in 5-year- old child's life; now he wants paternity test.	No.	No.	Issue in this case is demand for paternity testing; Court refus- es because "father" doesn't even qualify as "presumed father." He has never been in child's life. He could not take custody of child or be entitled to reunification services even if he is father.
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State	Case	Mother or Father Incarcerated	Currently Incarcerated At Time of Hearing	Grounds for Termination of Parental Rights	Adoption and Safe Families Act Reference	15 of 22 Months Reference	Other
	<i>In re Athena P.</i> , 103 Cal.App. 4th 617 Cal. Ct.App. (November 7, 2002)	Mother is serving three years (release date expected May 15, 2002) and father is serving six years for manufacturing methadone and child endangerment.	Yes.	(1) Failure to provide support (Welf. & Inst. Code §300) because both parents are in prison with unknown release dates and thus unable to provide care and support. (2) Abuse of sibling (W& I.C. §300) because mother has six other children who have all been adjudicated neglected. Mother gave birth to her	No.	No.	

			<p>seventh child in prison and sent her to live with child's grandparents. She tried to create a formal custody agreement but no documents were ever filed. Thus, child was adjudicated dependent, although agency let her stay with grandparents; for purposes of determining whether mother gets TPR, court is not viewing it as a temporary custody arrangement; says mother had been and remained unable to arrange for</p>				
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State	Case	Mother or Father Incarcerated	Currently Incarcerated or Incarcerated At Time of Hearing	Grounds for Termination of Parental Rights	Adoption and Safe Families Act Reference	15 of 22 Months Reference	Other
				<p>child's care. Mother gave custody as a matter of fact, but not as a matter of law; court also determined that reunification services would be detrimental to child, and thus excused agency from providing them.</p>			

	<p><i>In re Alexander B.</i>, 99 Cal.App. 4th 1030 Cal. App. (June 27, 2002)</p>	<p>Mother:</p>	<p>Yes.</p>	<p>Not totally clear, but this seems to be some kind of neglect. Child out of mother's custody for three years because mother has substance abuse problems; even before she was incarcerated, her visits with child were sporadic; she has been in prison since April 2001. This case is mother's appeal from TPR because she was not produced at the hearing.</p>	<p>No.</p>	<p>No.</p>	
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	<i>In re S.D.</i> , 99 Cal.App. 4th 1068 Cal.App. (June 27, 2002)	Mother and father for credit card fraud and similar frauds.	Yes.	TPR was based on Welfare Code §300(g), failure to provide, because both parents are in prison, but court says that family court should not have taken jurisdiction over the child because mother was able to arrange for care of child during her incarceration. No proof when court took jurisdiction that she could not; TPR	No.	No; a time reference is made to the "12-month hearing" and to "six-month" hearings.	

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	<i>In re Nicole C.</i> , 2002 Cal.App. Unpub. Cal. App. (June 10, 2002)	Father incarcerated for two months for parole violation.	No.	in prison 6 months to 1.5 years; §300(e); child is in jurisdiction of juvenile court when the child's parent has been incarcerated or institutionalized and cannot arrange for child's care.	No.	No.	

							No.
							No.
			problems including drug and alcohol abuse, violent history, etc., but is trying to rehabilitate himself and take back custody of kids. Children have been in foster care for a few years; issues exist over whether to continue reunification services.		Issue in this case is not a TPR hearing, but rather (a) whether court erred in finding stepfather instead of birthfather to be presumed		
				Yes; in prison at time that court found stepfather to be the presumed father and declared child a dependent of the court.			
				Father:			

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				<p>father and (b) whether court erred in adjudicating child a dependent of the court without father present. Father incarcerated but had been transported to all other hearings; at the time of disputed hearing, he had been transferred to a prison outside of court's jurisdiction and was not transported, although he wrote letter</p>			

			<p>stating his desire to be present. Stepfather found to be the presumed father because he was married to the mother at the time child was born (although they were not living together) and still is married to mother. Under Welf. & Inst. Code §§36 1.5, 36 1.2, only child's mother and presumed father entitled to reunification services and custody of child. Court determined that under California law, court has dis-</p>			

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				<p>cretion to determine whether it is necessary that parent be at hearing to determine presumed father but prisoner has a right to be present at dependency hearing; thus, lower court abused its discretion on that issue; order determining child to be dependent of court reversed and cause remanded.</p>			

Colorado	<i>In re M.G.</i> , 58 P3d 1145 (September 12, 2002)	Father currently serving a 40-year sentence for murder.	Yes.	Maternal grandmother sought to adopt the incarcerated father's three children and terminate his rights. The court found that it was in the children's best interest to maintain ties with their paternal family, and TPR would prevent this.	No.	No.	No.
Connecticut	<i>In re Ebony H.</i> , 68 Conn.App. 342 (February 19, 2002)	Mother incarcerated at time of birth, released six months later, and served one month for domestic violence	No.	Mother unfit; since her release from prison, she has been unable to establish a stable home; cocaine addiction and failure to follow through on counseling have prohibited reunifica-	No.	No, but court cites the fact that the child has been in foster care three years out of four since birth.	

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	<i>In re Latifa K.</i> , 67 Conn. App. 742 (January 29, 2002)	Father incarcerated for five years for robbery.	No.	Initial hearing in 1998 while father was in prison on the grounds that father was an addict and had failed to achieve sufficient personal rehabilitation (§17a-112[c][3][B]); also, father missed some visits with his children while in prison, and they began to react adversely to	No.	No, but Conn. Stat. refers to whether a mother or father can become an appropriate parent in a reasonable amount of time.	

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		months of the 2-year-old's life.				statute; court also notes that the father will likely be incarcerated for a long time if convicted (likely) and will be unavailable to parent any time soon.	

	<p><i>In re Lucas D.</i>, 2002 Conn. Super: LEXIS 4184 (December 27, 2002)</p>	<p>Father incarcerated for 14 days one year prior to the hearing; does not seem to have been an issue.</p>	<p>No.</p>	<p>The child had been found neglected, and father had failed to achieve such a degree of personal rehabilitation as would encourage the belief that in a reasonable time, considering the age and needs of the child, father could assume a responsible position in the life of the child (C.G.S. §17a-112[b][1]).</p>	<p>ASFA is mentioned, but only regarding a finding that the Department of Children and Families made sufficiently reasonable efforts to reunite child and parents.</p>	<p>No.</p>	
	<p><i>In re Travis R.</i>, 2002 Conn. Super: LEXIS 3933 (December 6, 2002)</p>	<p>Mother:</p>	<p>No.</p>	<p>The children were found in a prior proceeding to have been neglected or uncared</p>	<p>No.</p>	<p>No.</p>	<p>This is a petition by the mother to reopen the TPR</p>

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				<p>for and the parents had failed to achieve such a degree of personal rehabilitation as would encourage the belief that in a reasonable time, considering the ages and needs of the children, they could assume a responsible position in the lives of the children—C.G.S. § 17a-112(b)(1).</p>			<p>judgment. Her rights had been terminated the year before.</p>

	<p><i>In re D.</i>, 2002 Conn. Super. LEXIS 3702 (November 14, 2002)</p>	<p>Both mother and father convicted of past sexual offenses; father incar- cerated for two years.</p>	<p>No.</p>	<p>The child was found neglected, and parents failed to achieve degree of rehabilitation necessary (§ 17a- 112j)[3][B][i]) because abuse resulted in seri- ous emotional injury (§ 17a- 112j)[3][C]).</p>	<p>ASFA is men- tioned, but only regarding a finding that the agency made suffi- ciently reason- able efforts to reunite child and parents.</p>	<p>No, but court cites in support of termina- tion that federal and state statutory policies envision the imple- mentation of a per- manent place for a child after only 12 months in tempo- rary care.</p>	
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	<i>In re Mariah L.</i> , 2002 Conn. Super. LEXIS 3601 (November 12, 2002)	Mother incarcerated for one month.	No.	Abandonment of the father; the mother has failed to achieve sufficient degree of personal rehabilitation.	No.	No.	
	<i>In re Destiny D.</i> , 2002 Conn. Super. LEXIS 3982 (November 12, 2002)	Mother incarcerated for one year prior to the hearing.	No.	Children were found neglected, and parents failed to achieve degree of rehabilitation necessary (§17a-112[b][3][B][i]); also, no ongoing parent-child relationship for all three children (§17a-112[b][3][D]).	No.	No, but case refers to the fact that the children have been in department custody for 15 months. Connecticut also	

		<p>has statutory language in 17a-112 (i)(3)(D) concerning a one-year period prior to hearing.</p>				<p><i>In re Justin H.</i>, 2002 Conn. Super. LEXIS 3575 (November 4, 2002)</p>	
	<p>No.</p>	<p>No.</p>	<p>Abandonment as to the fathers of the children; mother also has substance abuse problems.</p>	<p>No.</p>	<p>Father previously incarcerated.</p>		
	<p>No.</p>	<p>Abandonment as to the father; neglect and failure to rehabilitate as to the mother; she was a cocaine addict and baby was born with withdrawal symptoms; mother consented to termination, and father forfeited by not showing up.</p>					

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	<i>In the Interest of Jennifer O.</i> , 2002 Conn. Super. LEXIS 3399 (October 21, 2002)	Father incarcerated most of his adult life.	Yes.	Proceeding against father for failure to rehabilitate and lack of an ongoing parent-child relationship; the child is now 12 years old and has been in foster care for more than 6 years.	No.	No.	
	<i>In the Interest of Keven G.</i> , 2002 Conn. Super. LEXIS 3455 (October 18, 2002)	Father incarcerated for six months prior to hearing, and perhaps other times.	No.	Neglect and failure to rehabilitate as to mother; father consented to TPR; mother and father were violent and unstable in their housing.	No.	No.	

	<p><i>In the Interest of Michael H.</i>, 2002 Conn. Super. LEXIS 3298 (October 8, 2002)</p>	<p>Father arrested for selling drugs and deported by Immigration and Naturalization Service (INS).</p>	<p>No; father currently in Haiti after being deported by INS.</p>	<p>Abandonment as to both parents (§ 17a-112[j][3][A]); neglect and failure to rehabilitate as to the mother (§ 17a-112[j][3][B][1]) and lack of ongoing relationship as to the father (§ 17a-112[j][3][D]); the children were left alone, and mother often had difficulty maintaining a home.</p>	<p>No.</p>	<p>No.</p>	<p>Incarceration has little to do with this case; the mother's rights were not terminated.</p>
	<p><i>In the Interest of Samantha B.</i>, 2002 Conn. Super. LEXIS 3311 (October 3, 2002)</p>	<p>Father incarcerated for attempted assault of Department of Children and Families</p>	<p>Yes.</p>	<p>Abandonment, failure to rehabilitate; lack of ongoing parent-child relationships; mother consented to TPR.</p>	<p>Yes.</p>	<p>Failure to rehabilitate under § 17a-112(i)(3)(B) provides in part</p>	

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		personnel with an ax.				that the child must be found to be neglected and have been in the custody of the commissioner for at least 15 months.	
	<i>In re Alexander T.</i> , 2002 Conn. Super. LEXIS 3129 (September 23, 2002)	Mother incarcerated for two weeks on charges later dropped; then in	No; currently on probation.	Fathers have abandoned the children; failure to rehabilitate as to the mother, who has paranoid personality disorder.	No.	No.	

						prison for failure to appear.			
	<i>In re Amber S.</i> , 2002 Conn. Super. LEXIS 2928 (August 29, 2002)	Father:	No.		Neglect and failure to rehabilitate.	No.	No.		No.
	<i>In re Daniel M.</i> , 2002 Conn. Super. LEXIS 2855 (August 27, 2002)	First father:	No.		Failed reunification efforts and failure to achieve statutory rehabilitation against all parents, and alleged consent against the second father; mother has addiction and mental health problems; first father incarcerated for much of his child's life.	No.			Failure to rehabilitate under §17a-112(j)(3)(B) provides in part that the child must be found to be neglected and have been in the custody of

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	<i>In re Mark W.</i> , 2002 Conn. Super. LEXIS 2609 (July 31, 2002)	First father has multiple arrests and convictions; second father as well.	First father in jail pending multiple charges; second father currently in prison.	Abandonment, neglect, and failure to rehabilitate, and lack of ongoing relationship as to first father; failure to rehabilitate as to the second. Both fathers have exhibited violent or sexually aggressive behavior.	No.	No. the commissioner for at least 15 months.	

				ior toward the children. Mother, who has a history of mental health problems, consented.			
				Father was mentally disabled and sexually abused the child; mother failed to intervene in the sexual abuse and abandoned the child.	No.		No.
				Father being held in mental institute after being found incompetent to stand trial for molesting his daughter.			
				Father:			
				<i>In re Sharay N.</i> , 2002 Conn. Super: LEXIS 2473 (July 22, 2002)			
				Father:			
				<i>In re Samantha C.</i> , 2002 Conn. Super: LEXIS 2332 (July 18, 2002)			
				Neglect and failure to rehabilitate; parents' marriage was unstable, leading to poor and unhealthy living conditions for the child.	Yes.		Yes; court noted that the child had been in custody for four years, "far longer than is

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	<p>Jayell I., 2002 Conn. Super. LEXIS 2258 (July 1, 2002)</p>	<p>Father:</p>	<p>No.</p>	<p>Abandonment and lack of ongoing relationship as to the father; failure to rehabilitate as to both parents.</p>	<p>No.</p>	<p>now...urged by ASFA” Also relies on the fact that child had been in custody at least 15 months in holding that parents have failed to rehabilitate.</p>	

	<i>In re Adrienne F.</i> , 2002 Conn. Super: LEXIS 2234 (June 28, 2002)	Mother:	Yes.		Abandonment, lack of ongoing parental relationship, and failure to rehabilitate.	No.	No.	
	<i>In re Nicole J.</i> , 2002 Conn. Super: LEXIS 2112 (June 25, 2002)	Mother:	No.		Neglect and failure to rehabilitate, lack of ongoing parent relationship as to the mother; father consented.	No.	No.	
	<i>In the Interest of Amber S.</i> , 2002 Conn. Super: LEXIS 1925 (June 4, 2002)	Father:	No.		Abandonment and lack of ongoing relationship as to mother; failure to rehabilitate as to both parents. Father had long history of incarceration, drug use, and violence.	No.	No.	The court upheld all the grounds against the parents, but delayed an order of TPR until it had considered the child's best interests.

State	Case	Mother or Father Incarcerated	Currently Incarcerated At Time of Hearing	Grounds for Termination of Parental Rights	Adoption and Safe Families Act Reference	15 of 22 Months Reference	Other
	<i>Miracle M.</i> , 2002 Conn. Super. LEXIS 1845 (May 28, 2002)	Father.	Yes.	Abandonment and failure to rehabilitate as to both parents; lack of ongoing relationship as to the father; both parents have substance abuse problems.	No.	No.	
	<i>In re Aleese W.</i> , 2002 Conn. Super. LEXIS 1972 (June 11, 2002)	Mother in and out of prison.	No.	Failure to rehabilitate as to mother; abandonment and lack of ongoing relationship as to the father. Mother has substance abuse problems and has	No.	Court relies on the fact that child had been in custody at least 15 months in holding	

				been convicted of multiple offenses over the years.				that parents have failed to rehabilitate.	
	<i>In re Frank W.</i> , 2002 Conn. Super. LEXIS 1927 (May 31, 2002)	Mother:	No.	Neglect and failure to rehabilitate as to the mother, who had substance abuse problems and used drugs during pregnancy; abandonment as to the father.	No.	No.	No.	No.	
	<i>In the Interest of Jaylah M.</i> , 002 Conn. Super. LEXIS 1682 (May 17, 2002)	Both.	No; mother currently in alternative-to-incarceration program; will be imprisoned if she does not complete program.	Abandonment, neglect, and failure to rehabilitate, and the absence of an ongoing parent-child relationship.	No.	No.	No.	No.	

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	<i>In the Interest of Joshua M.</i> , 2002 Conn. Super. LEXIS 1688 (May 14, 2002)	Mother.	Yes, until 2005.	Abandonment as to both parents; neglect and failure to rehabilitate as to the mother.	No.	Fact that mother will be in prison for at least another year and possibly three tipped balance in favor of TPR.	
	<i>In re Victoria B.</i> , 2002 Conn. Super. LEXIS 1786 (April 30, 2002)	Mother was in alternative-to-incarceration center.	No.	Abandonment as to the unknown father; neglect, failure to rehabilitate, and lack of ongoing relationship as to both parents.	No.	No.	

	<i>In re Anthony M.</i> , 2002 Conn. Super. LEXIS 1479 (April 29, 2002)	Father:	Yes.	Abandonment as to the mother; neglect, failure to rehabilitate, and lack of ongoing relationship as to the father.	No.	No.	
	<i>In re Melissa T.</i> , 2002 Conn. Super. LEXIS 996 (April 1, 2002)	Father:	Yes, but he was scheduled for release shortly.	Failure to rehabilitate as to both parents; no ongoing parent-child relationship as to father.	No.	No.	
	<i>In re Sabrina W.</i> , 2002 Conn. Super. LEXIS 966 (March 25, 2002)	Father:	No.	Abandonment as to the father; failure to rehabilitate, lack of ongoing relationship as to both parents. The mother had a drug problem, and the father was incarcerated;	No.	No.	

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	<i>In re Christopher F.</i> , 2002 Conn. Super. LEXIS 809 (March 12, 2002)	Mother.	No.	also had a history of domestic violence. Abandonment, failure to rehabilitate, and no ongoing parent-child relationship as to fathers; failure to rehabilitate as to mother, who has paranoid personality disorder that affects her ability to care for her children.	No.	No.	

	<p><i>In re Nicholas M.</i>, 2002 Conn. Super. LEXIS 742 (March 4, 2002)</p>	<p>Mother:</p>	<p>Unclear; she was incarcerated as late as January 2002.</p>	<p>Failure to rehabilitate as to the mother. Father is deceased. Mother has substance abuse problems and personality disorders, and cannot maintain stable housing.</p>	<p>No.</p>	<p>No.</p>	
	<p><i>In re Sierrea W.</i>, 2002 Conn. Super. LEXIS 695 (February 28, 2002)</p>	<p>Second father:</p>	<p>No.</p>	<p>Abandonment, failure to rehabilitate, and no ongoing parent-child relationship as to all parents (mother and two fathers). Mother and first father have substance abuse problems.</p>	<p>No.</p>	<p>No.</p>	

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	<i>In re Brenda A.</i> , 2002 Conn. Super. LEXIS 602 (February 25, 2002)	Mother:	No, but there was an outstanding warrant for her arrest at the time of trial.	Abandonment, failure to rehabilitate, and no ongoing parent-child relationship as to the mother only.	No.	No.	
	<i>In re Ashley M.</i> , 2002 Conn. Super. LEXIS 482 (February 8, 2002)	Father:	Yes.	Abandonment, failure to rehabilitate, and no ongoing parent-child relationship as to the mother; failure to rehabilitate as to the father. Both parents have substance abuse problems, and father is in and out of prison.	No.	No.	

							No.	
	<i>In re Alasia G.</i> , 2002 Conn. Super: LEXIS 239 (February 6, 2002)	Both.	Father, yes.	Failure to rehabilitate as to the mother; abandonment, failure to rehabilitate, and no ongoing parent-child relationship as to the father. Mother has criminal, substance abuse, and mental health problems.	No.		No.	Court says “federal law designed to eliminate foster care drift and secure permanent placement for children in foster care,” but
	<i>In re Felicia B.</i> , 2002 Conn. Super: LEXIS 246 (January 30, 2002)	Father.	Yes.	Mother consented to TPR; abandonment, failure to rehabilitate, and no ongoing parent-child relationship as to the father.	No.			

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	<i>In re Angel S.</i> , 2002 Conn. Super, LEXIS 327 (January 30, 2002)	Father:	Currently confined in a halfway house.	Abandonment and rehabilitation as to the father only; he has a history of substance abuse and incarceration.	No.	No, but court says "The federal Adoption Assistance and Child Welfare Act of 1980, as amended, mandates that after	

State	Case	Mother or Father Incarcerated	Currently Incarcerated At Time of Hearing	Grounds for Termination of Parental Rights	Adoption and Safe Families Act Reference	15 of 22 Months Reference	Other
	<i>In re Zakeya B.</i> , 2002 Conn. Super. LEXIS 117 (January 10, 2002)	Father.	Yes, for sexually assaulting the children; likely to be in prison for 15 years.	Abandonment, neglect, failure to rehabilitate, and no ongoing parent-child relationship as to father; mother consented.	No.	No.	This case involves the same parents as <i>In re Kirk R.</i>
	<i>In re Tosj B.</i> , 2002 Conn. Super. LEXIS 121 (January 9, 2002)	Mother.	No.	Abandonment, neglect, failure to rehabilitate, and no ongoing parent-child relationship as to both parents. Mother suffered from mental health and substance abuse problems.	No.	No.	

	<i>In re Raymond O.</i> , 2002 Conn. Super. LEXIS 23 (January 3, 2002)	Mother:	No.	Abandonment and lack of an ongoing parent-child relationship as to the father; failure to rehabilitate as to the mother. Mother has severe substance abuse problems.	No.	The court quotes a Connecticut statute concerning rehabilitation that states TPR is appropriate if child has been in custody for at least 15 months.	
	<i>In re Gregory D.</i> , 2002 Conn. Super. LEXIS 112 (January 2, 2002)	Mother:	No.	Abandonment as to the unknown father; lack of an ongoing parent-child relationship and failure to rehabilitate as to the mother, who has history of substance abuse and incarceration.	No.		

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Delaware	<i>Div. of Family Serv. v. N., 802 A.2d 325 (April 23, 2002)</i>	Both parents, often at the same time.	Father, no; mother, yes.	Failure to plan 13 Del. §1103(a)(5); mother and father had history of substance abuse and were repeatedly incarcerated for drug violations.	Yes.	ASFA "emphasizes the importance of promoting the safety of the child and the child's need for permanency by placing limits on the time...parents are given to rehabilitate themselves and	Parental rights were not terminated, even though the facts of the case show that the child was in foster care for the last 15 months (if not more).

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Florida	<i>Dept of Children & Families v. J.H.K.</i> , 834 So. 2d 298 (December 27, 2002)	Father.	Yes, but should get out soon.	Abuse, abandonment, and neglect; father has been in jail for his daughter's entire 3 years.	No.	No.	The state is appealing a judgment refusing to terminate the parents' rights. The court reversed and remanded for a new trial.
	<i>C.A.H. v. Dept. of Children & Families</i> , 830 So. 2d 939 (November 20, 2002)	Mother.	Yes.	Based mainly on abandonment, of which the mother's repeated incarceration was a factor.	No.	No.	

	<p>Dept. of Children & Families v. V.V., 822 So. 2d 555 (July 26, 2002)</p>	<p>Both parents.</p>	<p>No; this does not seem to have been an issue in this case.</p>	<p>A continued relationship with the parents threatened the life, safety, well-being, or physical, mental, or emotional health of the child irrespective of the provision of services, and parents' rights to another child had previously been terminated; 39.806(1)(c)(i).</p>	<p>No.</p>	<p>No.</p>	
	<p>Dept of Children & Family Serv. v. L McC., 820 So. 2d 1064 (July 10, 2002)</p>	<p>Mother:</p>	<p>No.</p>	<p>Abandonment; a continuing relationship was threatening for the child; TPR as to another child. Mother had lengthy criminal and drug use history.</p>	<p>No.</p>	<p>No.</p>	

State	Case	Mother or Father Incarcerated	Currently Incarcerated At Time of Hearing	Grounds for Termination of Parental Rights	Adoption and Safe Families Act Reference	15 of 22 Months Reference	Other
	<i>J.T. v. Dept. of Children & Family Serv. (In re T.B.),</i> 819 So. 2d 270 (June 28, 2002)	Father.	Yes; incarcerated in 1996; was set to be released some months after the hearing.	Failure to comply with a case plan, conduct threatening the life or well-being of a child, and incarceration. Mother's rights had been terminated in a previous hearing.	No.	No.	The appeals court reversed TPR, which had been based on the father being in prison.
	<i>J.P.C. v. Dept of Children & Family Serv. (In re J.D.C.),</i> 819 So. 2d 264 (June 28, 2002)	Father.	Yes; this seems to have been an issue with the trial court, which noted that the father had been in prison for a majority of his 3-year-old child's life. But the appeals	Conduct threatening the life or well-being of the child, noncompliance with the case plan, egregious conduct, and incarceration; 39.806(1)(d)(1).	No.	No.	The child was in foster care.

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	<i>M.A. v. Dept of Children & Families</i> , 814 So. 2d 1244 (May 3, 2002)	Father.	No.	Abandonment.	No.	No, but children have been in foster care for five years.	
	<i>R.M. v. Dept of Children & Families</i> , 820 So. 2d 357 (April 19, 2002)	Mother.	Yes; the trial court terminated her rights based on this, but the appeals court reversed based on the fact that it was ex post facto (she was sentenced prior to the law's enactment).	The period of time for which mother was expected to be incarcerated constituted "a substantial portion of the period of time before the children will attain the age of 18 years" 39.806(1)(d)(1).	No.	No.	

	<p><i>W.W. v. Dept of Children & Families, 811 So. 2d 791 (March 13, 2002)</i></p>	<p>Father:</p>	<p>No.</p>	<p>Father had been incarcerated for a substantial portion of his children's minority; he was a sexual predator. Trial court granted TPR, but appeals court reversed because Florida law addresses how long parent will be incarcerated in the future, not the past.</p>	<p>No.</p>	<p>No.</p>	<p>Child with relatives, not in foster care.</p>
	<p><i>L.O. v. Fla. Dept. of Children & Families, 807 So. 2d 810 (February 27, 2002)</i></p>	<p>Mother:</p>	<p>No; incarceration is an issue here because mother consented to TPR as part of a plea agreement in 1998.</p>	<p>Based on mother's incarceration and consent; appeals court reversed and remanded.</p>	<p>No.</p>	<p>No.</p>	<p>Child with relatives, not in foster care.</p>

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	<i>M.A.L. v. Dept of Children & Families</i> , 812 So. 2d 447 (February 8, 2002)	Father.	Unsure, but appears to be yes.	Failure to comply with a case plan; appeals court affirmed TPR.	No.	No.	
	<i>F.A.F. v. Dept. of Children & Families</i> , 804 So. 2d 616 (January 23, 2002)	Father.	Yes.	Parents' behavior at home threatened the life, safety, well-being, and mental and emotional health of the children, irrespective of provision of services.	No.	No.	

Georgia	<i>In the Interest of C.M.</i> , 258 Ga.App. 387 (November 15, 2002)	Father:	No.	The children were deprived because of the parents' neglect; failure to develop and maintain a meaningful parental bond; failure to follow and complete the case plan goals; emotionally cruel and abusive conduct toward the children.	No.	No.
	<i>In the Interest of T.N.T.</i> , 258 Ga.App. 396 (November 15, 2002)	Both parents.	Yes, in different states.	Unstated, but both parents were repeat offenders in prison and had been convicted of multiple crimes, including theft, drug use, and violation of parole.	No.	

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	<i>In the Interest of T.J.</i> , 258 Ga. App. 312 (November 8, 2002)	Both parents.	No.	They had abandoned the child at a motel when she was 18 months old. Parental misconduct or inability; O.C.G.A. §15-11-94; both children born while mother herself was in foster care; mother has drug abuse problem.	No.	No.	Court reversed TPR.

	<p><i>In the Interest of C.B.</i>, 258 Ga.App. 143 (October 23, 2002)</p>	<p>Father:</p>	<p>Yes, on charges of child molestation.</p>	<p>Parental misconduct or inability.</p>	<p>No.</p>	<p>No, but the court notes that father will be on probation until 2010 and will be forbidden from having contact with daughter, so it does not see "how the relationship would improve in the foreseeable future."</p>	
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State	Case	Mother or Father Incarcerated	Currently Incarcerated At Time of Hearing	Grounds for Termination of Parental Rights	Adoption and Safe Families Act Reference	15 of 22 Months Reference	Other
	<i>In the Interest of K.S.</i> , 258 Ga.App. 24 (October 15, 2002)	Mother.	No.	Parental misconduct or inability; O.C.G.A. §15-11-94(b)(4).	No.	No.	
	<i>In the Interest of J.R.H.</i> , 257 Ga.App. 218 (August 29, 2002)	Mother, for cruelty to her first son; father also (this is his appeal).	Mother, no; father, yes.	Parental misconduct and inability as to the father.	No.	No.	
	<i>In the Interest of R.S.</i> , 255 Ga.App. 756 (June 13, 2002)	Father.	No.	Parental misconduct or inability. Mother has schizophrenia and multiple substance abuse problems; father	No.	No.	

			has been arrested more than 30 times and incarcerated five times; father also had an ongoing substance abuse problem.					
			Parental misconduct or inability. Father has both a physical disability and mental problems, as well as history of domestic violence.	No.	Father.	<i>In the Interest of M.J.T.</i> , 255 Ga.App. 553 (May 28, 2002)		
			Parental misconduct or inability; mother has a lengthy history of alcohol and drug abuse.	Yes.	Mother.	<i>In the Interest of P.O.M.</i> , 255 Ga.App. 534 (May 23, 2002)		

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	<i>In the Interest of B.W.</i> , 254 Ga.App. 63 (February 27, 2002)	Both parents on charges of cruelty to their children.	Both yes.	Both parents unfit; father had broken the baby's arm and caused broken ribs and intracranial bleeding in the past; mother had done nothing to stop him. Both were incarcerated for long periods starting in 1997.	No.	No.	
	<i>In the Interest of B.F.</i> , 253 Ga.App. 887 (February 21, 2002)	Father.	No.	Parental misconduct or inability; evidence the child was neglected by the father, who had recently been in and out of jail.	No.	No.	TPR was reversed.

	<p><i>In the Interest of B.A.S., 254 Ga.App. 430 (February 11, 2002)</i></p>	<p>Father:</p>	<p>Yes.</p>	<p>Due to father's persistent criminal conduct and resulting incarcerations, the child has been deprived of any parenting by his birthfather.</p>	<p>No.</p>	<p>No.</p>	
<p>Hawaii</p>	<p><i>In the Interest of Doe, 100 Haw. 335 (December 26, 2002)</i></p>	<p>Father.</p>	<p>Yes.</p>	<p>Parents lacked appropriate parenting skills to provide a safe home; mother's mental health problems and possible substance abuse threatened harm to child; father had anger problems and an inability to provide for child.</p>	<p>No.</p>	<p>No, but "the caretaker of a child is confined for a long period of time, the lack of permanence or guidance in the child's life may be a</p>	

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	<p><i>In the Interest of Doe</i>, 2002 Haw.App. LEXIS 94 (May 6, 2002)</p>	<p>Father:</p>	<p>No.</p>	<p>Unclear as to mother; father had a history of incarceration and domestic violence.</p>	<p>No.</p>	<p>factor in considering whether the parent may be able to provide a safe family home within a reasonable period of time.”</p>	

	<p><i>In the Interest of Doe, 98 Haw. 142 (March 8, 2002)</i></p>	<p>Mother:</p>	<p>No, but she is awaiting trial.</p>	<p>Children were subject to the “threat of neglect”; mother was arrested, released on bail, and awaiting trial; unsanitary conditions of mother’s home at time of children’s removal, and mother’s lack of appropriate parenting skills, domestic violence issues, and a reported history of drug use.</p>	<p>No.</p>	<p>No.</p>	
	<p><i>In the Interest of Doe, 98 Haw. 142 (March 1, 2002)</i></p>	<p>Mother:</p>	<p>Yes.</p>	<p>Mother is an admitted heroin addict with a dual diagnosis of a mental impairment, and she has a history of pros-</p>	<p>No.</p>	<p>No, but HRS §587-73(a)(2) says TPR is appropriate if it</p>	

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				<p>titution and domestic violence.</p>		<p>is not reasonably foreseeable that the child's mother or father will be willing and able to provide the child with a safe family home in a reasonable time, which shall not exceed two years</p>	

							from the date on which the child was first placed in foster custody by the court.	
Idaho	<i>Doe v. Dept. of Health & Welfare</i> , 137 Idaho 758 (August 13, 2002)	Father.	Yes.	Abandonment, neglect, and the best interests of the child.	No.	No.	No.	No.
Illinois	<i>Matter of D.M.</i> , 784 N.E.2d 304 Il. Ct.App (December 26, 2002)	Mother incarcerated for drug possession; unclear for how long.	Unclear.	Mother unfit; TPR is in children's best interest because mother (a) abandoned children, (b) failed to maintain reasonable degree of interest or	No.	No.	No; only time references are to fact that the mother deserted children	

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				<p>concern for responsibility for welfare, (c) deserted children more than three months preceding commencement of TPR proceedings, (d) had drug and alcohol abuse, and (e) failed to make reasonable efforts to ameliorate conditions or make progress toward reunification within nine months after children found</p>		<p>for more than three months preceding commencement of TPR hearings and did not make progress toward reunification within nine months after children were found</p>	

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				<p>charge parenting responsibilities because of her bipolar disorder and would not be able to do so for period beyond reasonable period of time (750 ILCS); father was an alcoholic (750 ILCS); he failed to maintain reasonable degree of responsibility for children (750 ILCS). Children in foster care with only one small break for more than 10 years.</p>		<p>amended January 1, 2000; parent unable to make reasonable progress toward child's return within nine months after child found neglected or abused, or to make reasonable</p>	

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	<i>Matter of K.O. & C.W.</i> , 336 Ill. App. 3d 98 Il. Ct.App. (December 19, 2002)	Father; unknown for how long, but he had several previous convictions for child pornography, aggravated criminal sexual assault, and failure to register as sex offender.	He was in prison during 26 months that this case was pending. At time of abuse and neglect proceedings, father was in custody awaiting criminal trial for sexual abuse.	Father convicted of criminal sexual assault of child; he also has previous convictions for child pornography, aggravated criminal sexual assault, and failure to register as sex offender.	No.	No.	This case is not about father not keeping in touch; turns on the fact that he sexually abused his child.
	<i>In re Precious W.</i> , 333 Ill. App. 3d 893 Il. Ct.App. (August 29, 2002)	Mother has two-year prison sentence for cocaine possession.	Yes.	A number of factors, but primarily habitual drunkenness and drug dependence (750 ILCS 50/1 [D][k])		The time issue here has to do with one-year peri-	

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	<i>In re Yasmine P. & Jeremy P.</i> , 328 Ill.App. 3d 1005 Il. Ct App. (January 10, 2002)	Father pled guilty to predatory criminal sexual assault of 7-year-old stepdaughter; is serving 12 years.	Yes, for a 12-year sentence.	Three convictions for depravity (750 ILCS 50/1[D][1][5]); Class X felony predatory sexual assault of stepdaughter and two misdemeanor bat-	No.	No.	Time away from children is not a pivotal issue here, as this case is about abuse, not

				<p>teries; evidence that he beat child's mother. Also accused of sexually assaulting child at issue here.</p>	<p>No.</p>	<p>No.</p>	<p>No.</p>	<p>Amended section 750 ILCS 50/1(D)(q) reads, "The grounds of unfitness may be any one of or more of the following: (q) The parent has been criminally convicted of aggravated</p>
	<p><i>Matter of J.B. & T.B.</i>, 328 Ill. App.3d 175 Il. Ct.App. (February 26, 2002)</p>	<p>Mother incarcerated for 70 days in 1992 for aggravated assault of older child.</p>	<p>No.</p>	<p>Mother found unfit due to statutory presumption of unfitness under 750 ILCS 50/1(D)(q) based on conviction for aggravated battery against older child. Mother arguing that 50/1(D)(q) cannot be applied because it was amended to include unfitness</p>	<p>No.</p>	<p>No.</p>	<p>Amended section 750 ILCS 50/1(D)(q) reads, "The grounds of unfitness may be any one of or more of the following: (q) The parent has been criminally convicted of aggravated</p>	

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				<p>presumption in 1998, and her battery conviction was in 1992; court holds amendment can and does apply retroactively. Mother also deemed unfit because she has schizophrenia and was unable to get it under control; she did not take medications. She had not seen one of her children for 1.5 years; children in foster care since early 1990s.</p>			<p>battery, heinous battery, or attempted murder of any child.”</p>

Indiana	<p><i>Everhart v. Scott County Office of Family & Children, 779 N.E.2d 1225 (December 18, 2002)</i></p>	<p>Father:</p>	<p>Yes, for abuse of one of his children.</p>	<p>The child had been removed from the parent for at least six months under a dispositional decree, and because the father was in prison on a 14-year sentence, he could not care for the child.</p>	<p>No.</p>	<p>Yes, the court footnotes the Indiana law governing TPR suits, wherein one of the grounds for termination is: "After July 1, 1999, the child has been removed from the parent and has been under the supervision of a</p>
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	<i>Weldshofer v. Dearborn County Div. of Family, & 779 N.E.2d 954 (December 13, 2002)</i>	Mother:	Yes, in pretrial detention on felony forgery charges.	Mother had a mental condition that caused her to injure her child for the attention it brought her.	No.	county office of family and children for at least 15 months of the most recent 22 months.”	The child was with the father's family.

	<i>Tillotson v. Clay County Dept. of Family & Children, 777 N.E.2d 741 (October 23, 2002)</i>	Both.	Both, for shackling their child in a closet.	Multiple instances of abuse and neglect.	No.	No.	
	<i>Bartrum v. Grant County Office of Family & Children (In re W.B.), 772 N.E.2d 522 (August 5, 2002)</i>	Both.	Both have criminal neglect charges pending against them that could lead to incarceration.	Previous termination, instances of abuse and neglect, allegations of sexual abuse, and dirty and unsafe home environment.	No.	No.	
	<i>Baker v. Marion County Office of Family & Children, 768 N.E.2d 1008 (May 30, 2002)</i>	Both.	No.	Failure to complete services that would prepare them to be parents; child was born on cocaine; mother continues to be addicted;	No.	No.	

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Iowa	<i>In the Interest of S.D.</i> , 2002 Iowa App. LEXIS 1376 (December 30, 2002)	Father.	No.	Father has severe, chronic substance abuse problems, leading to abuse and neglect of his children.	No.	No.	
	<i>In the Interest of P.C.</i> , 2002 Iowa App. LEXIS 1386 (December 30, 2002)	Father (but his rights are not being contested on appeal).	Yes.	Father serving lengthy prison sentence; mother has severe substance abuse problems.	No.	No.	

	<i>In the Interest of R.F.</i> , 2002 Iowa App. LEXIS 1390 (December 30, 2002)	Father:	Yes.		Child had been placed with paternal grand-mother; but evidence of abuse existed; father is in federal prison.	No.	No.	
	<i>In the Interest of M.M.</i> , 2002 Iowa App. LEXIS 1321 (December 11, 2002)	Mother:	No.		Mother has extensive history of substance abuse leading to neglect and endangerment of the child.	No.	No.	
	<i>In the Interest of T.M.</i> , 2002 Iowa App. LEXIS 1345 (December 11, 2002)	Mother:	Yes.		Mother has substance abuse problems; she is in prison for sexual abuse.	No.	No.	

State	Case	Mother or Father Incarcerated	Currently Incarcerated At Time of Hearing	Grounds for Termination of Parental Rights	Adoption and Safe Families Act Reference	15 of 22 Months Reference	Other
	<i>In the Interest of S.E.</i> , 2002 Iowa App. LEXIS 1272 (November 25, 2002)	Father.	No.	Child was adjudicated in need based on neglect and abuse; parents failed to continue or repair the relationship.	No.	No.	
	<i>In the Interest of T.G.</i> , 2002 Iowa App. LEXIS 1159 (October 30, 2002)	Father.	Yes.	Father was imprisoned for sexual abuse and likely to be in prison for the rest of his life.	No.	No.	

State	Case	Mother or Father Incarcerated	Currently Incarcerated At Time of Hearing	Grounds for Termination of Parental Rights	Adoption and Safe Families Act Reference	15 of 22 Months Reference	Other
	<i>In the Interest of M.B.</i> , 2002 Iowa App. LEXIS 1107 (October 16, 2002)	Mother:	Yes.	The child had been removed from the mother's physical custody for the last six consecutive months (§232.116 [1][h][3]), and the court had previously terminated her rights to another child (§232.116[1][g][2]).	No.	No.	
	<i>In the Interest of R.T.</i> , 2002 Iowa App. LEXIS 1003 (September 25, 2002)	Mother:	No.	The court previously adjudicated the children in need of assistance after finding they were physically or	No.	No.	

				sexually abused; agency offered the parents services, but circumstances that led to adjudication continue; Iowa Code §232.116(1)(c).				
				The children could not be returned to the parent's home; father had nowhere to live and had substance abuse problems.	No.	No.	No.	No.
				Mother was unfit, displaying inappropriate behavior such as using crack in her children's presence,	Yes.	Mother.		
				<i>In the Interest of S.B., 2002 Iowa App. LEXIS 1004 (September 25, 2002)</i>				
				<i>In the Interest of A.P., 2002 Iowa App. LEXIS 1029 (September 25, 2002)</i>				

State	Case	Mother or Father Incarcerated	Currently Incarcerated At Time of Hearing	Grounds for Termination of Parental Rights	Adoption and Safe Families Act Reference	15 of 22 Months Reference	Other
	<i>In the Interest of L.H.</i> , 2002 Iowa App. LEXIS 971 (September 11, 2002)	Father.	Yes.	leaving them unsupervised for long periods of time, failing to provide them with adequate food, failing to get them to school, and leaving them with inappropriate supervisors.	No.	No.	

				others; child would not be able to be returned to the parent's custody in a reasonable period of time.				
				Mother had substance abuse problems leading to incarceration and neglect of her children; they could not be returned to their home with the mother.	No.	No.	No.	No.
				The child was adjudicated in need of assistance and was removed from physical custody of the parents for	Yes.	Mother.	Mother.	
				<i>In the Interest of K.A., 2002 Iowa App. LEXIS 995 (September 11, 2002)</i>				
				<i>In the Interest of A.A., 2002 Iowa App. LEXIS 997 (September 11, 2002)</i>				

State	Case	Mother or Father Incarcerated	Currently Incarcerated or Time of Hearing	Grounds for Termination of Parental Rights	Adoption and Safe Families Act Reference	15 of 22 Months Reference	Other
				<p>a period of at least six consecutive months; the parents did not maintain significant, meaningful contact with the child during the previous six consecutive months and made no reasonable efforts to resume care of the child despite being given the opportunity to do so.</p>			

	<i>In the Interest of K.W.</i> , 2002 Iowa App. LEXIS 920 (August 28, 2002)	Father:		Yes, for sexual abuse of minors.	Abandonment and the fact that the child was adjudicated in need of assistance and the father was unlikely to be released from prison for five or more years.	No.	No.	
	<i>In the Interest of C.F.</i> , 2002 Iowa App. LEXIS 924 (August 28, 2002)	Mother:		Yes.	Child was adjudicated in need when the mother was in pretrial detention; she was convicted and is in a federal penitentiary.	No.	No.	
	<i>In re Interest of M.F.</i> , 2002 Iowa App. LEXIS 928 (August 28, 2002)	Father:		No.	Abandonment (232.116[1][b]) and that the children could not be returned to his custody	No.	No.	

State	Case	Mother or Father Incarcerated	Currently Incarcerated At Time of Hearing	Grounds for Termination of Parental Rights	Adoption and Safe Families Act Reference	15 of 22 Months Reference	Other
	<p><i>In the Interest of B.P.</i>, 2002 Iowa App. LEXIS 840 (August 14, 2002)</p>	<p>Father.</p>	<p>Yes.</p>	<p>(232.116[1][f][4]); father was involved with the criminal justice system from a very early age and was an addict with no inclinations toward sobriety.</p>	<p>No.</p>	<p>No.</p>	

State	Case	Mother or Father Incarcerated	Currently Incarcerated At Time of Hearing	Grounds for Termination of Parental Rights	Adoption and Safe Families Act Reference	15 of 22 Months Reference	Other
	<i>In the Interest of A.F.</i> , 2002 Iowa App. LEXIS 880 (August 14, 2002)	Mother.	Yes.	Mother in prison, unresolved parenting issues, and no prospects for providing a home for the child after her release.	No.	No.	
	<i>In re D.S.</i> , 2002 Iowa App. LEXIS 822 (July 31, 2002)	Mother and two fathers.	Both fathers.	The children had been adjudicated in need of assistance, had been removed from the mother's custody, and could not safely be returned.	No.	No.	

	<i>In re S.L.</i> , 2002 Iowa App. LEXIS 826 (July 31, 2002)	Both.	No.	The children had been adjudicated in need of assistance, had been removed from the parents' custody, and could not safely be returned.	No.	No.	No.	No.	No.
	<i>In re N.M.K.</i> , 2002 Iowa App. LEXIS 827 (July 31, 2002)	Father:	No.	The children had been adjudicated in need of assistance, had been removed from the parents' custody, and could not safely be returned. Father exposed the children to high levels of domestic violence, and mother showed a lack of parental care in the years prior to the TPR hearing.					

State	Case	Mother or Father Incarcerated	Currently Incarcerated At Time of Hearing	Grounds for Termination of Parental Rights	Adoption and Safe Families Act Reference	15 of 22 Months Reference	Other
	<i>In re M.O.</i> , 2002 Iowa App. LEXIS 831 (July 31, 2002)	Both.	Mother, yes.	Child was 4 or older, was in need of assistance, was removed from parents for 12 of last 18 months, and could not be returned home. Both parents had history of domestic violence and incarceration.	No.	No.	
	<i>In re D.W.</i> , 2002 Iowa App. LEXIS 833 (July 31, 2002)	Father.	Yes.	Father in prison for his son's entire life on a conviction for having sex with his daughter; never tried to contact his son or be a part of his life.	No.	No.	

	<p><i>In the Interest of S.B., 2002 Iowa App. LEXIS 749 (July 19, 2002)</i></p>	<p>Father:</p>	<p>No.</p>	<p>Child was 4 or older; was adjudicated in need of assistance, was removed from home for 12 of last 18 months, and could not be returned home (as to both parents); abandonment as to the father, mother also has a drug addiction.</p>	<p>No.</p>	<p>No.</p>	
	<p><i>In the Interest of A.L., 2002 Iowa App. LEXIS 754 (July 19, 2002)</i></p>	<p>Mother:</p>	<p>No.</p>	<p>Adjudication, child younger than 4 years of age and out of her mother's care for six consecutive months; Iowa Code §232.116(1)(g);</p>	<p>No.</p>	<p>No.</p>	

State	Case	Mother or Father Incarcerated	Currently Incarcerated At Time of Hearing	Grounds for Termination of Parental Rights	Adoption and Safe Families Act Reference	15 of 22 Months Reference	Other
				mother had history of addiction and relapse.			
	<p><i>In the Interest of S.W.</i>, 2002 Iowa App. LEXIS 767 (July 19, 2002)</p>	<p>Father:</p>	<p>No.</p>	<p>Iowa Code §232.116(1)(d), absence of a significant and meaningful contact; §232.116(1)(g), child could not be returned to the home; and §232.116(1)(k), parental substance abuse prevented the child from being returned to the home.</p>	<p>No.</p>	<p>No.</p>	

State	Case	Mother or Father Incarcerated	Currently Incarcerated At Time of Hearing	Grounds for Termination of Parental Rights	Adoption and Safe Families Act Reference	15 of 22 Months Reference	Other
	<i>In the Interest of T.P.</i> , 2002 Iowa App. LEXIS 779 (July 19, 2002)	Father.	Yes.	Mother agreed to termination; father has long history of incarceration and has contributed little to a relationship with his daughter.	No.	No.	
	<i>In re A.M.W.</i> , 2002 Iowa App. LEXIS 735 (July 3, 2002)	Father.	No.	The child was adjudicated in need of assistance, taken out of the parents' custody, and the parent were imprisoned for a crime against the child.	No.	No.	TPR was reversed as to mother because statute required incarceration, whereas the mother's sentence had been suspended.

	<p><i>In the Interest of D.D.</i>, 2002 Iowa App. LEXIS 736 (July 3, 2002)</p>	<p>Father:</p>	<p>Unsure.</p>	<p>Abandonment; child adjudicated in need of assistance and removed for six months; parent has not maintained significant and meaningful contact with the child; child was 4 or older; was adjudicated in need of assistance, was removed from home for 12 of last 18 months, and could not be returned home.</p>	<p>No.</p>	<p>No.</p>	
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State	Case	Mother or Father Incarcerated	Currently Incarcerated or Time of Hearing	Grounds for Termination of Parental Rights	Adoption and Safe Families Act Reference	15 of 22 Months Reference	Other
	<i>In the Interest of H.T.</i> , 2002 Iowa App. LEXIS 646 (June 19, 2002)	Father.	Yes.	Child adjudicated in need of assistance, removed for six months, parent did not maintain significant and meaningful contact; child was 3 or younger; in need of assistance, removed from home for 6 of last 12 months, and could not be returned home; child in need of assistance, parent has substance abuse problem,	No.	No.	

			child could not be returned in a reasonable time.					
			Physical or sexual abuse or neglect; child 4 or older cannot be returned to the home; child 3 or younger cannot be returned to the home.	Yes.	Father.	<i>In the Interest of A.B., 2002 Iowa App. LEXIS 668 (June 19, 2002)</i>		No.
			Abandonment; father left mother before child was born, moved to Florida, and had little contact with the child until after TPR.	No.	Father.	<i>In re Interest of M.L., 2002 Iowa App. LEXIS 551 (May 31, 2002)</i>		No.

State	Case	Mother or Father Incarcerated	Currently Incarcerated or Incarcerated At Time of Hearing	Grounds for Termination of Parental Rights	Adoption and Safe Families Act Reference	15 of 22 Months Reference	Other
	<i>In re Interest of S.S., 2002 Iowa App. LEXIS 553 (May 31, 2002)</i>	Father.	Yes.	Child is 3 years of age or younger; has been adjudicated in need of assistance; has been removed from the physical custody of the parents for at least 6 months of the last 12 months, and cannot be returned to the parents' custody at the present time.	No.	No.	

State	Case	Mother or Father Incarcerated	Currently Incarcerated At Time of Hearing	Grounds for Termination of Parental Rights	Adoption and Safe Families Act Reference	15 of 22 Months Reference	Other
	<i>In re Interest of C.J.W.</i> , 2002 Iowa App. LEXIS 471 (May 15, 2002)	Mother.	Unsure, but it appears she is.	ment because he again used drugs. Mother's drug abuse, criminal history, lack of housing, and sporadic employment demonstrated the children could not be returned to her care.	No.	No.	

	<i>In the Interest of D.K.</i> , 2002 Iowa App. LEXIS 492 (May 15, 2002)	Mother:	No.		The child had been adjudicated in need of assistance and could not be returned to the mother due to repeated incarcerations and chronic substance abuse.	No.	No.	No.	
	<i>In re D.D.</i> , 2002 Iowa App. LEXIS 506 (May 15, 2002)	Father:	Yes.		Abandonment.	No.	No.	No.	
	<i>In the Interest of A.M.</i> , 2002 Iowa App. LEXIS 512 (May 15, 2002)	Mother:	Yes.		The child is 3 years of age or younger, was adjudicated in need of assistance, was removed from the physical custody of the par-	No.	No.	No.	

State	Case	Mother or Father Incarcerated	Currently Incarcerated or Time of Hearing	Grounds for Termination of Parental Rights	Adoption and Safe Families Act Reference	15 of 22 Months Reference	Other
	<i>In the Interest of A.B., 2002 Iowa App. LEXIS 532 (May 15, 2002)</i>	Father.	Unclear.	<p>ents for at least 6 of the last 12 months, or for the last 6 consecutive months and any trial period at home has been less than 30 days, and the child cannot be returned to the custody of the his or her parents at the present time.</p> <p>The child has been adjudicated in need of assistance; previous TPR exists with</p>	No.	No.	

State	Case	Mother or Father Incarcerated	Currently Incarcerated At Time of Hearing	Grounds for Termination of Parental Rights	Adoption and Safe Families Act Reference	15 of 22 Months Reference	Other
	<i>In the Interest of D.H.</i> , 2002 Iowa App. LEXIS 365 (April 24, 2002)	Mother:	Yes.	The children were adjudicated in need of assistance because of sexual abuse, domestic violence, and drug use in the home; they cannot be returned because these conditions are ongoing.	No.	No.	
	<i>In the Interest of S.H.</i> , 2002 Iowa App. LEXIS 366 (April 24, 2002)	Father:	Yes.	Children adjudicated in need of assistance because of abuse and neglect; both parents incarcerated for abusing	No.	No.	

State	Case	Mother or Father Incarcerated	Currently Incarcerated At Time of Hearing	Grounds for Termination of Parental Rights	Adoption and Safe Families Act Reference	15 of 22 Months Reference	Other
	<i>In re M.K.</i> , 2002 Iowa App. LEXIS 426 (April 24, 2002)	Both.	No.	<p>custody; parents have failed to maintain a meaningful relationship with the child.</p> <p>The children were 4 or older, had been adjudicated in need of assistance, and were removed from their parents' care for at least 12 of the last 18 months; clear and convincing evidence existed that the children could not be returned to parental custody</p>	No.	No.	

State	Case	Mother or Father Incarcerated	Currently Incarcerated At Time of Hearing	Grounds for Termination of Parental Rights	Adoption and Safe Families Act Reference	15 of 22 Months Reference	Other
	<i>In the Interest of M.P.</i> , 2002 Iowa App. LEXIS 448 (April 24, 2002)	Father.	Yes, for sexually abusing the children.	Children were allegedly sexually abused by the father; custody given to mother and father sent to jail.	No.	No.	
	<i>In the Interest of G.C.</i> , 2002 Iowa App. LEXIS 588 (April 10, 2002)	Mother.	No.	Mother had a chronic substance abuse problem and had been incarcerated twice, resulting in foster placement of her 14-year-old son.	No.	No.	

State	Case	Mother or Father Incarcerated	Currently Incarcerated At Time of Hearing	Grounds for Termination of Parental Rights	Adoption and Safe Families Act Reference	15 of 22 Months Reference	Other
	<i>In the Interest of A.G., 2002 Iowa App. LEXIS 624 (April 10, 2002)</i>	One father.	Yes.	Children adjudicated in need because of physical or sexual abuse or neglect; circumstances continue despite services.	No.	No.	
	<i>In the Interest of R.T., 2002 Iowa App. LEXIS 626 (April 10, 2002)</i>	Father.	Yes.	Both parents had history of drug abuse; mother was homeless and continued using drugs; father was incarcerated.	No.	No.	

		Father:	Yes.	Children were taken from the parents due to unstable conditions and could not be returned to their custody; mother had mental illness and drug addiction problems; father was incarcerated.	No.	No.
<i>In re M.B.</i> , 2002 Iowa App. LEXIS 256 (March 27, 2002)		Mother:	No.	Mother had history of relationships involving domestic violence and substance abuse and was incarcerated for a long period of daughter's life.	No.	No.

State	Case	Mother or Father Incarcerated	Currently Incarcerated or Time of Hearing	Grounds for Termination of Parental Rights	Adoption and Safe Families Act Reference	15 of 22 Months Reference	Other
	<i>In the Interest of M.H.</i> , 2002 Iowa App. LEXIS 258 (March 13, 2002)	Father.	Yes.	Allegations of physical abuse or neglect; circumstances continue despite the receipt of services; child is 3 or younger and has been removed for 6 of the last 12 months and cannot be returned home. Father's rights were also terminated under Section 232.116(1)(k); parent has substance abuse problem and child cannot be returned home.	No.	No.	

State	Case	Mother or Father Incarcerated	Currently Incarcerated At Time of Hearing	Grounds for Termination of Parental Rights	Adoption and Safe Families Act Reference	15 of 22 Months Reference	Other
	<i>In the Interest of B.C.J.</i> , 2002 Iowa App. LEXIS 314 (March 13, 2002)	Father.	Yes.	Children adjudicated in need of assistance; cannot be returned to her custody; mother has history of alcohol and substance abuse.	No.	No.	
	<i>In the Interest of I. B.</i> , 2002 Iowa App. LEXIS 317 (March 13, 2002)	Both.	No.	Child adjudicated in need of assistance and removed from parent's care when he was born with cocaine in his system; both parents have history of drug use and	No.	No.	

State	Case	Mother or Father Incarcerated	Currently Incarcerated At Time of Hearing	Grounds for Termination of Parental Rights	Adoption and Safe Families Act Reference	15 of 22 Months Reference	Other
	<i>In the Interest of J.J.</i> , 2002 Iowa App. LEXIS 340 (February 20, 2002)	Father.	Yes.	Child 4 or older; adjudicated in need of assistance; removed from home for 12 of last 18 months; cannot be returned home; mother has history of drug abuse and depression; father incarcerated.	No.	No.	
	<i>In re J.A.</i> , 2002 Iowa App. LEXIS 360 (February 20, 2002)	Father.	Yes.	Not listed.	No.	No.	

State	Case	Mother or Father Incarcerated	Currently Incarcerated or Time of Hearing	Grounds for Termination of Parental Rights	Adoption and Safe Families Act Reference	15 of 22 Months Reference	Other
	<i>In re C.C.</i> , 2002 Iowa App. LEXIS 138 (January 28, 2002)	Father.	Yes.	The child is 3 or younger; has been adjudicated in need of assistance, was removed from the custody of the parents for at least 6 of the last 12 months, or for the last 6 consecutive months, and any trial period at home has been less than 30 days; child cannot be returned to custody of the parents at the present time.	No.	No.	

Kansas ^a	<i>In re D.T.</i> , 56 P3d 840 (October 25, 2002)	Father:	Yes.		The child was adjudicated in need of assistance; father is unfit by reason of condition that renders the parent unable to care properly for a child and the conduct or condition is unlikely to change in the foreseeable future; father is incarcerated.	No.	
Louisiana	<i>State ex rel.A. R. H. v. Hines</i> , 810 So. 2d 1166 (February 27, 2002)	Mother:	Yes.		At least one year has elapsed since a child was removed from the parent's custody pursuant to a court order; no substantial compliance with a	No.	

State	Case	Mother or Father Incarcerated	Currently Incarcerated or Time of Hearing	Grounds for Termination of Parental Rights	Adoption and Safe Families Act Reference	15 of 22 Months Reference	Other
				<p>case plan for services that has been previously filed by the department and approved by the court as necessary for the safe return of the child; despite earlier intervention, no reasonable expectation exists of significant improvement in the parent's condition in the near future, considering the child's age and his need for a safe, stable, permanent home.</p>			

	State ex rel. D.A.G., 812 So. 2d 781 (February 27, 2002)	Mother:	No.	Child taken out of mother's cus- tody due to desertion inci- dent and sub- stance abuse; after more than a year with child in foster care, the mother failed to substantially com- ply with the case plan; no reason- able expectation exists of signifi- cant improve- ment in her con- dition in the near future.	No.	No.	
	State ex rel. M.J.G., 815 So. 2d 955 (February 6, 2002)	Father:	Yes.	The children had been in the cus- tody of the state for more than one year; mother	No.	No.	

State	Case	Mother or Father Incarcerated	Currently Incarcerated or Incarcerated At Time of Hearing	Grounds for Termination of Parental Rights	Adoption and Safe Families Act Reference	15 of 22 Months Reference	Other
	<i>State ex rel. R.C. v. Everett</i> , 805 So. 2d 1205 (January 23, 2002)	Father.	Yes.	had not substantially complied with case plan; father consented to TPR. Children in custody of department; parent convicted and sentenced to a period of incarceration of such duration that the parent will not be able to care for the child for an extended period of time, considering the child's age			

							No.
							No.
			and his need for a safe, stable, permanent home; parent has refused or failed to provide a reasonable plan for the appropriate care of the child other than foster care.				The father was not fit due to four convictions (two for distribution in a school zone); TPR reversed because father did not have counsel at trial.
							Yes.
							Father:
						<i>State ex rel. D.</i> , 806 So. 2d 871 (January 9, 2002)	

State	Case	Mother or Father Incarcerated	Currently Incarcerated At Time of Hearing	Grounds for Termination of Parental Rights	Adoption and Safe Families Act Reference	15 of 22 Months Reference	Other
Maine	<i>In re Heather G.</i> , 2002 ME 151 (September 12, 2002)	Mother:	No.	"The mother was unable and unwilling to protect the children from jeopardy and these circumstances were unlikely to change within a time reasonably calculated to meet their needs, and, alternatively, she has been unwilling or unable to take responsibility within a time reasonably calculated to meet their needs, and that	No.	No.	TPR was reversed because trial court's decision did not consider mother's witness and did not meet the clear and convincing evidentiary standard.

<p>Maryland</p>	<p><i>In re Adoption</i> Nos. T00/30003 & T00/30004, 370 Md. 250 (August 22, 2002)</p>	<p>Mother:</p>	<p>No.</p>	<p>termination was in their best interests." The maternal grandfather was a convicted sex offender; mother had mental health and alcohol problems.</p>	<p>No.</p>	<p>Yes, pursuant to FL §5- 525.1(b)(1),</p>	
				<p>Mother had history of drug abuse and beating her children, causing them to be taken from her custody; mother had been incarcerated, and no suitable relative could be found for placement.</p>			

State	Case	Mother or Father Incarcerated	Currently Incarcerated At Time of Hearing	Grounds for Termination of Parental Rights	Adoption and Safe Families Act Reference	15 of 22 Months Reference	Other
Massachusetts	<i>Adoption of Whitney</i> , 53 Mass. App. Ct. 832 (February 19, 2002)	Father.	Yes.	Child was declared in need of assistance while father was in jail because mother was unfit.	No.	No.	
	<i>Adoption of Olivia</i> , 53 Mass. App. Ct. 670 (January 8, 2002)	Father.	Yes.	Father was incarcerated and would be unfit after his release.	No.	No.	
Michigan	<i>In re J.M. & J.</i> , 2002 Mich. App. LEXIS 2161 (December 17, 2002)	Father.	Yes.	The parent sexually abused the child and was convicted for it.	No.	No.	

State	Case	Mother or Father Incarcerated	Currently Incarcerated or Time of Hearing	Grounds for Termination of Parental Rights	Adoption and Safe Families Act Reference	15 of 22 Months Reference	Other
				<p>and a reasonable likelihood existed that the children would be harmed if returned to his home, MCL 712A.19b(3)(i). Father is serving a 29-month to 15-year sentence for criminal sexual conduct involving a 14-year-old girl. Given the length of his sentence, the nature of the crime, and his extensive criminal record, no reasonable</p>			

State	Case	Mother or Father Incarcerated	Currently Incarcerated or Incarcerated At Time of Hearing	Grounds for Termination of Parental Rights	Adoption and Safe Families Act Reference	15 of 22 Months Reference	Other
	<i>In re N.D.P.</i> , 2002 Mich. App. LEXIS 1739 (November 12, 2002)	Father.	Yes.	(3)(a)(ii): Father deserted the child for 91 or more days and has not sought custody of the child during that period; (g) failed to provide proper care or custody for the child; (j) a reasonable likelihood exists, based on the conduct or capacity of the parent, that the child will be harmed if she is returned to the parent's home.	No.	No.	

	<p><i>In re S.L.E.</i>, 2002 Mich. App. LEXIS 1521 (November 1, 2002)</p>	<p>Mother:</p>	<p>Yes.</p>	<p>182 or more days have elapsed since the issuance of an initial dispositional order; conditions that led to the adjudication continue; mother failed to provide proper care or custody for the child; mother is imprisoned for such a period that the child will be deprived of a normal home for a period exceeding two years.</p>	<p>No.</p>	<p>No.</p>	
	<p><i>In re K.M.H.</i>, 2002 Mich. App. LEXIS 1477 (October 29, 2002)</p>	<p>Father:</p>	<p>Yes.</p>	<p>Father sexually abused child, who will likely suffer from injury or abuse in the fore-</p>			

State	Case	Mother or Father Incarcerated	Currently Incarcerated or Incarcerated At Time of Hearing	Grounds for Termination of Parental Rights	Adoption and Safe Families Act Reference	15 of 22 Months Reference	Other
	<i>In re K.M.S., Minor</i> ; 2002 Mich.App. LEXIS 1498 (October 29, 2002)	Father.	Yes.	seeable future if placed in the parent's home; father failed to provide proper care or custody for the child; father is imprisoned for such a period that the child will be deprived of a normal home for a period exceeding two years.	No.	No.	

			tion exists that the parent will be able to provide proper care and custody in a reasonable time considering the child's age.				
			182 or more days have elapsed since the issuance of an initial dispositional order; conditions that led to adjudication continue to exist; father fails to provide proper care or custody for the child; child will be harmed if he or she is returned to the parent's home.				
				No.			
				No.			
				No.			
				Father:			
			<i>In re E.K. & T.K.</i> , 2002 Mich.App. LEXIS 362 (March 5, 2002)				

State	Case	Mother or Father Incarcerated	Currently Incarcerated or Incarcerated At Time of Hearing	Grounds for Termination of Parental Rights	Adoption and Safe Families Act Reference	15 of 22 Months Reference	Other
	<i>In re Wells</i> , 2002 Mich. App. LEXIS 183 (February 12, 2002)	Father.	Yes.	Father failed to provide proper care and custody; no reasonable likelihood exists that he will be able to do so in a reasonable time.	No.	No.	
	<i>In re Williams</i> , 2002 Mich. App. LEXIS 34 (January 15, 2002)	Father.	Yes.	Father incarcerated for two or more years.	No.	No.	
Minnesota	<i>In re Welfare of T.S.</i> , 2002 Minn. App. LEXIS 1424 (December 24, 2002)	Mother.	No.	Mother refused and neglected duties; she is palpably unfit because of her	No.	No.	

State	Case	Mother or Father Incarcerated	Currently Incarcerated or Time of Hearing	Grounds for Termination of Parental Rights	Adoption and Safe Families Act Reference	15 of 22 Months Reference	Other
	<i>In re Children of A. J. T.</i> , 2002 Minn. App. LEXIS 1209 (October 14, 2002)	One father.	Yes; he does not appeal.	Past and continuing drug use rendered parents unfit; Minn. Stat. §260C.301 (1)(b)(4).	No.	No.	
	<i>In re Welfare of A.C.</i> , 2002 Minn. App. LEXIS 932 (August 6, 2002)	Mother.	No.	Mother refused to comply with parental duties; child neglected, placed in foster home, mother has failed to correct conditions leading to placement; father unknown.	No	No.	

			Mother:	Yes.		Mother is palpably unfit to be a party to the parent-child relationship; convicted for setting a fire in the apartment building where her children were sleeping.	No.	No.
			Mother:	No.		Mother was unfit; convicted of trafficking drugs with her children and has a substance abuse problem.	No.	No.
Missouri	<i>In re Welfare of D.P.</i> , 2002 Minn.App. LEXIS 945 (August 1, 2002)		Father:	Yes.		Father abused or neglected the child and has failed to rectify the conditions leading to the child's placement with agency.	No.	No.

State	Case	Mother or Father Incarcerated	Currently Incarcerated At Time of Hearing	Grounds for Termination of Parental Rights	Adoption and Safe Families Act Reference	15 of 22 Months Reference	Other
	<i>Juvenile Officer v. D.M. (In the Interest of K.C.M.), 85 S.W.3d 682 (September 10, 2002)</i>	Both.	Father, yes.	<p>§211.447.2(1): Child in foster care at least 15 of the most recent 22 months;</p> <p>§211.447.4(2): abuse and neglect;</p> <p>§211.447.4(3): failing to rectify after being under the jurisdiction of the juvenile court for a period of one year.</p>	No.	<p>RSMO 2000 s. 211.447.2 (1) states that one grounds for termination is that the child has been in foster care for 15 of the last 22 months.</p>	

	<i>In re</i> J.M.S. v. A.S., 83 S.W.3d 76 (August 27, 2002)	Father:	Released during the hearing.	Abandonment, abuse, or neglect as to father; mother is unfit and has substance abuse problems.	No.	No.	
	<i>Juvenile Officer v. G.S.B. (In the Interest of B.S.B.)</i> , 76 S.W.3d 318 (June 11, 2002)	Father:	No.	Abandonment, neglect, harmful conditions exist.	No.	No.	
	<i>C.J.G v. D.G.P.</i> , 75 S.W.3d 794 (March 26, 2002)	Father:	No.	Willful abandonment.	No.	No.	
	<i>In re</i> M.O. v. A.O., 70 S.W.3d 579 (February 13, 2002)	Mother:	No.	Foster parents petitioned for adoption; presumption of unfitness because of earlier terminations.	No.	No.	

State	Case	Mother or Father Incarcerated	Currently Incarcerated At Time of Hearing	Grounds for Termination of Parental Rights	Adoption and Safe Families Act Reference	15 of 22 Months Reference	Other
Montana	<i>In re M.D.M.</i> , 2002 MT 305 (December 12, 2002)	Father.	Released after TPR hearing.	Father convicted of pimping women, including child's mother; also has substance abuse problems. Child cannot be safely returned to the home.	No.	No.	Governed by Indian Child Welfare Act.
	<i>In re T.H.</i> , 2002 MT 293N (December 12, 2002)	Father.	No.	Abandonment.	No.	No.	

	<i>In re S.S.</i> , 2002 MT 270 (November 26, 2002)	Father:	Yes.	Abandonment.	No.	No.	No.	No.	
	<i>In re A.S.</i> , 2002 MT 265 (November 26, 2002)	Father:	Yes, released after hearing.	Father was unfit, unwilling, or unable to provide adequate parental care for the child.	No.	No.	No.	No.	
	<i>In re H.E.</i> , 2002 MT 257 (November 21, 2002)	Both.	Yes.	Both parents incarcerated since before the birth.	No.	No.	No.	In re- sponse to mother's claim that hearing should have been continued so a home study of a prospective foster parent could be	

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						<p>undertaken, the court stated "the Department was obligated to form a permanency plan for H.E. incorporating the presumption that if a child has spent 15 of the last 22 months in foster care, that child's</p>	

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	<i>In re A.L.</i> , 2002 MT 169 (July 30, 2002)	Father.	Incarcerated before and after hearing, but not during.	Father failed to successfully comply with an ordered treatment plan; his unfitness was unlikely to change in a reasonable period.	No.	No.	
Nebraska ^b	<i>State v. DeWayne G.</i> (In re DeWayne G.), 263 Neb. 43 (January 25, 2002)	Father.	Yes.	Abandonment under Neb. Rev. Stat. §43-292(1) (Reissue 1998); neglect under §43-292(2); parental unfitness under §43-292(4); because the juveniles had been in	Yes.	Yes.	

			out-of-home placement for 15 or more of the past 22 months under §43-292(7).					
			Neglect and abandonment.	Yes.	Father.	<i>State v. Freeman J. (In re Fantasye L)</i> , 2002 Neb. App. LEXIS 247 (September 17, 2002)		
	No.	No.						
			The parents have substantially and continuously or repeatedly neglected and refused to give the juvenile or a sibling of the juvenile neces-	Yes.	Father.	<i>Bretany M. v. Brett W.</i> , 11 Neb.App. 104 (May 7, 2002)		
	No.	No.						
	Yes.	Yes.						

State	Case	Mother or Father Incarcerated	Currently Incarcerated At Time of Hearing	Grounds for Termination of Parental Rights	Adoption and Safe Families Act Reference	15 of 22 Months Reference	Other
	<i>State v. Amy B. (In re Ashleigh B.)</i> , 2002 Neb. App. LEXIS 67 (March 5, 2002)	Mother.	Yes.	sary parental care and protection; juvenile has been in an out-of-home placement for 15 or more of the past 22 months.	No.	Yes.	

State	Case	Mother or Father Incarcerated	Currently Incarcerated At Time of Hearing	Grounds for Termination of Parental Rights	Adoption and Safe Families Act Reference	15 of 22 Months Reference	Other
	<i>Richard J.K. v. Div. of Child & Family Serv. (in Re K.D.L.), 58 P3d 181 (December 3, 2002)</i>	Father.	Yes.	Father incarcerated for domestic violence; danger exists of possible occurrences against the children.	No.	No.	
	<i>Diana L.N. v. Dept't of Human Res., Div. of Child & Family Serv., 55 P3d 955 (October 18, 2002)</i>	Mother.	Yes.	Children were neglected and abandoned; parents were unfit, failed to adjust, and made only token efforts to be reunited with the children.	No.	No.	

	<i>D.R. v. L.M. (in Re Q.L.R.), 54 P.3d 56 (September 18, 2002)</i>	Father:	Yes.	Abandonment (solely because of incarceration).	No.	No.	TPR reversed because incarceration alone will not constitute abandonment.
New Jersey ^d	<i>In re Guardianship of J.N.H., 172 N.J. 440 (June 26, 2002)</i>	Mother:	No.	Court entered a conviction against the parent for abuse, abandonment or neglect of or cruelty to such child.	No.	No.	
	<i>N.J. Div. of Youth & Family Serv. v. R.G., 354 N.J. Super. 202 (September 25, 2002)</i>	Father (not included in this appeal).	No.	Child's safety, health, or development is endangered by the parental relationship; parent is unwilling or unable to eliminate the harm facing the child	Yes, regarding whether the passing of a year should bar mother from filing of appeal <i>nunc pro tunc</i> .	No.	

State	Case	Mother or Father Incarcerated	Currently Incarcerated or Time of Hearing	Grounds for Termination of Parental Rights	Adoption and Safe Families Act Reference	15 of 22 Months Reference	Other
				<p>or is unable or unwilling to provide a safe, stable home for the child; the delay of permanent placement will add to the harm; reasonable efforts made to provide services to help the parent correct the circumstances that led to the child's placement; TPR will not do more harm than good.</p>			

State	Case	Mother or Father Incarcerated	Currently Incarcerated At Time of Hearing	Grounds for Termination of Parental Rights	Adoption and Safe Families Act Reference	15 of 22 Months Reference	Other
New Mexico ^e	<i>State ex rel. Children v. Amy B.</i> , 2003 NMCA 17 (September 17, 2002)	Mother.	Yes.	Mother had previous TPR; was unable since the prior termination to address the drug abuse that caused her to abuse and neglect her children; child was in need of a stable caregiver.	Yes, with regard to situations in which the state is relieved from making diligent efforts at reunification of parent and child.	No.	
New York ^{f,g}	<i>Matter of Saboor C.</i> , 2003 N.Y.App. Div. Lexis 2929 Sup. Ct. N.Y. (March 21, 2003)	Father.	Yes; not eligible for parole for three years from time agency commenced proceeding; child will be 16 then.	Permanent neglect finding; child in foster care with same family for past eight years; father will not be eligible for parole until she is	No.	No.	

State	Case	Mother or Father Incarcerated	Currently Incarcerated At Time of Hearing	Grounds for Termination of Parental Rights	Adoption and Safe Families Act Reference	15 of 22 Months Reference	Other
				<p>child for a period of more than one year following her placement. Child been in foster or institutional care for five years. Father was in and out of prison, failed to complete drug rehabilitation, and failed to secure permanent employment. Visits were only somewhat regular when father in prison and agency brought child for visits.</p>		<p>continuously to maintain contact with or plan for future of his daughter for a period of more than one year following her placement.”</p>	

State	Case	Mother or Father Incarcerated	Currently Incarcerated At Time of Hearing	Grounds for Termination of Parental Rights	Adoption and Safe Families Act Reference	15 of 22 Months Reference	Other
				<p>did not approve plan of indefinite foster care. Agency made diligent efforts; mother did not show up for a number of arranged visits and then moved to a facility where it was impractical for child, because of her medical/physical condition, to visit.</p>			

	<p><i>Matter of Shrane I., 751 N.Y.S.2d 127 Sup. Ct. N.Y. (December 5, 2002)</i></p>	<p>Father incarcerated for two to six years for breaking into child's mother's home, sexually assaulting her, and violating terms of probation for burglary as a result.</p>	<p>Yes.</p>	<p>Permanent neglect (384-b); child been in foster care since he or she was 3 months old; child deemed neglected; father ordered to get treatment for alcohol and marijuana abuse, develop parenting skills, and overcome illiteracy. Agency made efforts to help him; he was unmotivated; did not try and did not comply with requirements, then got arrested for breaking into mother's home and sexually</p>	<p>No.</p>	<p>No; says that permanent neglect petition filed in 2000 alleged that father had not complied with neglect order and "failed to maintain contact with the child or to plan for his future for a period of more than one year."</p>
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State	Case	Mother or Father Incarcerated	Currently Incarcerated or Time of Hearing	Grounds for Termination of Parental Rights	Adoption and Safe Families Act Reference	15 of 22 Months Reference	Other
	<i>In re Miguel C. et al.</i> 749 N.Y.S.2d 728 Sup. Ct. N.Y. (November 26, 2002)	Father.	Unclear, but appears yes.	assaulting her, which also violated his probation for burglary; went to jail. Abandonment and permanent neglect (384-b); father failed to communicate with agency or children during the six months immediately prior to the filing of petitions; failed to maintain contact with or plan for future of children;	No.	No.	

State	Case	Mother or Father Incarcerated	Currently Incarcerated At Time of Hearing	Grounds for Termination of Parental Rights	Adoption and Safe Families Act Reference	15 of 22 Months Reference	Other
	<p><i>In re Caresse Solange E.</i>, 298 A.D.2d 173 Sup. Ct. N.Y. (October 8, 2002)</p>	<p>Father released from five-year incarceration; then child placed with agency; father went back to prison a few months later and has at least one year left.</p>	<p>Yes; has at least one year left.</p>	<p>Permanent neglect (384-b); father failed to plan for return of child for more than one year after she was placed with agency; did not do what agency instructed him to do—never established paternity, did not complete drug rehabilitation or parenting skills training, and did not find work or appropriate housing; then, he got sent back to prison.</p>	<p>No.</p>	<p>Not explicit, but emphasizes failure to plan for child's return or make improvements "for more than a year after she had been placed with the Agency."</p>	

	<p><i>In re Devon Dupree et al.</i> 298 A.D.2d 103 Sup. Ct. N.Y. (October 1, 2002)</p>	<p>Mother claimed that she missed fact-finding and dispositional proceedings due to incarceration, but court said she offered no evidence to substantiate incarceration claim.</p>	<p>Unclear, but court thought no.</p>	<p>Permanent neglect (384-b); mother missed fact-finding and dispositional proceedings, did not visit children regularly, did not get drug treatment; failed to maintain contact with children or plan for their future during relevant period set forth in 384-b(7)(a).</p>	<p>No.</p>	<p>No, but reference to "relevant period" set forth in 384-b(7)(a).</p>	
	<p><i>In re Aaron G.</i> 298 A.D.2d 123 Sup. Ct. N.Y. (October 1, 2002)</p>	<p>Mother:</p>	<p>Unclear, but seems yes.</p>	<p>Permanent neglect (384-b); mother made improvements with help of agency, but then she relapsed into drug use and got incarcerated for selling drugs.</p>	<p>No.</p>	<p>No.</p>	

State	Case	Mother or Father Incarcerated	Currently Incarcerated or Incarcerated At Time of Hearing	Grounds for Termination of Parental Rights	Adoption and Safe Families Act Reference	15 of 22 Months Reference	Other
	<i>In re Jorge G.</i> , 297 A.D.2d 564 Sup. Ct. N.Y. (September 24, 2002)	Father.	Unclear.	Permanent neglect (384-b); failed to keep in touch with agency between April 1993 and September 1994, although agency told him he must do so; drug abuse relapsed, resulting in incarceration in 1994. Unclear how long incarceration period was and whether he was still in prison at time of hearing.	No.	No.	

	<p><i>In re Fard Saleem</i>, 297 A.D.2d 677 Sup. Ct. N.Y. (September 16, 2002)</p>	<p>Mother:</p>	<p>Yes.</p>	<p>Permanent neglect (384-b); in November 1999, mother admitted permanently neglecting child; family court entered suspended judgment; mother said that because she was in prison, father was only resource for child. Conditions of suspended judgment were that father obtain housing, visit child regularly, attend therapy sessions. Father died in May 2000 and court found he had not complied before death.</p>	<p>No.</p>	<p>No.</p>	
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State	Case	Mother or Father Incarcerated	Currently Incarcerated or Time of Hearing	Grounds for Termination of Parental Rights	Adoption and Safe Families Act Reference	15 of 22 Months Reference	Other
	<i>In re Genesis Jeanice Blair M.</i> , 296 A.D.2d 317 Sup. Ct. N.Y. (July 2, 2002)	Father.	Unclear.	Permanent neglect (384-b); agency's diligent efforts thwarted by father's failure to complete drug treatment program and his recurring drug-related arrests and incarcerations; although father did maintain some visitation with child, he failed to plan for child's future.	No.	No.	

	<p><i>In re Tiffany A.</i>, 295 A.D.2d 288 Sup. Ct. N.Y. (June 27, 2002)</p>	<p>Mother:</p>	<p>Unclear:</p>	<p>Permanent neglect (384-b): mother failed to apprise agency of her whereabouts for six months, thus, agency not required to show diligent efforts, but it made them anyway. Mother permanently neglected child by “failing during the statutory relevant time period” to maintain contact with child or to plan for her future; mother not relieved of responsibility to plan due to her incarceration.</p>	<p>No.</p>	<p>No, but reference to mother “failing during the statutorily relevant time period” to maintain contact with child or to plan for her future.</p>	
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State	Case	Mother or Father Incarcerated	Currently Incarcerated or Incarcerated At Time of Hearing	Grounds for Termination of Parental Rights	Adoption and Safe Families Act Reference	15 of 22 Months Reference	Other
	<i>In re Custody of Dennisha Shavon C.</i> , 295 A.D.2d 123 Sup. Ct. N.Y. (June 4, 2002)	Father.	Unclear.	Abandonment (384-b[4][b]; [5][a]); father had no contact with child for six months preceding filing of petition; raised presumption of abandonment that father failed to rebut; not necessary for agency to show that during relevant period it made diligent efforts to locate father; who was in prison; rather, it was necessary for	No.	No; only time reference is that father had no contact with child or agency during six months preceding filing of petition.	

State	Case	Mother or Father Incarcerated	Currently Incarcerated At Time of Hearing	Grounds for Termination of Parental Rights	Adoption and Safe Families Act Reference	15 of 22 Months Reference	Other
	<i>In re Tiffany L.</i> , 294 A.D.2d 365 Sup. Ct. N.Y. (May 6, 2002)	Mother:	At time of fact-finding hearing she was in prison, but out of jail when dispositional hearing occurred.	failure. Prior to six-month period, father had been writing letters to kids but then abruptly stopped; his assertion that it was impossible to him to write or call was an issue of fact resolved by family court.	No.	No.	

State	Case	Mother or Father Incarcerated	Currently Incarcerated At Time of Hearing	Grounds for Termination of Parental Rights	Adoption and Safe Families Act Reference	15 of 22 Months Reference	Other
	<i>In re Commitment of Marino S.</i> , 293 A.D.2d 223 Sup. Ct. N.Y. (April 23, 2002)	Both mother and father; father convicted of first-degree rape of one of daughters at issue; sentenced to 15 years; mother convicted of reckless endangerment in first-degree for delaying getting raped child medical treatment and for con-	Unclear as to mother; but father serving a 15-year sentence, so appears yes.	Both parents severely abused children; father raped daughter so severely that she was listed as likely to die at the hospital. Mother essentially allowed him to rape daughter, waited to get daughter medical treatment, conspired with father, and gave a false statement at hospital as to how daughter was injured.	Yes; issue on appeal is whether family court may retroactively apply pertinent provisions of ASFA subsequent to filing TPR petition. In the case of a finding that a child is severely abused, the requirement of diligent efforts is excused. ASFA should and can be applied retroactively	No.	

		<p>because it is a remedial statute; it clarifies that the child's health and safety are of paramount concern in determining whether reasonable efforts are necessary and serves to expedite permanency planning by allowing agency to obtain an immediate determination (i.e., during the abuse proceeding) on the diligent efforts issue. ASFA is</p>			<p>spiring and giving false account of how child was injured; mother sentenced to one to three years.</p>		
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State	Case	Mother or Father Incarcerated	Currently Incarcerated or Time of Hearing	Grounds for Termination of Parental Rights	Adoption and Safe Families Act Reference	15 of 22 Months Reference	Other
					<p>clarificatory and did not create a new right or affect a preexisting one; thus, a motion requesting a finding that diligent efforts are not required may be brought "in conjunction with, or at any time subsequent to," the filing of an abuse or neglect petition</p>		

State	Case	Mother or Father Incarcerated	Currently Incarcerated At Time of Hearing	Grounds for Termination of Parental Rights	Adoption and Safe Families Act Reference	15 of 22 Months Reference	Other
	<i>In re Guardianship & Custody of Kyle M., 2002 NY Slip Op 40280U (June 7, 2002)</i>	Both mother and father in prison; mother admitted killing her 3.5-year-old nephew in a brutal way; she is now serving a 30-year sentence for first-degree homicide (ineligible for	Yes.	This is actually an order declaring child permanently neglected and ordering a dispositional hearing; little doubt exists, however, that parents' rights will be terminated. Permanent neglect and abandonment (384-b[5][a]; b[7][a]); abandonment;	Yes; instances in which agency was excused from making diligent effort to strengthen parent-child relationship; ASFA "makes clear that diligent efforts to strengthen the parent-child relationship	No; two time references are to New York Social Services Law—permanent neglect (384-b[7][a]); parents failed to plan for	Uncorrected opinion; unpublished.

		<p>parole); father currently serving 10-year sentence for homicide/murder in connection with same killing (ineligible for parole).</p>		<p>both parents failed to visit child or communicate with agency during six months preceding filing of petition. Permanent neglect; parents failed to plan for child's future or maintain regular, substantial, continuous contact with child for period of more than one year following child's placement. Diligent efforts to work on relationship not in best interest of child and not required by agency</p>	<p>may be dispensed with where the parent has committed certain crimes of violence." ASFA specifically states the crimes for which a finding of "no diligent efforts" may be made. ASFA incorporates but does not change the law, policy, or emphasis in New York; thus, the court is not precluded from determining, pursuant to</p>	<p>child's future or maintain regular, substantial, continuous contact with child for period of more than one year following child's placement. Abandonment; parents failed to contact child or agency for six months</p>
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State	Case	Mother or Father Incarcerated	Currently Incarcerated or Time of Hearing	Grounds for Termination of Parental Rights	Adoption and Safe Families Act Reference	15 of 22 Months Reference	Other
				<p>because parents killed their nephew and are serving sentences for that crime.</p>	<p>New York Social Services Law §384-b(7)(a), that diligent efforts would be detrimental to best interest of child. Court's determination that agency does not need to show best efforts could be based on longstanding New York law regarding determination</p>	<p>prior to filing of petition.</p>	

State	Case	Mother or Father Incarcerated	Currently Incarcerated At Time of Hearing	Grounds for Termination of Parental Rights	Adoption and Safe Families Act Reference	15 of 22 Months Reference	Other
				<p>plan for children. Father claims that agency failed to exercise diligent efforts because they did not locate him while in prison. Court finds agency did exercise diligent efforts, especially because father was out of state, did not contact agency for five months after release from prison, knew agency's name and where children were but didn't contact them, etc.</p>		<p>placement period) to maintain contact with or plan for child's future.</p>	<p>accommodation for parents with disabilities.</p>

	No.
Both parents are hearing impaired; issue in this case is whether enough was done to accommodate this.	No.
	Father physically, sexually, and emotionally abused the children; children were exposed to sexual activity, domestic violence, and their parents' excessive drinking and drug use; father willfully left the children in foster care for more than 12 months without showing that reasonable progress
	Yes.
	Father.
	<i>In re Faircloth</i> , 153 N.C. App. 565 (November 5, 2002)
North Carolina ^b	

State	Case	Mother or Father Incarcerated	Currently Incarcerated or Time of Hearing	Grounds for Termination of Parental Rights	Adoption and Safe Families Act Reference	15 of 22 Months Reference	Other
				<p>had been made to correct the conditions that led to the children's removal; for six months immediately preceding the filing of the petition, he did not pay a reasonable portion of the cost of care for the children although physically and financially able to do so.</p>			

		Mother:	Yes.	Abuse and neglect; stepfather sexually abused children; mother knew and did not intervene.	No.	No.
<i>In re Lacey</i> , 2002 N.C. App. LEXIS 2398 (November 5, 2002)		Mother:	Yes.	Abuse and neglect; stepfather sexually abused children; mother knew and did not intervene.	No.	No.
<i>In re McNeil</i> , 2002 N.C. App. LEXIS 2396 (October 15, 2002)		Putative father.	Unclear, back in prison starting October 2000, but no reference after that.	Putative father had neglected the minor child, willfully left the minor child in foster care for more than 12 months without showing any reasonable progress, failed to pay a reasonable portion of support for the minor child for a continuous period of six months after the minor child had been placed in custody,	No.	No.

State	Case	Mother or Father Incarcerated	Currently Incarcerated or Time of Hearing	Grounds for Termination of Parental Rights	Adoption and Safe Families Act Reference	15 of 22 Months Reference	Other
	<i>In re McBroom</i> , 2002 N.C. App. LEXIS 2475 (October 15, 2002)	Father.	Yes.	and failed to legitimate the child. Father had neglected the child, willfully left the minor child in foster care for more than 12 months without showing any reasonable progress, failed to pay a reasonable portion of support for the minor child for a continuous period of six months after the child had	No.	No.	

State	Case	Mother or Father Incarcerated	Currently Incarcerated or Time of Hearing	Grounds for Termination of Parental Rights	Adoption and Safe Families Act Reference	15 of 22 Months Reference	Other
	<p><i>In re Torrence</i>, 2002 N.C. App. LEXIS 2154 (August 20, 2002)</p>	<p>Father.</p>	<p>At time of hearing, yes.</p>	<p>Neglect; the children had been willfully left in foster care for more than 12 months without showing reasonable progress toward rectifying the conditions that led to removal; the parents willfully failed to pay a reasonable portion of the cost of care of the children while physically and financially able to</p>			

State	Case	Mother or Father Incarcerated	Currently Incarcerated At Time of Hearing	Grounds for Termination of Parental Rights	Adoption and Safe Families Act Reference	15 of 22 Months Reference	Other
	<i>In re Bethea</i> , 2002 N.C. App. LEXIS 2212 (July 16, 2002)	Mother.	Yes.	Neglect.	No.	No.	
	<i>In re Clark</i> , 151 N.C. App. 286 (July 2, 2002)	Father.	Yes.	Child in custody; the parent, for a continuous period of six months preceding the filing of the petition, willfully failed to pay a reasonable portion of the cost of care for the juvenile although physically and financially able to	No.	No.	

State	Case	Mother or Father Incarcerated	Currently Incarcerated At Time of Hearing	Grounds for Termination of Parental Rights	Adoption and Safe Families Act Reference	15 of 22 Months Reference	Other
	<i>In re Williams</i> , 149 N.C.App. 951 (May 7, 2002)	Father:	Yes.	able to do so" and was "incapable of providing for the proper care and supervision of the child"; "such inability [would] continue for the foreseeable future."	No.	No.	The court considered and denied father's argument that his case was governed by Indian Child Welfare Act.

			side the home for more than 12 months without showing that reasonable progress under the circumstances been made.					
			Willful abandonment for a period of at least six consecutive months preceding filing of the TPR petition.	Yes; commenced after filing of TPR by grandparents of child.	Father:	<i>In re Mosley</i> , 2002 N.C. App. LEXIS 1808 (April 16, 2002)		
			Neglect and willful abandonment for at least six months.	Yes.	Mother:	<i>In re Fisher</i> , 2002 N.C. App. LEXIS 1898 (April 2, 2002)		
	No.	No.						
	No.	No.						

State	Case	Mother or Father Incarcerated	Currently Incarcerated or Time of Hearing	Grounds for Termination of Parental Rights	Adoption and Safe Families Act Reference	15 of 22 Months Reference	Other
North Dakota	<i>K.E.L. v. S.S.M. (In re S.A.L.)</i> , 2002 ND 178 (November 5, 2002)	Father.	Yes.	Abandonment and deprivation.	No.	No.	
Ohio ¹	<i>In re Miraz</i> , 2002 Ohio 7278 (December 30, 2002)	Father.	No.	Father has chronic emotional instability, lack of parenting skills, criminal history, and failure to visit or financially support the child. He has not taken steps to correct the problems leading up to removal of custody.	No.	No.	

	<i>In re Williams</i> , 2002 Ohio 7205 (Decem- ber 24, 2002)	Father:	No.	The child had been in the cus- tody of the state for 12 of the last 22 months.	No.	12 of 22 months referred to as grounds for termi- nation.	
	<i>In re Rucker</i> , 2002 Ohio 6878 (Decem- ber 16, 2002)	Mother:	Unclear, perhaps released after hearing but before appeal.	Best interests of the child; mother has long history of substance abuse problems.	No.	No.	
	<i>In re Dunikowski</i> , 2002 Ohio 7050 (Decem- ber 11, 2002)	Both.	Father, yes.	Child had been in state custody for 12 of the last 22 months.	No.	12 of 22 months referred to as grounds for termi- nation.	TPR reversed and remand- ed on due process grounds.
	<i>In re M.Z.</i> , 2002 Ohio 6634 (Decem- ber 5, 2002)	Father:	Yes.	The child is not abandoned or orphaned or has not been in the temporary cus- tody of one or	No.	12 of 22 months referred to as grounds for termi- nation.	

State	Case	Mother or Father Incarcerated	Currently Incarcerated At Time of Hearing	Grounds for Termination of Parental Rights	Adoption and Safe Families Act Reference	15 of 22 Months Reference	Other
	<i>In re Cleckley</i> , 2002 Ohio 6518 (December 2, 2002)	Father:	Yes.	more public children services agencies or private child-placing agencies for 12 or more months of a consecutive 22-month period; child cannot be placed with either of his or her parents in a reasonable time.	No.	12 of 22 months cited as grounds for TPR.	

				No.	No.	12 of 22 months cited as grounds for TPR.	
<i>In re C.F.</i> , 2002 Ohio 6113 (November 13, 2002)	Mother:	No.	Failure to correct the problems leading to removal of custody: abuse of alcohol, mental health issues, failure to adequately supervise young children, and the dirty condition of home.	No.	No.		TPR reversed and remanded.
<i>In re Aldridge</i> , 2002 Ohio 5988 (October 30, 2002)	Father:	No.	Neglect.	No.	No.	12 of 22 months cited as grounds for TPR.	
<i>In re Aldridge</i> , 2002 Ohio 5988 (October 30, 2002)	Father:	Yes.	Best interest of child; child has been out of parents' custody for 12 of last 22 months.				

State	Case	Mother or Father Incarcerated	Currently Incarcerated At Time of Hearing	Grounds for Termination of Parental Rights	Adoption and Safe Families Act Reference	15 of 22 Months Reference	Other
	<i>In re Willis</i> , 2002 Ohio 4942 (September 20, 2002)	Father.	No.	Substance abuse, history of neglect and abuse of child, and failure to remedy these situations.	No.	12 of 22 months cited as grounds for TPR.	
	<i>In re Belanger</i> , 2002 Ohio 4956 (September 20, 2002)	Father.	No.	Best interests of the child, but TPR reversed because the specific grounds were unclear.	No.	12 of 22 months cited as grounds for TPR.	
	<i>In re Maciulewicz</i> , 2002 Ohio 4820 (September 13, 2002)	Father.	Yes.	Father was incarcerated and had no contact with the child.	No.	No.	

	<i>In re Legg</i> , 2002 Ohio 4582 (September 5, 2002)	Both.	No.	History of physical abuse in the household; child had been out of parental custody for 12 of 22 months.	No.	12 of 22 months cited as grounds for TPR.	
	<i>In re Marsh</i> , 2002 Ohio 3982 (August 5, 2002)	Mother.	No.	Best interests of child; child had been out of mother's custody for 12 of the last 22 months.	No.	No.	
	<i>In re Kirchenbauer</i> , 2002 Ohio 3866 (July 31, 2002)	Father.	Yes, on charges relating to the children.	The children have been in the temporary custody of the agency for more than 12 of the last 22 months; TPR is in the child's best interest.	No.	12 of 22 months cited as grounds for TPR.	

State	Case	Mother or Father Incarcerated	Currently Incarcerated At Time of Hearing	Grounds for Termination of Parental Rights	Adoption and Safe Families Act Reference	15 of 22 Months Reference	Other
	<i>In re Steele</i> , 2002 Ohio 3872 (July 29, 2002)	Mother:	Yes.	Termination was in the children's best interest; they could not be placed with a parent in a reasonable time. Mother has history of neglect and is currently incarcerated.	No.	No.	
	<i>In re Sims</i> , 2002 Ohio 3458 (June 28, 2002)	Father:	No.	Termination was in the best interest of the children; they could not be placed with a parent in a reasonable time. Allegations of	No.	12 of 22 months (but not grounds for TPR here).	

State	Case	Mother or Father Incarcerated	Currently Incarcerated At Time of Hearing	Grounds for Termination of Parental Rights	Adoption and Safe Families Act Reference	15 of 22 Months Reference	Other
	<i>In re Azbell</i> , 2002 Ohio 3143 (June 7, 2002)	Both.	Yes.	lifestyle, was unable to provide a secure and stable home, and failed to demonstrate even the most rudimentary parenting skills.	No.	No.	Same case as the previous, but this is the mother's appeal.

	<i>In re Schaffer</i> , 2002 Ohio 2661 (June 5, 2002)	Mother:	Yes.	Child could not be placed with mother in reasonable time; TPR was in the child's best interests. Mother has history of drug abuse and instability.	No.	12 of 22 months (but not grounds here; child only 10 months old).	
	<i>In re Lansberry</i> , 2002 Ohio 2658 (June 5, 2002)	Father.	Yes, for sexual abuse of his children.	Children could not be placed with their parents; it was in their best interest that their parents' rights be terminated. All children showed signs of abuse and had special needs stemming from their inappropriate upbringing.	No.	12 of 22 months cited as grounds for TPR.	

State	Case	Mother or Father Incarcerated	Currently Incarcerated At Time of Hearing	Grounds for Termination of Parental Rights	Adoption and Safe Families Act Reference	15 of 22 Months Reference	Other
	<i>In re Stephens</i> , 2002 Ohio 3057 (June 5, 2002)	Mother:	No.	TPR was in the children's best interest; children could not be placed with either parent in a reasonable time or should not be placed with the parents.	No.	No.	
	<i>In re Bennett</i> , 2002 Ohio 2433 (May 22, 2002)	Mother:	No.	TPR was in the children's best interest; children could not be placed with either parent in a reasonable time or should not be placed with the parents.	No.	12 of 22 months cited but not relied on.	

	<i>In re Strong</i> , 2002 Ohio 2247 (May 9, 2002)	Mother:	No.	The children had been in state custody for 23 consecutive months, could not be placed with the mother in a reasonable time and should not be placed with the mother, and TPR was in their best interest.	No.	12 of 22 months cited as grounds for TPR.	
	<i>In re Pittman</i> , 2002 Ohio 2208 (May 8, 2002)	Mother:	No.	The children had been in state custody for 23 consecutive months, could not be placed with the mother in a reasonable time and should not be placed with the mother, and TPR was in their best interest.	No.	12 of 22 months cited as grounds for TPR.	

State	Case	Mother or Father Incarcerated	Currently Incarcerated At Time of Hearing	Grounds for Termination of Parental Rights	Adoption and Safe Families Act Reference	15 of 22 Months Reference	Other
	<i>In re Kjuan C.</i> , 2002 Ohio 2046 (April 26, 2002)	Both.	No.	Father failed to substantially remedy the conditions causing the child to be placed outside the home; demonstrated a lack of commitment toward the child by failing to regularly support, visit, or communicate with the child; father was repeatedly incarcerated, preventing him from providing care for the child.	No.	12 of 22 months cited but not relied on.	

	<i>In re Porter-Ardis</i> , 2002 Ohio 2536 (April 26, 2002)	Father:	Released after hearing.	The children could not be placed with a parent in a reasonable time and should not be placed with either of them; TPR was in the children's best interest. Father had been incarcerated for domestic abuse; mother had history of drug abuse.	No.	12 of 22 months cited but not relied on.
	<i>In re Smith</i> , 2002 Ohio 1786 (April 12, 2002)	Father:	No.	The children could not be placed with a parent in a reasonable time and should not be placed with	No.	12 of 22 months cited but not relied on.

State	Case	Mother or Father Incarcerated	Currently Incarcerated or Time of Hearing	Grounds for Termination of Parental Rights	Adoption and Safe Families Act Reference	15 of 22 Months Reference	Other
	<i>In re Whitney S.</i> , 2002 Ohio 1525 (March 29, 2002)	Father:	Yes.	Children were out of parental custody for 12 of last 22 months; children could not be placed with a parent in a reasonable time and should not be placed with either of them; TPR was in their best interest.	No.	12 of 22 months cited as grounds for TPR.	

	<i>In re Leo D.</i> , 2002 Ohio 1174 (March 15, 2002)	Mother:	Yes.	The children could not be placed with a parent in a reasonable time and should not be placed with either of them; TPR was in their best interest.	No.	12 of 22 months cited but not relied on.	
	<i>In re Crystal C.</i> , 2002 Ohio 855 (March 1, 2002)	Father:	Yes.	Father failed to substantially remedy the conditions causing the child to be placed outside the home; parent demonstrated a lack of commitment toward the child by failing to regularly support, visit, or communicate with the	No.	No.	

State	Case	Mother or Father Incarcerated	Currently Incarcerated or Time of Hearing	Grounds for Termination of Parental Rights	Adoption and Safe Families Act Reference	15 of 22 Months Reference	Other
				<p>child when able to do so; he is incarcerated and will not be available to care for the child for at least 18 months; he is unwilling to provide food, clothing, shelter, and other basic necessities for the child or to prevent the child from suffering physical, emotional, or sexual abuse or physical, emotional, or mental neglect.</p>			

	Mother:	Yes.	TPR in child's best interests because mother has history of incarceration and drug use and has failed to show sufficient commitment to her child. Child could not be placed with mother because she was incarcerated and would be for at least 18 months.	No.	No.	
<i>In re Sears</i> , 2002 Ohio App. LEXIS 319 (January 31, 2002)	Mother:	Yes.	Best interests of the child; child could not be placed with mother. Mother had history of drug use and incarceration; child shot herself	No.	No.	
	Mother:	Yes.				
<i>In re Aliyah W.</i> , 2002 Ohio 128 (January 18, 2002)	Mother:	Yes.				

State	Case	Mother or Father Incarcerated	Currently Incarcerated At Time of Hearing	Grounds for Termination of Parental Rights	Adoption and Safe Families Act Reference	15 of 22 Months Reference	Other
				with gun found in mother's purse.			
	<i>In re Shannon R.</i> , 2002 Ohio R. 5 (January 10, 2002)	Mother:	No.	Mother had history of drug abuse and incarceration, leading to neglect of the child.	No.	No.	
Oklahoma	<i>State v. Carter (In re K.G.)</i> , 2002 OK CIV APP 87 (August 23, 2002)	Father:	No.	Failure to pay child support; 10 O.S. §7006-1.1(A)(7); child had remained in foster care for 15 of the most recent 22 months; 10 O.S. §7006-1.1(A)(15);	No.	Yes.	

State	Case	Mother or Father Incarcerated	Currently Incarcerated At Time of Hearing	Grounds for Termination of Parental Rights	Adoption and Safe Families Act Reference	15 of 22 Months Reference	Other
Oregon ⁶	<i>Moran v. Weldon (In re Moran)</i> , 184 Ore.App. 269 (October 16, 2002)	Father.	Yes.	Incarceration (this was an action brought by mother and stepfather to adopt without consent of the birthfather). Appeals court overturned TPR in that it was based solely on incarceration.	No.	No.	
Pennsylvania ¹	<i>In re J.I.R.</i> , 2002 PA Super 295 (September 17, 2002)	Mother.	No.	The child has been removed from the care of the parent, 12 months or more have elapsed from the date of removal, the conditions that led to	Yes, but in relation to aggravating circumstances (in this case, a previous TPR).	No.	

State	Case	Mother or Father Incarcerated	Currently Incarcerated At Time of Hearing	Grounds for Termination of Parental Rights	Adoption and Safe Families Act Reference	15 of 22 Months Reference	Other
	<i>In the Interest of A.L.D.</i> , 2002 Pa. Super. LEXIS 489 (April 10, 2002)	Father.	Yes, for sexual abuse of children.	The child has been removed from the care of the parent; 12 months or more have elapsed from the date of removal; the conditions that led to removal continue to exist; TPR would best serve the child's needs and welfare.	No.	No.	
Rhode Island ⁿ	<i>In re Diamond I.</i> , 797 A.2d 1076 (May 20, 2002)	Father.	Unclear; he is on a suspended sentence of 29 years.	Abandonment and previous termination.	No.	No.	

	<p><i>In re Joseph S.,</i> 788 A.2d 475 (January 29, 2002)</p>	<p>Mother:</p>	<p>No.</p>	<p>As to son: Mother is unfit by reason of conduct or conditions seriously detrimental to the child (mental disorder).As to daughter: Child has been in foster care for 12 months; agency offered parents services to correct the situation that led to the child being placed; no substantial probability exists that the child will be able to return safely to the parents' care in a reasonable period of time, considering</p>	<p>No.</p>	<p>No.</p>	
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State	Case	Mother or Father Incarcerated	Currently Incarcerated At Time of Hearing	Grounds for Termination of Parental Rights	Adoption and Safe Families Act Reference	15 of 22 Months Reference	Other
Tennessee ^a	<i>In re R.C.V.</i> , 2002 Tenn. App. LEXIS 811 (November 18, 2002)	Mother.	No.	<p>the child's age and need for a permanent home.</p> <p>The children have been removed from the home of the mother for six months; the conditions that led to removal prevent the children's safe return to the care of their mother; little likelihood exists that these conditions will be remedied at an early date so that</p>			

State	Case	Mother or Father Incarcerated	Currently Incarcerated At Time of Hearing	Grounds for Termination of Parental Rights	Adoption and Safe Families Act Reference	15 of 22 Months Reference	Other
				unlikely that she will be able to assume the care and responsibility for the children in the near future.			
	Davis v. Jensen, 2002 Tenn. App. LEXIS 806 (November 15, 2002)	Father:	Yes.	Abandonment; father was in out-of-state prison and refused to participate in the hearing by telephone because he wanted to be present at the hearing. In his absence, the trial court assumed abandonment and terminated his rights.	No.	No.	

			Mother:	Yes.		Both parents had history of alcohol abuse. Mother had repeated incarcerations for driving under the influence while father had history of physically abusing the children.	No.	No.	
			Mother:	No.		The child has been removed from the home for a period of six months; the conditions that led to removal still persist; little likelihood exists that these conditions will be remedied in the near future; the continuation of	No.	No.	
	<i>State Dept. of Children's Serv. v. T.M.K., 2002 Tenn. App. LEXIS 704 (September 30, 2002)</i>								
	<i>Tenn. Dept. of Children's Serv. v. C. M. S., 2002 Tenn. App. LEXIS (September 26, 2002)</i>								

State	Case	Mother or Father Incarcerated	Currently Incarcerated At Time of Hearing	Grounds for Termination of Parental Rights	Adoption and Safe Families Act Reference	15 of 22 Months Reference	Other
	<i>State Dept. of Children's Serv. v. R./M.M.</i> , 2002 Tenn.App. LEXIS 679 (September 23, 2002)	Father.	Yes.	the parent-child relationship greatly diminishes the child's chances of early integration into a safe, stable, permanent home.	No.	No.	

	<p><i>In re S.G.S.</i>, 2002 Tenn. App. LEXIS 509 (July 18, 2002)</p>	<p>Father:</p>	<p>Yes.</p>	<p>Father had abandoned his child by willfully failing to visit and make reasonable payments toward her support. He did not visit his daughter for eight months before he was incarcerated. He also made no payments toward her support after the divorce.</p>	<p>No.</p>	<p>No.</p>	
	<p><i>State Dept. of Children's Serv. v. TK.</i>, 2002 Tenn. App. LEXIS 384 (May 30, 2002)</p>	<p>Both.</p>	<p>No.</p>	<p>Mother failed to comply in a substantial manner with the reasonable responsibilities of the case plan; T.C.A. §36-1-113(g)(2).</p>	<p>No.</p>	<p>No.</p>	

State	Case	Mother or Father Incarcerated	Currently Incarcerated or Time of Hearing	Grounds for Termination of Parental Rights	Adoption and Safe Families Act Reference	15 of 22 Months Reference	Other
	<i>In re J.E.F.</i> , 2002 Tenn. App. LEXIS 350 (May 16, 2002)	Mother:	Yes; released during pendency of appeal.	Failure to comply in a substantial manner with the reasonable responsibilities of the case plan. The child had been removed from the home for six months; the conditions that led to removal still persist; little likelihood exists that these conditions will be remedied in the near future; the continuation of the parent-child relationship-	No.	No.	

State	Case	Mother or Father Incarcerated	Currently Incarcerated At Time of Hearing	Grounds for Termination of Parental Rights	Adoption and Safe Families Act Reference	15 of 22 Months Reference	Other
	<i>M.P.P. v. D.L.K.</i> , 2002 Tenn. App. LEXIS 214 (March 26, 2002)	Father.	Yes.	Father incarcerated by order of the court as a result of a criminal act, under a sentence of 10 or more years; the child was younger than 8 at the time the sentence was entered by the court.	No.	No.	TPR brought by mother and stepfather.
	<i>State Dept of Children's Serv. v. Grant</i> , 2002 Tenn.App. LEXIS 158 (February 25, 2002)	Father.	Yes.	Abandonment; failure to remedy conditions leading to removal.	No.	No.	

				Yes.	Both.	<i>In re C.M.R.</i> , 2002 Tenn. App. LEXIS 105 (February 7, 2002)	Parent incarcerated for two years or more for abuse of a child residing in the home; greater than 10 years incarceration and child younger than 8.	No.	No.
			Yes.	Father:		<i>In re C.M.R.</i> , 2002 Tenn. App. LEXIS 105 (February 1, 2002)	Unclear: what grounds were est- ablished as to the father—at least abandonment.		
			No.	Mother:		<i>In re A.D.A.</i> , 84 S.W3d 592 (January 24, 2002)	Abandonment and child's best inter- ests; mother had drug addiction and had not complied with her case plan. Endangerment,	No.	No.

State	Case	Mother or Father Incarcerated	Currently Incarcerated At Time of Hearing	Grounds for Termination of Parental Rights	Adoption and Safe Families Act Reference	15 of 22 Months Reference	Other
Texas ^o	<i>In re C.H.</i> , 89 S.W.3d 17 (July 3, 2002)	Both.	Mother; no; father; yes.	abandonment, and in the best interests of the child.	No.	No.	
	<i>In the Interest of K.M.K.</i> , 2002 Tex.App. LEXIS 8697 (December 11, 2002)	Father.	Yes, on a 99-year sentence.	Grounds for TPR were long-term incarceration due to abuse of a stepdaughter.	No.	No.	
	<i>In the Interest of J.B.</i> , 93 S.W.3d 609 (November 27, 2002)	Mother.	No.	Mother knowingly placed or allowed child to remain in dangerous conditions or surroundings.	No.	No.	TPR reversed and remanded.

	<i>In the Interest of C.T.E., 95 S.W.3d 462 (November 21, 2002)</i>	Father:		Released during pendency of appeal.	Endangerment of physical and emotional well-being of children.	No.	No.	TPR reversed and remanded.
	<i>In re N.J.S., 2002 Tex.App. LEXIS 8312 (November 21, 2002)</i>	Father:		Yes during hearing; unclear whether incarceration continued on appeal.	Placing children in physical or emotional danger; constructive abandonment, failure to comply with case plan.	No.	No.	
	<i>In re E.A.G., 2002 Tex.App. LEXIS 8104 (November 14, 2002)</i>	Father:		Yes.	Endangerment.	No.	No.	
	<i>In the Interest of K.M.B., 91 S.W.3d 18 (November 7, 2002)</i>	Father:		Yes.	Endangerment and abandonment.	No.	No.	

State	Case	Mother or Father Incarcerated	Currently Incarcerated At Time of Hearing	Grounds for Termination of Parental Rights	Adoption and Safe Families Act Reference	15 of 22 Months Reference	Other
	<i>In the Interest of D.P.</i> , 2002 Tex.App. LEXIS 7915 (November 6, 2002)	Father.	Unclear.	Not mentioned.	No.	No.	
	<i>In the Interest of R.F.</i> , 89 S.W.3d 258 (October 17, 2002)	Father.	Yes.	Father knowingly engaged in criminal conduct that has resulted in his conviction for an offense and imprisonment and inability to care for the child for not less than two years.	No.	No.	TPR reversed because of dispute surrounding period of incarceration.

		Father:	Yes.	Endangerment as to the mother; in the best interests to terminate father's rights due to his history of incarceration and alcohol abuse.	No.	No.	
	<i>In the Interest of A.N.</i> , 2002 Tex.App. LEXIS 7093 (October 3, 2002)	Father:	Yes.	Endangerment.	No.	No.	
	<i>Robinson v. Tex. Dept. of Protective & Regulatory Serv.</i> , 89 S.W.3d 679 (September 30, 2002)	Mother:	No.	Endangerment.	No.	No.	
	<i>In re J.G. & D.</i> , 2002 Tex.App. LEXIS 6952 (September 27, 2002)	Father:	Yes.	Father engaged in conduct or knowingly placed the child with people who engaged in conduct that	No.	No.	

State	Case	Mother or Father Incarcerated	Currently Incarcerated At Time of Hearing	Grounds for Termination of Parental Rights	Adoption and Safe Families Act Reference	15 of 22 Months Reference	Other
				endangers the child's physical or emotional well-being.			
	<i>In the Interest of J. L.</i> , 2002 Tex.App. LEXIS 6721 (September 18, 2002)	Mother.	No.	Mother was the cause of the child being born addicted to alcohol or a controlled substance.	No.	No.	
	<i>In the Interest of B.S.W.</i> , 87 S.W.3d 766 (September 18, 2002)	Father.	Yes.	Father knowingly engaged in criminal conduct that resulted in his conviction for an offense and imprisonment	No.	No.	

	<i>In re S.A.A.</i> , 2002 Tex.App. LEXIS 6766 (September 13, 2002)	Mother:	No.		Endangerment and abandon- ment.	No.	No.	No.	No.
	<i>In re M.A.R.</i> , 2002 Tex.App. LEXIS 6620 (September 11, 2002)	Father:	Yes.		In child's best interest because father had lengthy history of criminal conduct.	No.	No.	No.	No.
	<i>Garcia v. Tex.</i> <i>Dept. of</i> <i>Protective &</i> <i>Regulatory</i> <i>Serv.</i> , 2002 Tex. App. LEXIS 6289 (August 30, 2002)	Father:	Yes.		Endangerment and best inter- ests.	No.	No.	No.	No.

State	Case	Mother or Father Incarcerated	Currently Incarcerated At Time of Hearing	Grounds for Termination of Parental Rights	Adoption and Safe Families Act Reference	15 of 22 Months Reference	Other
	<i>In re B.M.R.</i> , 84 S.W.3d 814 (August 29, 2002)	Father.	Yes.	Father's incarceration and inability to care for the child for two years.	No.	No.	
	<i>In the Interest of S.M.M.</i> , 2002 Tex.App. LEXIS 6354 (August 29, 2002)	Father.	Yes.	Unclear as to father; endangerment as to the mother.	No.	No.	
	<i>In the Interest of A.L.</i> , 2002 Tex.App. LEXIS 6170 (August 22, 2002)	Father.	Yes.	Father's incarceration and inability to care for the child for two years.	No.	No.	

	<i>In the Interest of C.B.</i> , 2002 Tex.App. LEXIS 5454 (July 25, 2002)	Father:	Yes.	Endangerment.	No.	No.	
	<i>In the Interest of S.M.</i> , 2002 Tex.App. LEXIS 5178 (July 24, 2002)	Father:	Yes.	Incarceration such that father will not be able to provide for the children for at least two years.	No.	No.	
	<i>W.B. v. Tex. Dept. of Protective & Regulatory Serv.</i> , 82 S.W3d 739 (July 3, 2002)	Father:	Yes.	Incarceration such that father will not be able to provide for the children for at least two years.	No.	No.	

State	Case	Mother or Father Incarcerated	Currently Incarcerated At Time of Hearing	Grounds for Termination of Parental Rights	Adoption and Safe Families Act Reference	15 of 22 Months Reference	Other
	<i>In the Interest of D.S., 82 S.W.3d 743 (July 3, 2002)</i>	Mother:	Yes.	Unclear:	No.	No.	
	<i>In re J.R.E.H., 2002 Tex.App. LEXIS 4556 (June 27, 2002)</i>	Mother:	No.	Mother failed to support the child in accordance with her ability during a period of one year ending within six months of the date of the filing of the petition.	No.	No.	
	<i>Perrett v. Tex. Dept. of Protective & Regulatory Serv., 2002</i>	Mother:	Yes.	Mother failed to comply with the provisions of a court order that specifically estab-	No.	No.	

State	Case	Mother or Father Incarcerated	Currently Incarcerated At Time of Hearing	Grounds for Termination of Parental Rights	Adoption and Safe Families Act Reference	15 of 22 Months Reference	Other
	<i>In re P.K.C.</i> , 2002 Tex.App. LEXIS 4133 (June 6, 2002)	Mother:	Yes.	Endangerment.	No.	No.	
	<i>In the Interest of A.C.</i> , 2002 Tex.App. LEXIS 3817 (May 23, 2002)	Mother:	No.	Endangerment, failure to comply with case plan, and continued abuse of controlled substance.	No.	No.	
	<i>In the Interest of A.L.S.</i> , 74 S.W.3d 173 (April 18, 2002)	Father:	Yes.	Incarceration such that father will not be able to provide for the children for at least two years.	No.	No.	

	<i>In the Interest of T.S.</i> , 2002 Tex.App. LEXIS 2321 (March 28, 2002)	Mother:	Yes.	Endangerment.	No.	No.	No.	No.	No.
	<i>Smith v. Tex. Dept. of Protective & Regulatory Serv.</i> , 2002 Tex.App. LEXIS 1039 (February 7, 2002)	Mother:	Yes.	Endangerment.	No.	No.	No.	No.	No.
	<i>In the Interest of N.F.</i> , 2002 Tex.App. LEXIS 253 (January 16, 2002)	Father:	Unclear; seems to be in prison regularly, though not continuously.	Endangerment; abandonment	No.	No.	No.	No.	No.

State	Case	Mother or Father Incarcerated	Currently Incarcerated At Time of Hearing	Grounds for Termination of Parental Rights	Adoption and Safe Families Act Reference	15 of 22 Months Reference	Other
Utah	<i>D.A. v. State (In the Interest of W.A.)</i> , 2002 Utah 127 (December 20, 2002)	Both.	Yes.	Parents were unfit; abandonment. Both parents incarcerated for sexual abuse of a minor.	No.	No.	
	<i>State v. State (In the Interest of D.B.)</i> (October 3, 2002)	No.	No.	Father unfit because he is incarcerated and will be unable to provide home for daughter for more than one year.	No.	No.	
Vermont ^e	<i>In re A.D.T.</i> , 817 A.2d 20 (November 1, 2002)	Mother.	In and out of prison during hearing and appeal.	Unclear, except mother had history of incarceration and had left child with inappropriate caregiver.	No.	No.	

State	Case	Mother or Father Incarcerated	Currently Incarcerated At Time of Hearing	Grounds for Termination of Parental Rights	Adoption and Safe Families Act Reference	15 of 22 Months Reference	Other
				that led to or required continuation of the child's foster care placement.			
	Terry v. Richmond Dept. of Soc. Serv., 2002 Va. App. LEXIS 356 (June 18, 2002)	Mother:	No.	Mother has been unwilling or unable in a reasonable period of time, not to exceed 12 months from the date the child was placed in foster care, to remedy substantially the conditions that led to or required continuation of the child's foster care placement.	No.	No.	

	<p><i>Lushbaugh v. Richmond Dept. of Soc. Serv., 2002 Va. App. LEXIS 340 (June 11, 2002)</i></p>	<p>Father:</p>	<p>At least through the hearing, but likely released prior to the appeal.</p>	<p>Father failed to maintain continuing contact with and to provide or substantially plan for the future of the child for a period of six months after the child's placement in foster care; has been unwilling or unable in a reasonable period of time, not to exceed 12 months from the date the child was placed in foster care, to remedy substantially the conditions that led to or required continuation of the child's foster care placement.</p>			
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State	Case	Mother or Father Incarcerated	Currently Incarcerated or Time of Hearing	Grounds for Termination of Parental Rights	Adoption and Safe Families Act Reference	15 of 22 Months Reference	Other
	<i>Simpson v. Richmond Dept. of Soc. Serv.</i> , 2002 Va. App. LEXIS 329 (June 4, 2002)	Mother:	Unclear, but very likely still incarcerated.	Mother has been unwilling or unable in a reasonable period of time, not to exceed 12 months from the date the child was placed in foster care, to remedy substantially the conditions that led to or required continuation of the child's foster care placement.	No.	No.	

	<p><i>Derrick v. Dept. of Soc. Serv., 2002 Va.App. LEXIS 168 (March 29, 2002)</i></p>	<p>Father:</p>	<p>Yes.</p>	<p>The neglect or abuse suffered by the child presented a serious and substantial threat to the child's life, health, or development; it is not reasonably likely that the conditions that resulted in the neglect or abuse can be substantially corrected or eliminated to allow the child's safe return to his parent in a reasonable period of time; unlikely to remedy conditions leading to removal.</p>	<p>No.</p>	<p>No.</p>	
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State	Case	Mother or Father Incarcerated	Currently Incarcerated At Time of Hearing	Grounds for Termination of Parental Rights	Adoption and Safe Families Act Reference	15 of 22 Months Reference	Other
	<i>Jenkins v. Richmond, Dept. of Soc. Serv., 2002 Va. App. LEXIS 41 (January 29, 2002)</i>	Father.	Yes.	Father failed to maintain continuing contact with and to provide or substantially plan for the future of the child for a period of six months after the child's placement in foster care; unwilling or unable in a reasonable period of time, not to exceed 12 months from the date the child was placed in foster care, to re-	No.	No.	

State	Case	Mother or Father Incarcerated	Currently Incarcerated or Time of Hearing	Grounds for Termination of Parental Rights	Adoption and Safe Families Act Reference	15 of 22 Months Reference	Other
Washington	<i>In re B.B.</i> , 2002 Wash. App. LEXIS 1965 (August 23, 2002)	Mother.	Released during hearing.	Little likelihood existed that mother could remedy her condition in the near future so that son could be returned to her; continuation of the parent-child relationship clearly diminished his prospects for his integration into a stable, permanent home.	No.	No.	

	<i>Morris v. State</i> (<i>In re E.M.</i>), 2002 Wash. App. LEXIS 1532 (July 8, 2002)	Father:	During hearing yes, but was released and then appealed.	Unclear; the court did not reach the merits because father did not participate in the hearing.	No.	No.	
Wisconsin*	<i>Brown County Dept. of Human Serv. v. Carrie M.W. (In re Hope D.)</i> , 2003 Wisc. App. 22 S (December 23, 2002)	Mother:	No.	The child was in continuing need of protection or services.	No.	No.	
	<i>State v. Quinsanna D. (In re Teyon D.)</i> , 2002 Wisc. App. 318 (November 26, 2002)	Mother:	No.	Failure to assume parental responsibility.	No.	No.	

State	Case	Mother or Father Incarcerated	Currently Incarcerated or Time of Hearing	Grounds for Termination of Parental Rights	Adoption and Safe Families Act Reference	15 of 22 Months Reference	Other
	<i>State v. Jackie C. (In re Jackie C.)</i> , 2002 Wisc. App. 292 (October 29, 2002)	Father.	Unclear.	Commission of a serious felony against another of the father's children.	No.	No.	
	<i>State v. Norman J. (In re Norman J.)</i> , 2002 Wisc. App. 221 (July 9, 2002)	Father.	Yes; release date for 2003.	Father was unfit for failing to assume parental responsibility, specifically, that the father had failed to establish a substantial parental relationship with either child.	No.	No.	

		Father:	No.	Failure to assume parental responsibility and failure to establish any parent-child relationship as to father; unclear as to mother. Apparently a default judgment was entered against her for failing to appear.	No.	No.
		Mother:	Released between hearing and appeal.	Possibly abandonment.	No.	No.
	<p><i>State v. Carolyn G. (In re Toni W.)</i>, 2002 Wisc.App. 193 (June 25, 2002)</p>					
	<p><i>State v. Bobbie M. (In re Bianca M.)</i>, 2002 Wisc. App. 134 (April 30, 2002)</p>					

State	Case	Mother or Father Incarcerated	Currently Incarcerated At Time of Hearing	Grounds for Termination of Parental Rights	Adoption and Safe Families Act Reference	15 of 22 Months Reference	Other
	<i>Racine County Human Serv. v. Dadra L. (In re Donavin H.), 2002 Wisc. App 134 (April 24, 2002)</i>	Father.	Yes.	Failure to assume parental responsibility.	No.	No.	
	<i>Brown County Dept. of Human Serv. v. Randy C. (In re Cherookee), Wisc. App. LEXIS 425 (April 9, 2002)</i>	Father.	Yes.	Failure to assume parental responsibility; these grounds applied both pre- and postincarceration.	No.	No.	

Note: TPR = termination of parental rights; ASFA = Adoption and Safe Families Act.

^a One case of two not terminated in Kansas in 2002. ^b Three cases without TPR of eight in Nebraska in 2002. ^c Two cases of six without TPR in Nevada in 2002. ^d Six cases of 10 without TPR in New Jersey in 2002. ^e One case of two irrelevant (no TPR) in New Mexico in 2002. ^f New York case search includes 1/1/2002-4/1/2003 (26 cases); in the future, will only use 2002 (1/1/2002-12/31/2002). ^g Four of 26 cases irrelevant in New York. ^h One case with no incarceration, 2 cases without TPR of 16 in North Carolina in 2002. ⁱ Seven cases with no incarceration, 5 cases with TPR of 48 in Ohio in 2002. ^j One case without TPR in Oklahoma in 2002. ^k Three cases without TPR in Oregon in 2002. ^l Two cases of five without TPR in Pennsylvania in 2002. ^m One case of three without TPR in Rhode Island in 2002. ⁿ Three cases without TPR, 4 cases with no incarceration of 22 in Tennessee in 2002. ^o Five cases without TPR, 3 cases with no incarceration of 43 in Texas in 2002. ^p One case without TPR of three in Vermont in 2002. ^q Four case without TPR 12 in Virginia in 2002. ^r Four cases without TPR of six in Washington in 2002. ^s Five cases no TPR of 15 in Wisconsin in 2002.

APPENDIX C

SURVEY QUESTIONNAIRES

QUESTIONNAIRE FOR WELFARE AGENCY REPRESENTATIVE

This questionnaire is one method being used by the American Bar Association Center on Children and Law and the Child Welfare League of America to learn about the impact of the Adoption and Safe Families on children of incarcerated parents aimed at facilitating better outcomes for children and families separated by incarceration. Thank you for taking the time to answer this questionnaire carefully and honestly. The information provided will not be reported in association with the person providing the information but rather in an aggregate way. This questionnaire should take approximately 15 minutes to complete.

Name of the Person Completing this Questionnaire:

Address:

Phone Number: _____

E-mail: _____

I am a:

- | | |
|--|--|
| <input type="checkbox"/> Social Worker | <input type="checkbox"/> Foster Care Manager |
| <input type="checkbox"/> Adoption Specialist | <input type="checkbox"/> Agency Director |
| <input type="checkbox"/> Other _____ | |

Adoption and Safe Families Act (ASFA)

- I. How aware are you of ASFA?
 - a. Unaware of ASFA
 - b. Somewhat aware of ASFA
 - c. Aware of ASFA
 - d. Fully aware of ASFA

2. How familiar are you with the timeliness provisions of ASFA?
 - a. Unfamiliar with provisions
 - b. Somewhat familiar with provisions
 - c. Familiar with provisions
 - d. Very familiar with provisions

3. What do you consider to be the most important timeline in ASFA?

4. Please explain why.

ASFA and Children of Incarcerated Parents

5. In your opinion, were children of incarcerated parents affected differently by ASFA as compared with other children?
- Yes
 - No
- If yes, in what way? _____
- _____
- _____
6. In your opinion, how likely are parental rights of incarcerated parents in cases of child abuse and neglect and voluntary placement to be terminated, as compared with those of other parents?
- Less than other parents
 - Same rate as other parents
 - More than other parents
7. In your opinion, how timely do terminations of parental rights (TPRs) in cases of child abuse and neglect and voluntary placement of incarcerated parents occur, as compared with other cases of child abuse and neglect and voluntary placement?
- Faster than other child abuse and neglect and voluntary placement cases
 - Same rate
 - Slower than other child abuse and neglect and voluntary placement cases

8. In your opinion, how likely are children of incarcerated parents to be placed with family members/relatives?
- Less than other children
 - Similar to other children
 - More than other children

9. Were there any changes in the way your office handles cases of children of incarcerated parents, as a result of ASFA?
- Yes
 - No

If yes, in what way? _____

10. What, if anything, do you do differently in a child abuse and neglect and voluntary placement case when the parent(s) is/are incarcerated?

11. Does a parent's incarceration influence your opinion about when to recommend TPR?

a. Yes

b. No

If yes, how? _____

12. What, if anything, would you recommend doing differently with regard to children of incarcerated parents?

13. To your knowledge, of the cases of children of incarcerated parents, what is the percentage that resulted in TPRs in the year 1997?

- a. 1%–25%
- b. 26%–50%
- c. 51%–75%
- d. 76%–100%

14. To your knowledge, of the cases of children of incarcerated parents, what is the percentage that resulted in TPRs in the year 2001?

- a. 1%–25%
- b. 26%–50%
- c. 51%–75%
- d. 76%–100%

Thank you for completing this questionnaire.

QUESTIONNAIRE FOR JUDGES

This questionnaire is one method being used by the American Bar Association Center on Children and Law and the Child Welfare League of America to learn about the impact of the Adoption and Safe Families on children of incarcerated parents aimed at facilitating better outcomes for children and families separated by incarceration. Thank you for taking the time to answer this questionnaire carefully and honestly. The information provided will not be reported in association with the person providing the information but rather in an aggregate way. This questionnaire should take approximately 15 minutes to complete.

Name of the Person Completing this Questionnaire:

Address:

Phone Number: _____

E-mail: _____

I am a:

- Family Court Judge
- General Jurisdiction Judge
- Other _____

Representation

1. Please estimate the average percentage of your total caseload that is devoted to cases of child abuse and neglect and voluntary placement.
 - a. 0%–20%
 - b. 21%–40%
 - c. 41%–60%
 - d. 61%–80%
 - e. 81%–100%

2. Please estimate the average percentage of your total caseload that is devoted to cases of child abuse and neglect and voluntary placement of children of incarcerated parents.
 - a. 0%–20%
 - b. 21%–40%
 - c. 41%–60%
 - d. 61%–80%
 - e. 81%–100%

Adoption and Safe Families Act (ASFA)

3. How aware are you of ASFA?
 - a. Unaware of ASFA
 - b. Somewhat aware of ASFA
 - c. Aware of ASFA
 - d. Fully aware of ASFA

4. Please list the three things that you consider most important about ASFA.
 - a. _____
 - b. _____
 - c. _____

5. How familiar are you with the timeliness provisions of ASFA?
 - a. Unfamiliar with provisions
 - b. Somewhat familiar with provisions
 - c. Familiar with provisions
 - d. Very familiar with provisions

6. What do you consider to be the most important timeline in ASFA?

7. Please explain why.

ASFA and Children of Incarcerated Parents

8. In your opinion, were children of incarcerated parents affected differently by ASFA as compared with other children?
 - a. Yes
 - b. No

If yes, in what way? Do you approve or disapprove of such results? _____

9. In your opinion, how likely is it that incarceration of parents is considered to be a ground for TPR?
- Very likely
 - Likely
 - Somewhat likely
 - Not likely
10. In your opinion, how likely is it that incarceration of parents may expedite the decision for TPRs in child abuse and neglect and voluntary placement cases?
- Very likely
 - Likely
 - Somewhat likely
 - Not likely
11. Do you consider the length of parents' incarceration as a factor in the decision for TPRs of children?
- Yes
 - No
12. Do you consider the reason for parents' incarceration as a factor in the decision for TPRs of children?
- Yes
 - No

13. In your opinion, what is the impact of ASFA on children of incarcerated parents?
-
-
14. In your opinion, how likely are children of incarcerated parents to be placed with family members/relatives?
- Less than other children
 - Similar to other children
 - More than other children
15. To your knowledge, of the cases of children of incarcerated parents, what is the percentage that resulted in TPRs in the year 1997?
- 1%–25%
 - 26%–50%
 - 51%–75%
 - 76%–100%
16. To your knowledge, of the cases of children of incarcerated parents, what is the percentage that resulted in TPRs in the year 2001?
- 1%–25%
 - 26%–50%
 - 51%–75%
 - 76%–100%

17. What, if anything, would you recommend doing differently with regard to children of incarcerated parents?

18. To your knowledge, what are the common results of non-TPR cases (e.g., return to parent, discharge to custody of relative, etc.)?

Thank you for completing this questionnaire.

QUESTIONNAIRE FOR AGENCY ATTORNEYS

This questionnaire is one method being used by the American Bar Association Center on Children and Law and the Child Welfare League of America to learn about the impact of the Adoption and Safe Families on children of incarcerated parents aimed at facilitating better outcomes for children and families separated by incarceration. Thank you for taking the time to answer this questionnaire carefully and honestly. The information provided will not be reported in association with the person providing the information but rather in an aggregate way. This questionnaire should take approximately 15 minutes to complete.

Name of the Person Completing this Questionnaire:

Address:

Phone Number: _____

E-mail: _____

I am a:

Attorney Having a Contract With the County

Staff Attorney with County

County Prosecutor

Other _____

Representation

- I. Please estimate the average percentage of your total practice that is devoted to cases of child abuse and neglect and voluntary placement.
 - a. 0%–20%
 - b. 21%–40%
 - c. 41%–60%
 - d. 61%–80%
 - e. 81%–100%

2. Please estimate the average percentage of your total practice that is devoted to cases of child abuse and neglect and voluntary placement of children of incarcerated parents.
 - a. 0%–20%
 - b. 21%–40%
 - c. 41%–60%
 - d. 61%–80%
 - e. 81%–100%

3. As an agency attorney, how often are you at every hearing for a case of child abuse and neglect and voluntary placement?
 - a. Never
 - b. Rarely
 - c. Occasionally
 - d. Always

Adoption and Safe Families Act (ASFA)

4. How aware are you of ASFA?
 - a. Unaware of ASFA
 - b. Somewhat aware of ASFA
 - c. Aware of ASFA
 - d. Fully aware of ASFA

5. How familiar are you with the timeliness provisions of ASFA?
 - a. Unfamiliar with provisions
 - b. Somewhat familiar with provisions
 - c. Familiar with provisions
 - d. Very familiar with provisions

6. What do you consider to be the most important timeline in ASFA?

7. Please explain why.

ASFA and Children of Incarcerated Parents

8. In your opinion, were children of incarcerated parents affected differently by ASFA as compared with other children?
 - a. Yes
 - b. No

If yes, in what way? _____

- 9. In your opinion, how likely are parental rights of incarcerated parents in cases of child abuse and neglect and voluntary placement to be terminated, as compared with those of other parents?
 - a. Less than other parents
 - b. Same rate as other parents
 - c. More than other parents

Do you think the perceived results are desirable? Why or why not?

- 10. In your opinion, how timely do TPRs in cases of child abuse and neglect and voluntary placement of incarcerated parents occur, as compared with other cases of child abuse and neglect and voluntary placement?
 - a. Faster than other child abuse and neglect and voluntary placement cases
 - b. Same rate
 - c. Slower than other child abuse and neglect and voluntary placement cases

Do you think the perceived results are desirable? Why or why not?

11. In your opinion, how likely are children of incarcerated parents to be placed with family members/relatives?

- a. Less than other children
- b. Similar to other children
- c. More than other children

Do you think the perceived results are desirable? Why or why not?

12. In your opinion, how likely is it that incarceration of parents is considered to be a ground for TPR? (This item was not asked on the parents' and children's attorney questionnaires.)

- a. Very likely
- b. Likely
- c. Somewhat likely
- d. Not likely

13. In your opinion, how likely is it that incarceration of parents may expedite the decision for TPRs in child abuse and neglect and voluntary placement cases? (This item was not asked on the parents' and children's attorney questionnaires.)

- a. Very likely
- b. Likely
- c. Somewhat likely
- d. Not likely

14. Do you consider the length of parents' incarceration as a factor when drafting and filing a TPR petition? (This item was not asked on the parents' and children's attorney questionnaires.)
- Yes
 - No
15. Do you consider the reason for parents' incarceration as a factor when drafting and filing a TPR petition? (This item was not asked on the parents' and children's attorney questionnaires.)
- Yes
 - No
16. What, if anything, would you recommend doing differently with regard to children of incarcerated parents?
-
-
-
17. To your knowledge, of the cases of children of incarcerated parents in your jurisdiction, what is the percentage that resulted in TPRs in the year 1997?
- 1%–25%
 - 26%–50%
 - 51%–75%
 - 76%–100%

18. To your knowledge, of the cases of children of incarcerated parents in your jurisdiction, what is the percentage that resulted in TPRs in the year 2001?
- a. 1%–25%
 - b. 26%–50%
 - c. 51%–75%
 - d. 76%–100%
19. To your knowledge, what is the most frequent outcome of non-TPR cases (e.g., return to parent, discharge to custody of relative, etc.)?

Thank you for completing this questionnaire.

APPENDIX D

CASE FILE REVIEW FORM

I. Case File Review

Case No.: _____

TPR Petition Date: _____

DOB Child: _____

Length of Time Child Was in Foster Care Until TPR Petition Was Filed (months): _____

Is the Identity of the Mother Known? Yes No (When?)Was the Identity of the Mother Known at Petition? Yes NoWas the Identity of the Mother Known at Hearing? Yes NoIs the Identity of the Father Known? Yes No (When?)Was the Identity of the Father Known at Petition? Yes NoWas the Identity of the Father Known at Hearing? Yes NoDoes Mother Have Attorney? Yes NoWas Mother's Attorney at the Hearing? Yes NoDoes Father Have Attorney? Yes NoWas Father's Attorney at the Hearing? Yes NoWas Children's Attorney/GAL Appointed? Yes NoWas Child's Attorney at the Hearing? Yes NoIncarceration of Parent (Specify if Mother or Father):
_____Was the Incarcerated Parent the Custodial Parent? Yes No

Date of Incarceration: _____

Reason for Incarceration: _____

Date of Expected Release from Prison: _____

TPR Hearing Date: _____

Was Incarcerated Parent Present at TPR Hearing? Yes No

Date of Decision: _____

Was TPR Granted? Yes No

Was Incarceration a Ground Set Forth in Petition? Yes No

Was the Reason for Incarceration a Ground Set Forth in Petition?
 Yes No

Was Length of Incarceration a Ground Set Forth in Petition?
 Yes No

If Judge Issued a Written Decision, Was Incarceration a Factor in the
Decisionmaking? Yes No

In What Way?

Was the Decision Appealed? Yes No

If Yes, by Whom?

If Yes, Was the Basis of Appeal Related to Incarceration?
 Yes No

Was the Decision Upheld? Yes No

Date of Appellate Decision: _____

Has the Adoption Been Finalized? Yes No

Date of Finalization: _____

If Not Adopted, with Whom Is Child Now? _____

By Whom Was Child Adopted? _____

Did the Parent Sign Voluntary Relinquishment? Yes No

If Yes, Was It Before TPR Was Filed or After? Before After

Additional Comments:

APPENDIX E

EXAMPLES OF PROGRAMS

EXAMPLES OF PROGRAMMING FOR CHILDREN WITH INCARCERATED PARENTS

PRISON SETTING

These are programs based in prisons and jails that provide services to imprisoned parents and their children. The most common types are parenting education programs, facilitated visiting programs, and programs that enhance parent-child communication and interaction.

Bedford Hills and Taconic Nursery Programs

- Designed for mothers who deliver during their periods of incarceration, these programs in New York enable mother and infant to live together for periods up to one year or 18 months.
- Programming includes prenatal care and postpartum classes on such topics as nutrition, immunization, infant development, parenting, and substance abuse treatment.

Children's Center, Bedford Hills Correctional Facility

- Provides a children's center at Bedford Hills Correctional Facility that includes a playroom, nursery, and infant day care for inmates' children.
- Also provides parenting classes, children's advocacy, tutoring, and visiting programs.

Family Works, Sing Sing Prison

- Provides a parent education program for incarcerated fathers.
- Also provides a children's center adjoining the prison visiting room.

Family Preservation Program, Indiana Women's Prison

- Partners with the Children's Bureau; YWCA; the Departments of Corrections, Health, and Child and Family Services; Volunteers of America; etc.

- Has therapeutic parenting education and support groups, as well as a children's center, summer camp, parent/teen day, and holiday parties.
- Includes Responsible Mother/Healthy Baby program with comprehensive intake, family care plan, parenting class, and outreach/case management program.

COMMUNITY SETTING

These programs operate as alternatives to incarceration for parents under criminal justice supervision. For example, a mother convicted of a nonviolent felony may enter one of these programs as a condition of probation. The goal is to keep offender parents and their children together in the community while providing services that preserve and strengthen families. The programs typically provide residential or day-reporting services.

Family Foundations

- This is an alternative community sentencing program.
- Women must be pregnant or parenting with a child younger than 6.
- Participants spend 12 months in a structured residential treatment program and have a 12-month aftercare and transition period.
- They learn parenting skills and receive health, child development, and vocational skills services.

Summit House

- Residential and day-reporting services for mothers and their children. Goal is to provide therapeutic intervention and rehabilitation.
- Clients address issues such as parenting, substance abuse, life trauma, relationship skills, child and maternal health, education, employment, financial management, and other lifeskills.

Hopper Home

- Clients in this New York–based program begin with a period of residence at Hopper Home and then transition into living in the community.
- While in the program, they receive intensive supervision, case management services, and skill-building training.
- One of the program goals is to keep children of women offenders out of foster care or to reduce children’s length of stay in foster care.

Sheriff’s Female Furlough Program

- Participants are supervised by electronic monitoring and report to the jail each morning.
- Program includes random drug screening, job skills training, parenting classes, lifeskills training, health education and literacy classes, and substance abuse and mental health counseling.

PAROLE, PROBATION, AND SUPERVISION PROGRAMS**La Bodega de la Familia**

- Family teams include the supervision officer, child welfare, juvenile justice, the substance-using offender, family members, and the family case manager.
- Program includes family visits, supportive inquiry, family assessment, family and systems mapping, and a family action plan.
- Program includes strengths-based case management and partnering of government and the community.

COMMUNITY-BASED PROGRAMS

These are programs based in the community that provide a variety of services to children, caregivers, and incarcerated parents. Common elements include transportation to visits, facilitated contact with children, and support groups for children and caregivers.

Girl Scouts Beyond Bars

- This program has been replicated in more than 20 states across the country.
- Incarcerated mothers and their daughters participate together in traditional Girl Scout activities.
- The program provides transportation to the prisons where Girl Scout meetings are held.
- The program is designed to enhance visits between mothers and daughters, reduce the stress of separation, improve daughters' self-esteem, and reduce reunification problems.

Aid to Children of Imprisoned Mothers, Inc.

- Services include provision of educational materials about dealing with the criminal justice system, transportation to prisons, children's services (e.g., summer camp, afterschool tutoring), and caregiver-child support groups.

Chicago Legal Advocacy for Incarcerated Mothers, Inc.

- This program serves incarcerated women, their children, and families in Illinois.
- It offers classes, support groups, and printed material addressing legal issues regarding parental rights, child custody, legal guardianship, kinship care, and visitation.

Incarcerated Mothers Law Project

- Pro bono attorneys provide legal education and direct representation to mothers who are incarcerated in New York city jails and two state prisons.
- Issues handled include custody, visitation, and responsibilities toward children while incarcerated.

Legal Services for Prisoners with Children

- This program responds to requests for information, trainings, technical assistance, litigation, community activism, and the development of more advocates.

Project Seek

- Program offers home-based outreach services to children and families of incarcerated fathers.
- It provides case management, tutoring, and support groups for children, adolescents, and caregivers.
- It also provides family outings, emergency financial aid, referrals, transportation to visits, and parenting programs for fathers.

Pima Prevention Partnership

- This partnership developed a regional comprehensive service delivery plan to address the needs of children beginning at the time of arrest.

Families in Crisis, Inc.

- This program provides comprehensive services to Hartford, Connecticut, children of prisoners and their primary parent who resides in a state correctional facility.

Community Works, California

- A children's case manager assesses and serves children of parents incarcerated in jail. They are also involved in a 12-week music therapy program and provided transportation to visit incarcerated parents in jails.

COURT-BASED PROGRAMS**Family Treatment Court**

- This program provides therapeutic jurisprudence.
- Teams consist of a judge, drug-treatment providers, child welfare, a court coordinator, a prosecutor, a defense attorney, and probation and pretrial services.
- Program carefully monitors and continually reports on the defendant's journey to a drug-free life.
- Program involves drug treatment, family group conferencing, visitation, parenting classes, and other appropriate services.

LAW ENFORCEMENT–BASED PROGRAMS

The Children's Shelter

- Includes law enforcement, the children's shelter, and child welfare.
- Handles emergency placement protocol and role of child protective services.
- Provides shelter-based services for children.

Child Development Community Policing Program

- Includes the police department, Yale Child Study Center, the city of New Haven, mental health professionals, and community agencies.
- Includes training on child development.
- Has mandated protocols between police and child welfare.
- Clinicians are available 24 hours a day, seven days a week.

ADDITIONAL RESOURCES

Federal Resource Center for Children of Prisoners

Child Welfare League of America

440 First Street NW, Washington, DC 20001-2085

202/638-2952; childrenofprisoners@cwla.org

www.childrenofprisoners.org

Provides information about children of prisoners, technical assistance, and training for mentoring programs, communities, agencies, corrections, and law enforcement. Publications include:

- *Working with Children and Families Separated by Incarceration*, by Cynthia Beatty Seymour and Lois Wright.
- *Reuniting: Money, Family and You: A Guide for Women Leaving Prison*. Contains information regarding reentering the community and family, finding and keeping a job, locating housing, and accessing medical and legal benefits, and includes a resource list. (Free)

- *The Kissing Hand*, by Audrey Penn, a book for children temporarily separated from loved ones.

Families and Corrections Network

www.fcnetwork.org

An organization for and about families of prisoners. Offers information, training, and technical assistance on children of prisoners, parenting programs for prisoners, prison visiting, incarcerated fathers and mothers, keeping in touch, returning to the community, the effect of the justice system on families, and prison marriage. Contains a library with fact sheets about families and children affected by incarceration.

Center for Children of Incarcerated Parents

www.e-ccip.org

Organizational goals are the production of high-quality documentation on and the development of model services for children of criminal offenders and their families. Contains numerous resources related to children and families affected by incarceration.

APPENDIX F

PRINCIPLES AND ELEMENTS OF GOOD CHILD WELFARE PRACTICE

PRINCIPLES OF GOOD CHILD WELFARE PRACTICE

- Children have the right to a fair chance in life and to the essentials of healthy development, including a sense of belonging, continuity of care, safety, nurturing, and access to opportunities to acquire basic social competence.
- Family-centered practice advances the overall objectives of establishing safe, stable, and permanent families to promote the well-being of children.
- The best care and protection for children can be achieved when service delivery focuses on developing and using the strengths of nuclear and extended families and communities.
- Workers need to acknowledge and value the values and customs of families from different cultures, and agencies must design service delivery, training, policy development, and evaluation to be culturally competent and respectful.
- A sense of urgency exists in all child welfare services to ensure safety and a permanent placement for children.
- Training must provide information and direction regarding strategies and methods that promote high-quality service delivery to children and families.
- A strong network of both informal and formal community-based resources is necessary for prevention and early intervention in child abuse and neglect cases.

ELEMENTS OF GOOD CHILD WELFARE PRACTICE

- **Child-focused:** The safety, permanence, and well-being of children are the leading criteria in all child welfare decisions.
- **Family-centered:** Children, parents, and extended family members are involved as partners in all phases of engagement, assessment, planning, and implementation of case plans.
- **Strengths-based:** Practices emphasize the strengths and resources of children, birth- and extended families, and their communities.
- **Individualized:** Case plans are individualized to address the unique needs of the child and family to appropriately address needs for safety and permanence.
- **Culturally competent:** Problems and solutions are defined in the context of the family's culture and ethnicity.
- **Comprehensive:** Services address a broad range of family conditions, needs, and contexts.
- **Community partnership oriented:** Planning and implementation of case plans are undertaken in partnership with staff and agencies from different systems, who together make a formal commitment to provide the services and supports the child and family need.
- **Outcomes-based:** Measurable outcomes exist for services regarding the safety, permanence, and well-being of children.



HEADQUARTERS

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