



National Research Center for
Parents with Disabilities

Centro Nacional de Investigación para
Padres con Discapacidades

Terminating the parental rights of mothers with disabilities

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Why are mothers with disabilities more likely to lose their children?

Note on language: We use person-first language in this brief (for example, person with a disability) instead of identity-first language (for example, disabled person).

Introduction

The issue

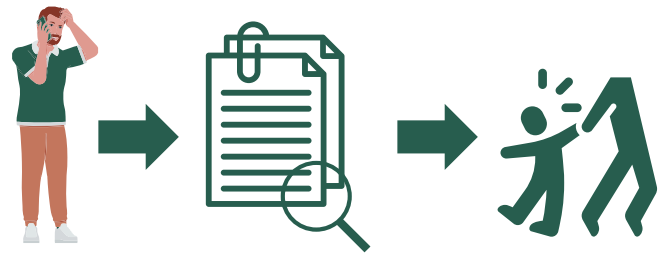
One in ten parents in the United States have a disability. Parents with disabilities are more likely to lose the right to parent their child. Losing this right is called the termination of parental rights. A judge decides this in court and can end a parent's rights to their child. This includes talking, seeing, and taking care of their child. States begin the process to remove these rights when a child has been in foster care for 15 of the recent 22 months. An appeal may allow the court to reconsider this decision. An appeal is when the court thinks about a case again. There are usually two



chances to appeal. The termination of parental rights is permanent if the appeals fail.

How does this happen?

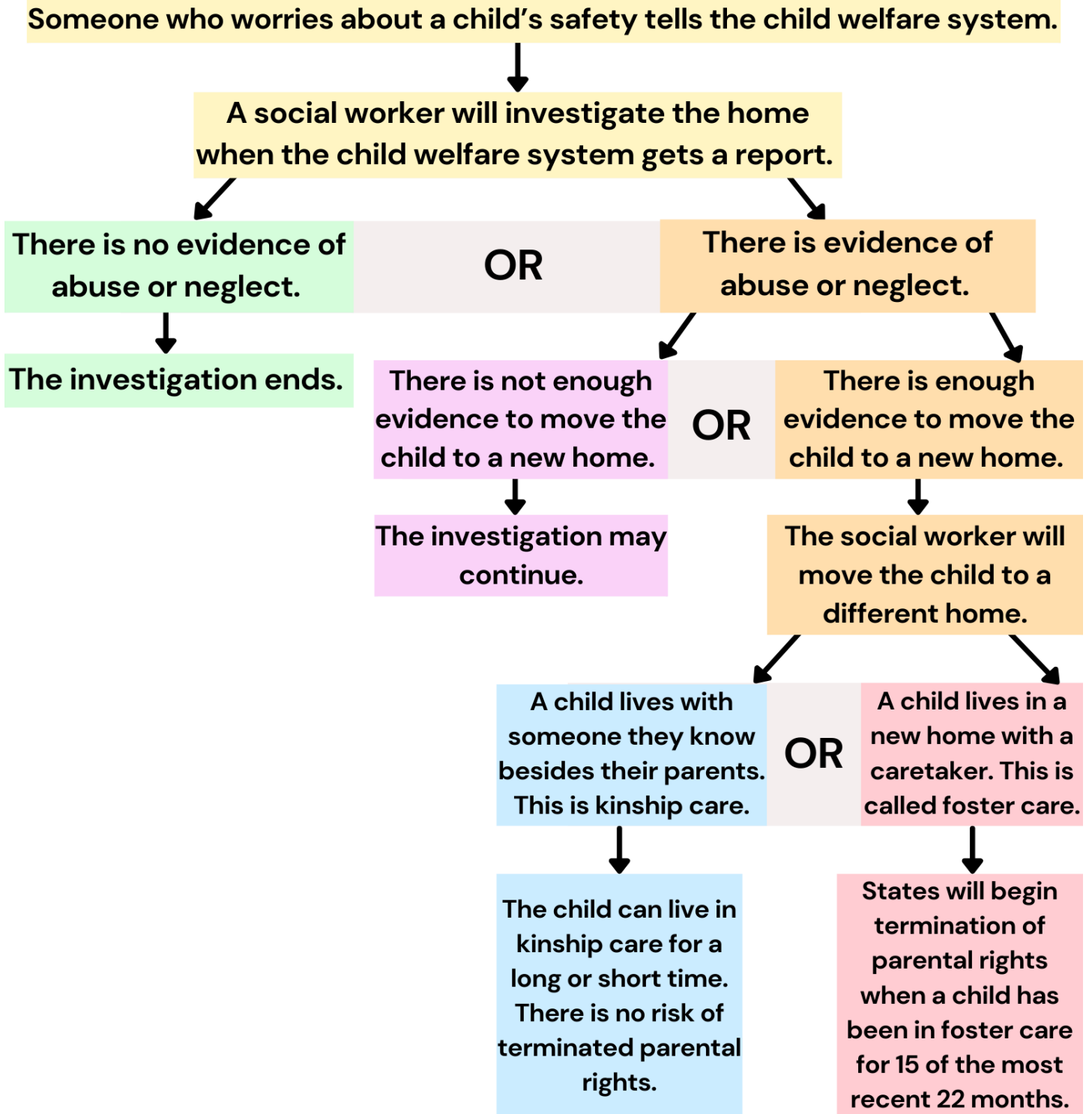
Termination of parental rights can happen if someone reports to the child welfare system. People report to the child welfare system if they worry about a child's wellbeing. **The child welfare system can decide if a child is in a safe home. Bias against parents with disabilities might impact this decision.**



This system might move a child to live somewhere else if the court says their home is unsafe. The law says that certain people must report concerns about child wellbeing. These people are called mandated reporters. These concerns go to the child welfare system. Examples include social workers, mental health professionals, doctors, teachers, and case managers.

A mandated reporter can make a report to the child welfare system. The flowchart below shows what happens after a report.

Steps to termination of parental rights



The study

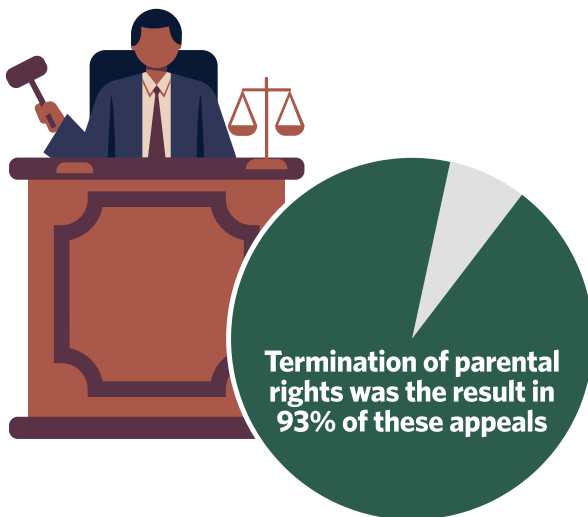
The child welfare system gets more reports about parents with disabilities than those without disabilities.

Researchers did a study to help us better understand why this difference exists. They looked at more than 2,000 court cases that ended in termination of parental rights. The researchers then studied characteristics of the parents in these cases.

Researchers found that:

Termination of parental rights was the result in most of the appealed cases. The cases were all mothers with disabilities in court.

The mothers in all court cases asked the court to reconsider their decision. They did this through an appeal. Termination of parental rights was the result in 93% of these appeals.



The type of disability does not impact the termination of parental rights risk.

Disability types include physical or sensory, intellectual, psychiatric, and more than one disability. Disability type alone does not impact the risk of parental rights termination. For example, someone with a physical disability is not more likely to have their parental rights

terminated than someone with a psychiatric disability.



Characteristics besides disability impact the risk of termination of parental rights.

There are many characteristics that can impact the outcome. Disability type is not one of them. The chart below shows what can impact the risk of termination of parental rights.

Increase Risk

- Negative expert testimonies. (This is when a mandated reporter says a child's environment seems unsafe.)
- Getting disability specific financial help.
- Previous child welfare system involvement.
- Getting disability specific family services. These try to reunite disabled parents with their children.
- Income below 200% of the poverty line.
- Substance use history.
- Court dates between 2011 and 2016.

Decrease Risk

- Positive expert testimonies. (This is when a mandated reporter says a child's environment seems safe.)
- Court dates between 2006 and 2011.
- Court location in the southeast or west.

What needs to change?

People with disabilities deserve protection for their families. The study has two ideas on how to do this.

Mandated reporters must not use biased tests.

Some mandated reporters may investigate a child's safety by giving the parent tests. A mandated reporter then uses these tests to give the judge their opinion on if the child is in a safe environment. This is called an expert testimony in court.

Expert testimony can impact the risk of terminated parental rights. Mandated reporters must get training on how to test parents with disabilities. The tests should consider disabilities and make accommodations. The tests should not use Intelligence Quotient (IQ) because it is out of date.



Parents with disabilities must receive increased support services.

Parents with disabilities often make less money than parents without disabilities. Not having enough income is a risk factor for termination of parental rights.

State programs can give money to low-income parents. The needs of every parent with a disability is different. Because of this, programs should be unique to each family.

Definitions

Termination of Parental Rights: This means an end to talking, seeing, and taking care of their child. States begin the process to remove these rights when a child has been in foster care for 15 of the recent 22 months. An appeal can make the court reconsider this decision. An appeal is when the court looks at a case a second time. The termination of parental rights is permanent if the appeal fails.

Appeal: When the court thinks about a case another time. The court might change its decision.

Child Welfare System: People report to the child welfare system if they worry about a child's wellbeing. It can provide resources to families. It can also decide if a child is in a safe home. Bias can sometimes impact this decision. This system might move a child to live somewhere else if the court calls their home unsafe.

Mandated reporters: People who must report concerns about child safety. Mandated reporters talk to the Child Welfare System about their concern. Examples include social workers, mental health professionals, doctors, teachers, and case managers.

Kinship care: Sometimes when the child welfare system says a home is not safe, the child enters kinship care. Examples include relatives, friends, or trusted adults. This could be temporary or long-term.

Foster care: Sometimes when the child welfare system says a home is not safe, the child enters kinship care. When kinship care is not an option, a child is moved into a different home with a caretaker. This could be temporary or long-term.

Credit

Adapted from Powell, R. M., Parish, S. L., Mitra, M., Waterstone, M., & Fournier, S. (2020). Terminating the Parental Rights of Mothers with Disabilities: An Empirical Legal Analysis. *Missouri Law Review*, 85(4), pp. 1069-1112.

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