



Termination of Parental Rights

This guide explains what happens if your parental rights are terminated.

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What does it mean if my parental rights are terminated?

Parental rights are your rights as a parent. When your parental rights are **terminated**, it means you cannot make decisions about your children and you usually cannot contact or **communicate** with your children until they are 18 years old. Communicate means talk to or see. Sometimes if your child is with a relative, foster parent or adoptive parent, that person will agree to let you communicate with your child. After your children are 18 years old, you can only communicate with them if they want to talk to or see you. If the rights of both parents are terminated, the children can be adopted without the permission of the parents.

How are the rights of a parent terminated?

1. The **Administration for Children's Services (ACS)**, or a foster care agency caring for your child, files a **petition** in Family Court asking a judge to terminate your rights. A petition is a request. The petition must give a legal reason for the termination. The legal reason is called a **ground**. (Examples of grounds are listed below.)
2. Then there will be a trial called a **fact-finding hearing**. During the fact-finding hearing, ACS will try to prove that there are grounds for termination. ACS will also have to show that they have tried to **reunite** your family. Reunite means have your children come home to you. The process of showing the judge that they have tried to reunite the family is called showing **reasonable efforts**. Reasonable efforts means working with you and providing you with the services and referrals you need to have your children come home. At the end of the fact-finding hearing, the judge decides whether or not your rights will be terminated.
3. After the fact finding hearing, there is a **dispositional hearing**. This is when the judge decides where the children should live. If your rights have been terminated, the judge may decide that your children can be adopted by their foster parents or by someone else.

What are the possible legal reasons for terminating parental rights?

There are five legal reasons, or **grounds**, that can be used to terminate your rights. The two most common reasons are:

- **Abandonment**: This means that you did not communicate with your children at all in the six months before ACS or the foster care agency asked to terminate your rights.
- **Permanent Neglect**: This means that you did not make plans for the future of your children and you did not work with ACS or the foster care agency caring for your children for more than one year after your children entered foster care.

The three other grounds are **mental illness**, **mental retardation**, and **severe and repeated abuse**.





If my children enter foster care, when can the foster care agency try to terminate my rights?

The foster care agency can file a petition to terminate your rights when the children have been in foster care for 15 of the last 22 months. This is the law. The agency can petition to terminate rights before that if you have been **convicted** of certain serious crimes against one of your children. Convicted means the court finds that you have committed a crime. The agency can also petition for termination if a court finds that you have **abandoned** your children. In this case, abandoned means you did not have contact with your children in the six months before the petition was filed.

Are there any reasons why ACS does not have to file a petition to terminate parental rights?

Yes. There are three reasons:

- When your children are being cared for by a relative.
- When there is a **compelling** reason why it would not be best for your child if your rights were terminated. Compelling means very, very good.
- When ACS has not made reasonable efforts to reunite your family.

Will I get a lawyer?

Yes. You have the right to a free, court-appointed lawyer for your termination case if the court thinks you cannot afford a lawyer. You can also hire a private lawyer.

Can I do anything to avoid a trial and keep my rights from being terminated?

Yes. You and your lawyer can try to get the foster care agency or ACS to agree to a **suspended judgment**. A suspended judgment means that you admit to the court that you did what the agency is saying you did (for instance, permanently neglected your children). If you make an admission, the agency will work with you to create a plan to have your children returned to you within one year. If you do not follow the plan, your children may not be returned.

If I voluntarily place my children into foster care, can my parental rights be terminated?

Yes. This can happen if ACS or the foster care agency determines that you have not made realistic plans to have your children come back to you since placing them in foster care. To prove this, ACS must show that it tried to help you reunite your family. If you keep a record of your contact with the foster care agency, this will help show what the agency did or did not do to help reunite your family.



Can I voluntarily terminate my parental rights?

Your rights can be **voluntarily** terminated if your children are in foster care and you agree with the court that it is in their best interest to be placed for adoption. This is called a **surrender agreement**. You may not voluntarily terminate your own rights under other circumstances.

What if my rights have already been terminated?

You can **appeal** the **order**. An order is a decision made by the judge. Appeal is when you ask to have the order reviewed by a higher court. In Family Court, appeals must be requested within 30 days of the date the order was made. For more information, see the Family Legal Care guide, "**Appealing Family Court Orders**," which is available at familylegalcare.org.

What if I am in jail or prison?

If you are in jail or prison, it is important for you to have as much contact as possible with your children. Saving copies of letters you send to your children and keeping a record of all calls and visits will help show that you have not neglected or abandoned them. Participating in programs while in jail or prison can help show that you are making plans to care for your children when you are released.

Please note: Even if you are in jail or prison, you still have a right to visit with your children. ACS or the agency caring for your children must bring them to visit you in jail or prison. Keeping track of these visits can also help show that you have not neglected or abandoned them.



Can I place conditions on what will happen to my children if I terminate my rights?

If someone wants to adopt your children and you agree, you can sign papers agreeing that your rights can be terminated and the adoption can take place. You can place a condition that you or another family member can visit with your children after the adoption happens. You can also place a condition that only a particular person (like a relative) can adopt your child. This is called a **conditional surrender agreement**. The judge and ACS or the foster care agency have to agree to the conditions you have placed on the agreement before it can be finalized.

Need more help? Family Legal Care offers free legal information and advice on New York family law and court procedure.



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