INCARCERATED PARENTS AND TERMINATION OF PARENTAL RIGHTS IN CONNECTICUT

RECOMMENDATIONS FOR REFORM

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Statement of Partnership

This paper is the result of a collaboration between the Yale Law School Criminal Justice Advocacy Clinic, Connecticut Voices for Children, and Connecticut Children of Incarcerated Parents. The Criminal Justice Advocacy Clinic is grateful to our community partners for providing the guiding ideas for the research, supporting this research at every step, and sharing their stories to bring these data to life. Thank you for your work and partnership.
Glossary of Key Terms

15/22 Months Rule: The Adoption and Safe Families Act (ASFA) generally requires states to move for termination of parental rights (TPR) for any child who has been in foster care for 15 of the last 22 months.

Abuse: Connecticut’s Department of Children and Families (DCF) defines abuse as a non-accidental physical injury, or injury which is at variance with the history given of the injury, or a condition that is the result of maltreatment such as, but not limited to, malnutrition, sexual molestation, deprivation of necessities, emotional maltreatment or cruel punishment.

Adoption and Safe Families Act (ASFA): A federal law enacted in 1997, ASFA provides monetary incentives for states to legally terminate children’s parental ties when they have spent 15 of the past 22 months in foster care.

Child and Family Service Reviews (CFSRs): Federal audits of each state every five to nine years to measure state compliance with ASFA requirements. Poor performance can lead to states losing federal funding.

Connecticut Department of Children and Families (DCF): The state agency responsible for child welfare in Connecticut.

Connecticut Department of Correction (DOC): The state agency that operates prisons and is responsible for the welfare of incarcerated people in Connecticut.

Connecticut General Assembly: The representative branch of Connecticut state government, which is responsible for lawmaking.

Family First Prevention Services Act (FFPSA): A federal law enacted in 2018 that provides monetary incentives for in-home skills-based programs, substance abuse treatment programs, and mental health programs for parents. The FFPSA aims to decrease the number of children who enter foster care.

Fictive Kinship Care: A type of foster care where children are placed with trusted adults who are not relatives (those related by blood or marriage), instead of with strangers.

Foster Care: Temporary housing provided by states to children who cannot live with their families.

Kinship Care: A type of foster care where children are placed with relatives instead of with strangers.

Legal Orphanage: The outcome for children when the state terminates parental rights for a child and that child is not subsequently adopted.

Neglect: Connecticut’s DCF defines caregiver abandonment or denial of proper care and attention,
physically, educationally, emotionally or permission to live under conditions, circumstances or associations injurious to a child’s well-being or abuse as neglect.

**Program Improvement Plan (PIP):** Plan that a state writes in response to a poor CFSR score, which details the steps that the state’s department of child welfare will take to avoid losing federal funding pursuant to ASFA.

**Relational Permanency:** Secure attachments and long-term relationships that are important to overall well-being.

**Stranger Care:** A type of foster care where children are placed with strangers or in group homes instead of with adults whom they knew prior to placement.

**Termination of Parental Rights (TPR):** The complete severance of the legal relationship between a minor and the minor’s parent pursuant to a court order. After TPR, a minor’s parent no longer has a legal right to care for, communicate with or interact with the child.
Executive Summary

Connecticut’s children with incarcerated parents are at greater risk of permanent, legal severance of their relationships with their parents than children whose parents are not in prison. This enhanced risk is the result of state application of a federal law enacted at the height of the “tough on crime” and welfare “reform” eras of the 1990s. The Adoption and Safe Families Act (ASFA), enacted in 1997, provides monetary incentives for states to legally terminate children’s parental ties when they have spent 15 of the past 22 months in foster care. In practice, terminating parental rights due to the length of time that a child has spent in foster care risks lifelong psychological trauma for children who are severed from their biological families and makes some children legal orphans.

In the decades since ASFA’s passage, tens of thousands of families have borne this extreme collateral consequence. Every year, children in Connecticut and throughout the country experience the trauma of permanently losing family ties because of ASFA. From 2006-2019, more than 32,000 incarcerated people across the country had their parental rights terminated. According to some estimates, ASFA caused a 250 percent increase in the termination of parental rights (TPR) nationwide for incarcerated parents. The precise impact of ASFA on families with incarcerated parents is challenging to quantify in Connecticut due to a lack of data; no state agency reports this information. While greater data reporting is essential to understand the full scope of this problem, the nationwide data is clear: By enforcing the 15/22 months rule against parents in prison, ASFA unduly punishes their children.

This paper outlines the history of ASFA as well as its current application in Connecticut to children with parents in prison. The paper also recommends a number of policy reforms that will promote the integrity of Connecticut families with incarcerated parents. Many of those reforms can be implemented without putting a strain on the state budget and some can be implemented with reinvestment of budget savings from the closure of prisons.
I. Introduction

When parents are incarcerated, many children are harmed twice over. First, the state physically separates children from their parents during incarceration, which can disrupt attachments and harm children’s health and well-being. Second, due to the sheer length of incarceration, the state may sever parent-child relationships permanently through the termination of parental rights (TPR). This permanent family separation is enabled by a federal law known as the Adoption and Safe Families Act of 1997 (ASFA).

Part II of this paper describes how the federal government passed ASFA in the era of welfare “reform,” which defunded numerous programs for low-income people. Through ASFA, Congress attempted to reduce the number of children in foster care by establishing a timeline for child welfare proceedings ostensibly designed to place foster children in permanent homes and financially incentivizing states to adopt the timeline.

Part III describes how ASFA works. To receive federal funds, ASFA required states to enact legislation compatible with the federal law. One critical provision of ASFA generally requires states to move for TPR for any child who had been in foster care for 15 of the last 22 months (the “15/22 months rule”). In the name of “permanency” outcomes for children in foster care, the government sacrificed “relational permanency,” also known as emotional permanency.

Parts IV and V delve into the collateral harms of ASFA, which has taken countless children from their families while their parents are in prison and disproportionately left low-income children of color without kin. To this day, the 15/22 months rule places children with incarcerated parents at risk of permanent family separation. An incarcerated parent may face TPR because a judge sentenced them to more than a year and half in prison. In the era of mass incarceration, the risk of TPR is common: Nationally, the average length of incarceration in state prisons is over two years. While two years is the national average, we do not know the average length of incarceration in Connecticut, because the Connecticut is one of seven states that does not presently maintain these statistics.

Severing parental rights due to a parent’s incarceration status may inflict lasting psychological harm to both parents and children. As the U.S. Children’s Bureau aptly explains: “Legal permanence alone doesn’t guarantee secure attachments and lifelong relationships. The relational aspects of permanency are critically important and fundamental to overall well-being.” In fact, family separation can result in severe stress that impacts both parents’ and children’s mental and physical health. Because of the disproportionate impact of incarceration on Black, Latinx, and poor families in the United States and in Connecticut, those communities disproportionately bear the harms of family separation due to parental incarceration.

Undue termination of incarcerated parents’ rights also compromises the public good and undermines fiscal responsibility. Studies have demonstrated that maintaining family ties while parents are in prison reduces their likelihood of returning to prison once they are released. Permitting meaningful parental engagement increases the likelihood of family reunification, which can reduce the length of time children spend in state-subsidized foster care.

Notwithstanding ASFA’s incentives, states retain the legal authority to modify how they implement the law. Congress conferred on state legislatures the discretion to create exceptions to the 15/22 months rule. One of the three exceptions that Connecticut has implemented is for children who are placed with relatives (“kinship care”) or certain caregivers (“fictive kinship
care”), rather than with non-kin (“stranger foster care”). However, as we explain in Part VI of this whitepaper, the kinship exception can be challenging for some parents to meet, particularly when the kin whom parents recommend are low-income or have criminal records.

Part VII describes how the COVID-19 pandemic has exacerbated the issue of TPR for incarcerated parents. Many incarcerated people have become ill. As prisons across the country have locked down, they have decreased visitation and programming. This can make it impossible for parents to connect with their children, to meet the requirements for reunification that the Connecticut Department of Children and Families (DCF) or courts establish, or to demonstrate to judges their desire to reunify. In Connecticut, where the cost of phone calls from prison is the highest in the country, staying in touch can be especially costly and out of reach for families without means.

Ms. T, a Connecticut resident, permanently lost her youngest child in 2020 through TPR.

Ms. T’s Experience

Ms. T lost custody of her three children when she was sentenced to prison in Connecticut in 2018. Although she asked DCF to place all her children with family members, only two were placed with family, and her youngest child went into foster care with a stranger. Over the next two years, Ms. T called and arranged visits with her children as much as possible. Ms. T made recordings of herself reading books to send to her youngest and enrolled in programs she hoped would help her to regain custody of her children: parenting, anger management, and supportive therapy.

But in late 2019, Ms. T found out that the state, represented by the DCF, had filed to terminate Ms. T’s parental rights for her youngest child due to the 15/22 months rule. Determined to keep parenting her child, Ms. T attended every hearing, took the stand to advocate for her family, and kept arranging visits.

Then, in March, COVID-19 hit. The prison shut down all visits and denied access to phone calls. Although Ms. T had only a few months left of her sentence, she could not keep in touch with her children. In the following months, a judge terminated Ms. T’s parental rights for her youngest child and barred visitation.

In July, Ms. T was released. Ms. T is now permitted to visit her older children who remain with family. But neither she nor her two older children are allowed to contact Ms. T’s youngest child. If the state had placed her youngest with family instead of strangers, Ms. T might still have her family, and her youngest could see her siblings and mom.

Despite losing her legal parental rights for her youngest child, Ms. T has not given up on their relationship. She is currently appealing for visitation. Yet, because of the ASFA timeline, Ms. T has found herself in a position that too many mothers of color, who are disproportionately incarcerated, face: fighting the state to have a relationship with her own child.

Ms. T provided permission to publish her story. Her experience illustrates just how challenging it can be for parents with histories of incarceration to maintain their parental rights, and how COVID-19 has exacerbated the challenges.
In Part VIII, we propose policy changes that Connecticut should take to support children and their incarcerated parents. Some of these policies will not add strain to the state budget. Implementation of others could reinvest state funds saved from prison closures into Connecticut children and families. In the absence of federal action, state legislatures, child welfare agencies, and judges retain discretion to affect the impact of ASFA on parents and children. Consistent with ASFA, state legislatures may create exceptions to the 15/22 months rule. DCF and judges maintain the discretion to employ exceptions to avoid unnecessarily severing families. This white paper outlines policy recommendations that may help Connecticut’s most vulnerable children to maintain family relationships and promote long-term savings through reductions in parental recidivism. By providing legislative guidance through a statutory exception and reinvesting state funds, Connecticut can keep families together and keep children safe.

II. The Welfare “Reform” Era Gives Birth to ASFA

The passage of ASFA marked a significant shift in child welfare policy in the United States that was part and parcel of a suite of late 20th Century federal legislation designed to roll back the social safety net for low-income people.23 The roots of the modern foster care system extend back into varied and “much older traditions of caring for poor and dependent children.”24 In the early 20th century, driven by evolving understandings of child development, child welfare professionals transformed the foster care system into “a state-monitored, scientifically based professional service”25 and emphasized the importance of preserving family ties.26

The system remained primarily local until the New Deal’s growth of the welfare state in the 1930s.27 Going forward, the federal government increasingly regulated states’ laws and uses of foster care. By the 1950s-60s, government policymakers provided in-house services to families in need. They structured the foster care system to provide temporary housing for children while doctors rehabilitated parents for issues that impacted their parenting, which they perceived to be treatable medical concerns.28 In this vein, early attempts to address parental abuse and neglect in the United States emphasized treatment rather than removal and provided resources to support struggling families.29 Similarly, child welfare laws “focused on reporting cases of abuse rather than punishing parents.”30 However, these policies were often limited to white and abled children and families.31

Indeed, criticism of Black parenting that politicians promoted after the passage of the Civil Rights Act of 196432 fed public skepticism that parents of color could be trusted to preserve family ties. In 1965, Patrick Moynihan, the Assistant Secretary of Labor, published the “The Negro Family: The Case for National Action.” His report argued that desegregation and the Civil Rights Act had provided Black Americans with full civil rights, and it blamed continuing inequality on disintegrating Black family structures.33 Concurrently, the federal government eliminated welfare law provisions that had previously allowed states to exclude domestic and agricultural workers, who were disproportionately Black, and unmarried mothers from qualifying for welfare.34 The Supreme Court struck down “man-in-the-house” rules that made mothers ineligible for welfare due to the income of any cohabitant.35 These changes, propelled by the civil rights movement and the second wave women’s rights movement, made welfare newly accessible to single mothers and many Black mothers. As the percentage of single mothers and Black mothers who were eligible for welfare benefits rose, so too did public perception of welfare recipients as lazy rather than deserving of support.36 The media and public personalities started mischaracterizing and stereotyping low-income Black parents as non-deserving “welfare queens” and “deadbeat dads”
who did not want to work and would rather cheat the system at “hardworking” people’s expense.\textsuperscript{37} By 1980, racialized narratives that depicted welfare as a contributor to family dependence and to lack of accountability provided political justification for drastic cuts to social safety nets for poor families. In 1984, Charles Murray published “Losing Ground: American Social Policy 1950-1980,” which argued that welfare discouraged work and family values.\textsuperscript{38} President Ronald Reagan, who had campaigned for governor of California in 1965 on the promise to send “the welfare bums back to work,”\textsuperscript{39} cut welfare funding, even though 70 percent of welfare disbursements had been spent on children.\textsuperscript{40} In 1996, Congress enacted, and President Bill Clinton signed into law, the Personal Responsibility and Work Opportunity Reconciliation Act, more commonly known as the Welfare Reform Act.\textsuperscript{41} After absorbing years of racist narratives about who received public benefits for children, the public incorrectly believed that most people on welfare were Black.\textsuperscript{42} It was within the context of these laws, which undermined the social safety net for poor families, that Congress turned its attention to reforming the foster care system.

By the 1990s, policymakers increasingly mischaracterized rehabilitation of poor parents as a failed project, just as they mischaracterized rehabilitation with respect to criminal sentencing.\textsuperscript{43} This critique occurred within the context of racialized efforts to undermine social welfare programs.\textsuperscript{44} In 1997, a year after the Welfare Reform Act passed and with the number of children in foster care climbing, Congress enacted ASFA.\textsuperscript{45} In a departure from prior child welfare laws, ASFA “shift[ed] the focus of permanency planning to adoption, rather than reunification.”\textsuperscript{46} With this, Congress discarded its prior goal of family preservation and instituted the 15/22 months rule. As we discuss in greater detail in Section III, ASFA’s TPR provision disproportionately impacts children of color, who are more likely to have a parent in prison.\textsuperscript{47} Implementation of TPR against incarcerated parents thereby perpetuates ASFA’s outsized and damaging impact on families of color.

Although Congress has made some efforts to encourage family unification, the 15/22 months rule remains in place. In 2018, Congress passed the Family First Prevention Services Act (FFPSA) to overhaul federal child welfare financing and reduce the number of children who enter foster care.\textsuperscript{48} FFPSA authorizes federal support for in-home skills-based programs for parents as well as substance abuse and mental health treatment services.\textsuperscript{49} These resources are available to parents or kinship caregivers for any children whom states determine to be at “imminent risk” of entering foster care.\textsuperscript{50} While FFPSA is an important step forward towards providing resources for families at risk of foster-care involvement, it does not prevent the harm of AFSA’s 15/22 months rule to children with incarcerated parents.

In sum, ASFA’s reforms of the foster care system and the terms of TPR were in line with a broader shift in welfare policy fueled by racist tropes, and the law remains a relic of a political era in which social supports for people living in poverty were disfavored. From the Reagan era through the Clinton presidency, Congress imposed increasingly severe restrictions on public services, which undermined much-needed family supports.\textsuperscript{51} During this time, the United States shifted from a welfare system grounded in government support and rehabilitation to one premised on zero tolerance and personal responsibility.\textsuperscript{52} This approach produced both welfare “reform” and sentencing “reform” bills, which have done little to reduce poverty, and fueled an unprecedented incarceration boom.\textsuperscript{53} Similarly, ASFA has undermined family reunification, while promoting lengthy stays in foster care for children whose parents face TPR.\textsuperscript{54}
III. How ASFA Works

With the new federal law came new state requirements. In order to receive funding to support state child welfare systems, Congress required states to enact legislation governing TPR. This included guidance about when state actors must file for TPR. ASFA required that a state, or the state agency that governs child welfare services, must file for TPR “when a child has been in foster care for 15 of the most recent 22 months.” In Connecticut, the agency which governs child welfare services is DCF, the Department of Children and Family Services.

However, ASFA also allows states to establish exceptions to these filing requirements. The three exceptions provide that a state need not file if:

1. the child is placed with a relative (at the option of the state);
2. the state documents a compelling reason not to file a petition for TPR; or
3. the state has not provided the services, identified in the case plan, necessary to make the home safe for the child’s return within the timeframe specified in the case plan.

The first exception refers to placement with a relative, known as kinship care. In some states, including Connecticut, the state may place children with “fictive” kin, rather than a relative by blood or marriage. The second exception is the broadest; it permits the state to avoid filing for TPR for any reason that the child welfare agency documents as “compelling.” The third permits the state to avoid filing for TPR if it recognizes that it has not provided sufficient services and a plan for the family. Connecticut has enacted all three exceptions.

Even though the state or state child welfare agency has complete discretion over when to file an exception, ASFA incentivizes states not to do so. Under ASFA, states receive payments for “every adoption out of foster care above the number achieved over the previous year.” By contrast, the federal government does not provide corresponding funding for “the achievement of permanency through any other means, including successful reunification.” This funding structure thereby encourages states to seek adoption outcomes, but not reunification.

ASFA also changed case review proceedings. The new proceedings include a permanency hearing at least every 12 months. At these yearly permanency hearings, a family court judge must determine whether to approve TPR. In effect, this creates a 12-month timeline within which parents must “demonstrate their ability to parent in accordance with state standards” or face the potential termination of their parental rights.

State compliance with these requirements is measured through the “Child and Family Service Reviews” (CFSRs). These state audits have taken place every five to nine years since 2000. When states have come up short, they have had the chance to write and implement Program Improvement Plans (PIP) to avoid funding losses.

Even with these requirements, states retain the ability to make meaningful changes to the TPR process. The federal legislation serves as a floor on which states may build without sacrificing federal funding. In fact, many states have taken action to mitigate the harms of permanent family severance. New York took action in 2010 by requiring that state agencies not file for TPR when incarceration is a significant factor leading to 15/22 months in foster care. Other states have enacted similar measures, including Washington, Nebraska, and Indiana.

IV. The Unintended Consequences of ASFA

ASFA has had substantial collateral consequences, particularly for families of color and those living in poverty. In the two decades since ASFA’s passage, the number of children with an
Incarcerated parent has increased by approximately 80 percent, and rates of TPR have substantially increased. In 2019 alone, 673,000 children were in the foster care system, and states terminated the parental rights of 71,300 parents. The same year, Connecticut had 5,980 children in the foster care system, and terminated the parental rights of 353 people. Connecticut policymakers have worked to enact policies and practices that keep families together, and a higher percentage of parents in Connecticut maintain their parental rights than nationally. However, work remains to further reduce the number of families experiencing permanent separation.

In Connecticut, Black children are 3.77 times more likely to experience TPR than white children, while Latinx children are 2.6 times more likely to experience TPR than white children. ASFA has produced significant race-based, gendered, and class-based impacts nationwide. Women are less likely to have alternative caregivers for their children, increasing the likelihood that, if their children are removed, the state will place them in the foster care system and terminate their parental rights. Children of color—particularly those whose parents are low-income, sole caregivers, immigrants, or LGBTQ—are more likely to experience TPR. This risk is heightened when their parents are also incarcerated. It is often low-income families’ lack of resources that renders them more likely to be brought to state attention, and less likely to have the means to implement the goals in their case plan, relative to well-resourced parents.

### Harms by the Numbers

- In 2019, 673,000 children were in foster care and states terminated the parental rights of 71,300 people
- In 2019, 5,980 Connecticut children were in foster care and the state terminated the parental rights of 353 people
- In Connecticut, Black children are 3.77 times more likely to experience TPR than white children
- In Connecticut, Latinx children are 2.6 times more likely to experience TPR than white children
- After ASFA, TPR for incarcerated parents increased by 250 percent
- From 2006-2019, at least 32,000 incarcerated parents’ parental rights have been terminated nationally

Parents who are Black or low-income also face a heightened risk of TPR prior to 15 months due to neglect charges. In Connecticut, the state considers the failure of a caregiver “to provide reasonable and proper supervision” as evidence of neglect. Neglect is often related to poverty, which can contribute to outcomes such as poor nutrition and inadequate housing that many states view as neglect. Across the country, states report neglect at higher rates for Black and low-income families and children, and their children are more likely to end up in foster care due to neglect charges. This may partially be attributed to children in poverty interacting with public agencies more frequently. Additionally, many states are more likely to place similarly situated Black children in foster care due to parental substance abuse than white children. Yet, children placed with family after suffering mistreatment often fare better than those who enter stranger foster care. As we discuss further in Part V, sundering family connections through TPR can create grief and loss for children and compromise children’s healthy development.
V. The Impact of ASFA on Children with Incarcerated Parents

ASFA has also had a profound impact on families with incarcerated parents. State actors may file for TPR anytime the 15 out of 22 months rule is satisfied—a common occurrence for incarcerated parents, for whom the average length of incarceration today is over two years. From 2006-2019, at least 32,000 incarcerated parents’ parental rights have been terminated nationally, with approximately 5,000 seemingly on the basis of their incarceration alone. In a review of cases from 1997-2002, one study identified a connection between TPR and incarceration in 18 percent of cases. A study published in 2005 estimated that, after ASFA, there was a 250 percent increase in TPR for incarcerated parents.

However, as the U.S. Children’s Bureau formally recognized in January 2021, “[l]egal permanence alone doesn’t guarantee secure attachments and lifelong relationships. The relational aspects of permanency are critically important and fundamental to overall well-being.” In fact, they found, “youth often reference ‘relational permanency’ as something they need to thrive.” Nevertheless, current law in Connecticut and nationally prioritizes legal over relational permanency.

This practice impacts an extraordinary number of families. In the United States, approximately 2.7 million children currently have a parent incarcerated and more than 5 million have had a parent incarcerated in their lifetime. In Connecticut, one in 20 children had a parent incarcerated in 2012. An increasing number of mothers are spending time behind bars. A high proportion of low-income women face incarceration due to criminalization of substance abuse disorder, while higher-income women may treat substance abuse through community programs that allow for continued family bonding. Although Connecticut has a few family-based treatment centers, such programs are not always used as an alternative to incarceration. Because of the disparate impact of mass incarceration in the United States on Black, Latinx, and low-income families, children from those families disproportionately bear the risk of TPR and the trauma of permanent disconnection from their primary caregivers.

Myriad factors enhance the risk of TPR for incarcerated parents. By statute, judges must consider the parent’s “degree of personal rehabilitation” and “[t]he extent to which the parent has maintained contact with the child, including visitations, communications, or contributions.” Seemingly simple steps that well-resourced parents on the outside may take to meet these statutory factors, such as “spending time with their children, attending court hearings, taking parenting classes, maintaining regular employment and housing, and paying child support,” can be “virtually unavailable to imprisoned parents.” Challenges include: the distance that many parents are incarcerated from their homes; the cost of visiting; the cost of phone calls; the frequent relocation of children in foster care; the lack of in-prison programming, such as parenting classes; the difficulty of arranging approved kinship care; the inability to monitor the health and well-being of their children in foster homes; limitations on visitation; and the shortage of spaces for parents to physically bond with their young children while incarcerated.

The experience of Taisie Baldwin, a mother in Michigan, illustrates the challenges that many parents face. Taisie Baldwin experienced TPR after giving birth to her daughter Elaine while incarcerated. She shared her experience in Inside This Place, Not of It: Narratives from Women’s Prisons published in 2017. Below, we have reproduced her personal description, as she explains it in her own words.
Because Connecticut has not enacted legislation that mitigates the impact of parental imprisonment on TPR proceedings, incarcerated individuals face enormous difficulty in meeting statutory benchmarks of success. An analysis of state court decisions nationally found that, even when statutes do not explicitly identify incarceration as a negative factor, “cases often still appear to infuse a presumption of unfitness based on incarceration.”102 After incarceration, many hurdles remain for formerly-incarcerated parents battling TPR.103 Even while parents struggle to find a job and gather resources for adequate housing, food, and clothing for their children, the timeline ticks and their fight to maintain parental rights continues.104

The current status quo places both parents and their children at risk of harm due to family separation.105 Regardless of parents’ access to resources, research has demonstrated that maintaining family bonds can promote children’s healthy development: Family separation can produce toxic stress, which can have life-long adverse impacts on the physical and mental health of both parents and children.106 TPR for incarcerated parents also compromises the public good and fiscal responsibility: Studies have demonstrated that maintenance of the parent-child relationship reduces the likelihood that an incarcerated parent will return to prison once released.107

Nationwide, children with incarcerated parents are at risk of remaining in foster care after TPR. Because the timeline does not depend on whether the state has identified a family for adoption, TPR based on timeline alone allows for the creation of “legal orphans.”108 In fact, the U.S. Children’s Bureau found that “[c]hildren who enter care and have their parents’ parental rights terminated more frequently fail to discharge and stay in care longer than children whose parents’ parental rights are not terminated.” Legal orphanage is more likely to impact children whose

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**Taisie Baldwin’s Experience**

The day I went back to prison, I held Elaine in my arms and promised her that I was always going to be there for her. . . . I was crying so hard I couldn’t breathe. I felt empty, like I was leaving my soul at that hospital. Of all I’d been through, leaving my baby was the most painful thing I’d ever felt in my life.

[About four months later], I got a phone call from my attorney telling me that my mother had given my baby to the state, and that I had to be in court in the next three days. I went to court and tried to fight it. My attorney told me to do well in prison, go to school, take parenting classes, basically to do whatever I could. Michigan law states that if a parent is incarcerated for two years, their parental rights can be terminated. I fought for two years, and I went to court every three months. . . . [Soon after,] I got a letter telling me that my parental rights had been terminated. According to the law, I had “neglected” my child because I was in prison. I sat down right there in the prison yard, reading the letter, and I couldn’t get up. I felt so lost.

I appealed, but by that time Elaine was with a foster family. . . . My attorney told me that Elaine’s foster parents wanted to adopt her, and that they would let me have contact with her only if I gave up the appeal. If I didn’t, the [child services agency] would place Elaine with a different family, who would adopt her immediately and seal the file. So I called the foster parents and I asked them if I did stop the appeal, if I would be able to have contact with Elaine, and maybe sometimes get pictures. They said yes, so I gave up the appeal.

Elaine’s foster parents adopted her. . . . Her adoptive parents haven’t let me talk to her since I got out of prison in spring 2010, when she was twelve. She’s thirteen now. When I asked about their promise, they said that they didn’t think that I was ever going to get out.
parents are incarcerated. Children with incarcerated parents are more likely to remain in foster care than to be adopted, relative to children whose parents are not incarcerated.\textsuperscript{110} This becomes more likely the older that children are when they enter foster care.\textsuperscript{111} However, it is difficult to evaluate the extent to which children with incarcerated parents experience legal orphanage in Connecticut due to a dearth of data on both TPR and incarceration.\textsuperscript{112}

ASFA afforded state legislatures the discretion to create exceptions to the 15/22 months rule. Despite the legal authority to do so, Connecticut’s existing exceptions do not presently provide DCF or state judges with explicit guidance about how to weigh parental incarceration during their decision-making.

\section{The Exacerbating Impact of COVID-19}

The COVID-19 pandemic has exacerbated the risk of TPR for Connecticut’s incarcerated parents. Since March 2020, prisons across the country have decreased visitation, access to phone calls, and programming. From March 13 to October 14, Connecticut prisons suspended all personal visits.\textsuperscript{113} On October 15, 2020, “Connecticut began to resume limited, pre-scheduled, non-contact visits.”\textsuperscript{114} However, as of March 2021, some prisons in Connecticut continue to suspend visitation.\textsuperscript{115} Despite encouraging families to rely upon phone calls, Connecticut continues to charge nearly $4 for a 15-minute phone call—the most expensive rate in the country.\textsuperscript{116} Though Connecticut is piloting a program for tablets, the state plans to charge for the cost of email communication with those outside the Department of Correction (DOC).\textsuperscript{117}

Although intended to promote public health, prison practices adopted during COVID-19 in Connecticut have frayed family ties and jeopardized parents’ chances of maintaining their parental rights. This is because judges considering TPR look to factors such as program enrollment and whether a parent has successfully maintained their relationship with their children—\textsuperscript{118} a factor already challenging when a parent is in prison.

After the onset of the COVID-19 pandemic, Connecticut’s Governor briefly suspended requirements and deadlines in child protection matters, but these deadlines resumed at the end of July 2020.\textsuperscript{119} It is unclear whether this since-expired suspension paused the 15/22 months rule, or merely the state’s filing requirements. Regardless, because filing deadlines resumed again in July, incarcerated parents have not received sufficient relief from the timeline, despite the ongoing pandemic and the illness of many parents. Together, these measures inhibit parents’ abilities to meet their burdens of maintaining contact with their children, through no fault of their own.

\section{Barriers to Placing Children with Incarcerated Parents in Temporary Homes}

ASFA provides that states need not file for TPR within the timeline if they document a statutory exception. Connecticut has established that DCF need not file for TPR when children are placed in kinship care, rather than in stranger foster care.\textsuperscript{120} Connecticut DCF has appropriately interpreted this exception to include fictive kinship care as well.\textsuperscript{121} Thus, when children with incarcerated parents are placed with kin, the TPR timeline is suspended. Children who are placed with a kin member also often have better outcomes than children in stranger care. They are less likely to face mistreatment, more likely to reunify, more likely to live with siblings, and more likely to visit with parents.\textsuperscript{122}

Although kinship care presents a promising exception on paper, in practice, federal and
state laws can make placement challenging. Parents do not have ultimate control over the persons with whom DCF places their children. To appoint a guardian for kinship or fictive kinship care, the parent must identify an appropriate relative or caregiver, a social worker must make a determination in their favor, and a probate court must appoint the temporary or standby guardian.\textsuperscript{123} States vary in terms of whom they define as a relative (e.g., related by blood, marriage, or adoption), and with which relatives they permit placement.\textsuperscript{124} Parents may lack alternate caregivers or traditional kin relationships, particularly if they faced TPR as a child and experienced family separation.\textsuperscript{125} Because mothers are often primary caregivers, children with incarcerated mothers are more likely to be placed in stranger foster care and be subject to the 15/22 months rule.\textsuperscript{126} Although many states, including Connecticut, permit their child welfare agencies to place a child in fictive kinship care, barriers such as criminal records can prevent otherwise eligible caregivers from fostering kin in an overly criminalized community.

In Connecticut, a trusted adult’s poverty or criminal record can prevent DCF from deeming a kinship placement to be suitable.\textsuperscript{127} In 2016, a study of children who were placed with an ineligible kin member via a waiver process found that those children had better outcomes than all children in stranger care.\textsuperscript{128} Nonetheless, many potential caregivers remain ineligible.\textsuperscript{129}

The only significant alternative to kinship care is permanent or long-term guardianship. This alternative may provide a sense of permanency to children without severing family ties, which in turn can promote child wellbeing.\textsuperscript{130} However, unlike foster parents, guardians do not necessarily receive state support to care for a child, making this option infeasible for some families.\textsuperscript{131}

The requirements we described above limit acceptable kinship care placements. These policies have significant ramifications for children in foster care: For parents without suitable kin placements, the TPR timeline begins to tick. Connecticut has increased the number of children placed with kin in recent years, raising it to 44.3 percent as of September 2020,\textsuperscript{132} but the need for improvement remains. If Connecticut reforms its kinship care requirements, more children could live in kinship care, improving their likelihood of remaining connected to their families while their parents are in prison.

\textbf{VIII. State Policy Recommendations}

Connecticut has the power to implement policy changes that reduce unnecessary TPR for parents in prison and that promote the welfare of their children. Some of the policy recommendations below would not require increasing the state’s budget. Other recommendations that may cost money to implement can be accomplished by re-investing funds saved from Connecticut’s recent prison closures to support the communities most impacted by incarceration.\textsuperscript{133} All of the recommendations have the potential to reduce long-term costs to the state by reducing the number of children who become legal orphans and reducing the likelihood that formerly-incarcerated parents return to prison. In addition, none of the following policy recommendations would risk reduction in Connecticut’s federal funding, because all reforms fall within Connecticut’s existing discretion pursuant to ASFA.

\textbf{Recommended Policy Reforms}

\textbf{Prevent TPR due to Parents’ Incarceration Status}
Goal: Connecticut should implement policies to prevent TPR when it is based primarily on a parent’s incarceration status.

1. Pause the TPR timeline and prohibit filing when length of incarceration is a cause.

   The problem: Children in foster care whose parents will be released from prison and whose parents would reunify with them after 15 months can be forever denied relationships with their families because of the length of their parents’ sentences.

   Recommendation: The Connecticut General Assembly (“the legislature”) should pause the TPR timeline and prohibit filing when length of incarceration is a cause. The legislature should enact a statute that the state shall not petition for TPR when a parent’s incarceration status, enrollment in residential treatment, or prior incarceration is a factor in a child’s placement in foster care for 15 months, and later reunification is possible. In such cases, rather than filing for TPR, the state may facilitate placement in a long-term guardianship without terminating parental rights.

2. Pause the TPR timeline during the COVID-19 pandemic.

   The problem: The COVID-19 pandemic has caused the state DOC to limit or suspend family visits in prisons throughout Connecticut. Incarcerated parents have therefore faced substantial hurdles to fulfilling reunification requirements during COVID-19. Yet they are held to the same standard as non-incarcerated parents, and face TPR pursuant to the 15/22 months rule.

   Recommendation: The legislature should pause the TPR timeline during the COVID-19 pandemic. It should enact a statute that halts all timeline terminations during COVID-19, states that a parent’s incarceration is a reason to delay the termination timeline and ensures that all parents subject to ASFA have access to free phone calls during the pandemic.

3. Reduce barriers to kinship care and promote parental choice.

   The problem: The state may not permit children to live with someone they know and trust, because the person’s poverty or criminal record bars them from kinship care. While there is a waiver process in Connecticut, DCF has taken important steps to increase rates of kinship care,134 the state retains total discretion over whom to approve. Because poor children and children of color are more likely to be placed in stranger foster care, they are more likely to face TPR at 15 months.

   Recommendation: Both the legislature and DCF should reduce barriers to kinship care and promote parental choice. The Connecticut General Assembly should enact legislation that gives parents the right to decide who is kin, reduces barriers to placement related to criminal records and low economic status, entitles guardians to receive the same funding as foster parents, and prioritizes placements for kin who currently need a waiver over placing children in stranger care.135
4. **Establish a commission to study and promote racial equity in the child welfare system in Connecticut, particularly with respect to TPR.**

**The problem:** A 2016 study found that Black and Latinx children are more likely to lose their parental rights in Connecticut. Mothers disproportionately are the primary caregivers of children, and low-income women and Black women are disproportionately incarcerated. Black children are more likely to face longer stays in out-of-home care than white peers.

**Recommendation:** DCF or the legislature should follow New Jersey’s child welfare agency’s lead in establishing a racial equity commission. This commission could study racial disparity in permanency outcomes and research best practices, collect racial disparity data by county, assess how to reduce the use of family separation, contract race equity and child welfare experts, revise background check policies for kinship caregivers, and create an office for previously unheard parents and youth to provide feedback and guidance. Legislators, judges, and DCF should focus on diminishing the disproportionate impact of TPR and keep track of data on disproportionate impacts.

5. **Expand alternatives to incarceration where appropriate.**

**The problem:** Some parents face TPR after incarceration due to criminalization of substance use disorders. In many cases, diversionary programs could allow families to maintain connections and avoid TPR.

**Recommendation:** The legislature should enact a statute that encourages sentencing judges to provide diversion where appropriate that expands opportunities for parents to maintain relationships with their children. When assessing potential sentences, judges should seek alternatives to incarceration to keep families together. Any costs of diversionary monitoring would be offset by the alternative costs of incarceration and potentially prolonged foster care placement.

6. **Provide resources to indigent parents when they leave prison.**

**The problem:** Formerly incarcerated parents often lack the resources immediately after incarceration to house their children, so their children remain in stranger foster care, and their timelines continue.

**Recommendation:** The legislature should enact a statute directing DCF to provide resources to indigent parents when they leave prison akin to those provided to foster parents. Providing indigent parents following their release from incarceration with funding that would otherwise go to a foster family to care for their children may decrease the time a child spends in foster care and their likelihood of TPR, while increasing relational permanency.

7. **Provide greater support for pregnant incarcerated parents to identify appropriate guardians for their babies.**
The problem: Although incarcerated pregnant parents must identify appropriate kin or fictive kin placements in order to avoid having their babies placed in stranger foster care, it can be difficult for parents in prison to identify guardians that the probate court will approve. This creates the risk that their babies will be placed in stranger care and face TPR.

Recommendation: Connecticut’s DOC or the legislature should reinvest funds from prison closures to establishing a position and hiring a full-time social worker who can assist incarcerated parents in identifying appropriate placements for their babies while reducing the risk of TPR. The DOC should also provide humane spaces for parents to physically bond with and care for newborns.

Support Communication between Children and Incarcerated Parents

Goal: Provide incarcerated parents with greater access to communication with their children in order to facilitate family reunification and reduce the negative psychological impacts of parental incarceration on children.

1. Increase family connection by providing free calls, contact information, and visits.

The Problem: Some children cannot communicate with their incarcerated parents because of the cost of phone calls, transportation costs, or for other reasons. Children may not have an adult who is able to take them to visit their families. When children are in stranger foster care, the foster care parent may not always facilitate communication. To pay for phone calls with incarcerated parents, families must place a debit or credit card on file.\(^\text{139}\) Some kin and foster families may not have a credit card or may be unwilling to place one on file.

Recommendation: DCF and DOC should work together to increase family connection by providing free calls, contact information, and visits. During the 2021 Regular Session, the legislature should enact House Bill 6262. The non-profit Worth Rises and other community members have advocated for a previous version of this bill, to give parents access to free phone and video calls with their children.\(^\text{140}\) The legislature should also enact statutes that: require the DOC to house parents in the prisons closest to their children’s care placements that are also the lowest-security level appropriate; require DCF and DOC keep parents and children apprised of each other’s contact information; create a right and process for children to visit using state-funded transportation; and create a waiver process for those with criminal records seeking to accompany children to visit their families. There is precedent for each of these actions. In 2021, New York State enacted a statute requiring the state to place parents in the prisons closest to the homes of their children.\(^\text{141}\) DCF currently has a responsibility to provide some visits to parents. DCF has already established a waiver process for potential guardians with criminal records, which they could work with DOC to extend to visitation. In March, prisons in Connecticut allowed people two free calls per week during COVID-19 in lieu of visits.\(^\text{142}\) The DOC should expand and continue that policy. Free communication options are particularly critical during the pendency of and recovery from the COVID-19 pandemic. Connecticut may expect to offset any costs through the recent closure of prison facilities, as well as reduced recidivism.
2. **Reinvest funds from Connecticut’s recent prison closures into services promoting family reunification, child-friendly visits, and physical parent-child bonding.**

   **The problem:** Many incarcerated parents do not have the means to connect with their children from prison, and for some children visiting their parents in prison is not feasible or is traumatic.

   **Recommendation:** Connecticut is poised to save an estimated $20 million in 2022 and $46.9 million in 2023 resulting from the planned closures of three correctional facilities in the state.\(^{143}\) The legislature should reinvest savings from the correction facility closures towards hiring social workers to support incarcerated parents in maintaining contact with their children and with alternate caretakers. DOC should reinvest funds to convert existing areas within prisons into child-friendly visiting areas and spaces that allow for extended physical family bonding.

**Mitigate Harm and Promote Rights**

*Goal:* Take steps to mitigate harm to children while promoting parental rights during TPR and criminal proceedings.

1. **Pass legislation creating a presumption that caseworkers should file for an exception to TPR when incarceration status contributed to the 15/22 timeline.**

   **The problem:** The current statutory scheme presumes that TPR at 15 months and adoption are in the best interests of children even if reunification may later be possible. This presumption and practice risks lasting harm to children’s mental and physical health, as well as their legal orphanage.

   **Recommendation:** The legislature should enact a statute creating a legal presumption that DCF should file exceptions to TPR when incarceration is a contributing factor to meeting the 15/22 months standard and family reunification is possible. This statute should favor TPR exceptions in the absence of parental harm to the child, and when the parent continues to make efforts to connect with their child. The statute should specify that a finding of parental harm shall not include conditions of poverty, such as when parents are looking for work or have multiple jobs, or the inability to provide care during incarceration. The state should not sever family bonds based on findings of “neglect” that result from the conditions of incarceration or poverty that incarceration policies create. Legislators, judges, and DCF should recognize that many children experience TPR as a trauma when they face the risk of permanent legal separation from their parents.

2. **Expand the right to appeal TPR when length of incarceration was a cause.**

   **The problem:** When the state files for TPR due to factors related to incarceration, parents have no legal mechanism to challenge the grounds.
**Recommendation:** The legislature should enact a statutory right to reconsider TPR when length of incarceration was a significant contributing factor. Enact a statute creating a parental right to challenge a petition for TPR if incarceration or residential treatment is a contributing factor to the 15-month timeline and the parent did not fail to maintain a relationship within the means that were accessible to them.

3. **Judges considering TPR should evaluate resources actually available for reunification efforts.**

   **The problem:** By statute, judges must consider “[t]he extent to which the parent has maintained contact with the child, including visitations, communications, or contributions.” However, factors outside of an incarcerated parent’s or child’s control can interfere with maintenance of contact. Parents may be incarcerated far from their children’s placement, and without access to contact information. Children whose parents lack the resources to make calls and pay for visits lose contact with their parents. Children may not have a trusted adult who is willing or able to bring them to visitation, for example, due to a prior criminal record.

   **Recommendation:** Judges should consider only resources actually available for reunification efforts in making determinations related to TPR. The legislature should enact legislation that presumes an incarcerated parent who attempts to maintain a relationship within accessible means has made adequate efforts to reunify, and unavailable means cannot be considered.

4. **Make legal advice accessible to incarcerated parents and children in TPR meetings.**

   **The problem:** Incarcerated parents may lack meaningful opportunities to participate in meetings, and children and parents may lack legal tools to navigate preliminary hearings in family court.

   **Recommendation:** The legislature should enact a statute that provides incarcerated parents and children the right to attend all TPR meetings and hearings with a lawyer, reschedule meetings that parents and their lawyers cannot both attend, and require the court consider whether incarcerated parents had access to counsel and meaningful opportunities to participate in meetings.

5. **Require a plan for post-termination contact.**

   **The problem:** After TPR, the state or adoptive parents are not required to permit children to maintain contact with their biological parents. This practice is inconsistent with other domains of family law, in which the noncustodial parent often retains a right to contact their children. The U.S. Children’ Bureau explained, “[c]hildren in foster care should not have to
choose between families.” This policy should apply even after TPR has occurred. Often, children can remain in contact with their biological parents while remaining safe. DCF should facilitate these ongoing relationships.

Promote Awareness

*Goal:* Promote public awareness of the impact of TPR and provide information about the TPR process to parents, attorneys, judges, and case workers.

1. **Publish data on TPR and incarceration.**

   The problem: No agency in Connecticut publishes data on TPR and incarceration, so the full scope of the problem is not visible or transparent to state policymakers, DCF officials, judges, or the impacted public.

   Recommendation: The disproportionate impact of TPR on children who are low-income, children of color, and children with incarcerated parents nationally guide in favor of Connecticut collecting more data to better understand ASFA’s effects on children with incarcerated parents. The legislature should enact a statute requiring that the state publish data on TPR and incarceration. This statute should require DCF and the DOC to monitor and publish data regarding TPR for incarcerated parents, disaggregated by demographic indicators. These data should include: the number of children in foster care with an incarcerated parent, the number of parents facing TPR wherein prison time is a factor, rates of TPR for incarcerated and non-incarcerated parents, the number of children in each placement type, and the number of children with and without incarcerated parents who are in legal orphanage. The legislature should provide that these data also include the number of parents who consent to TPR and the circumstances of consent, such as whether the parent was incarcerated. The most recent relevant study was conducted independently and led in part by the Connecticut Children with Incarcerated Parents Initiative (CTCIP) to study the impact of caregiver arrest on children. See the Appendix for an independent by CTCIP. The state should collect and publish additional data.

2. **Inform parents of their rights.**

   The problem: Many parents with children in foster care do not know about their parental rights or factors that contributed to TPR decisions. For example, in cases where DCF documented the need for a legal consultation, the Department only documented the need as resolved in 69.6 percent cases.

   Recommendation: Inform parents of their rights. The legislature should enact legislation requiring that parents receive written and verbal notice of their parental rights, reasons their rights may be terminated, and any steps they can take to prevent TPR prior to criminal sentencing or when DCF starts an investigation. When TPR is initiated, this statute should require DCF to explain their parental rights and any right to bring a cause of action. During that process, the statute should provide that parents have access to all evidence and contributing factors considered in the decision. If the state asks the parent if they wish to
consent voluntarily to TPR, the legislature should require that DCF provide parents written and verbal notice of their rights, any rights after TPR, and any rights in an open or closed adoption.

3. **Teach criminal defense attorneys and sentencing judges about TPR, and incorporate family impact statements at sentencing.**

The problem: Research of the Connecticut Children with Incarcerated Parents Initiative reveals the expansive effects that incarceration of caregivers can have on children. However, many defendants, defense lawyers, and sentencing judges do not know about the ASFA timeline and the risk that incarceration poses to parental rights. As a result, many criminal defense attorneys do not raise collateral consequences for parental rights at their clients’ sentencing hearings.

Recommendation: The legislature should reinvest funds saved from prison closures in training programs at the Connecticut Public Defender Service and the Connecticut Bar Association that teach criminal defense attorneys and sentencing judges about TPR. All defense attorneys and judges should receive training about collateral family consequences to criminal sentences. Judges should exercise particular caution in sentencing when parental incarceration may lead to the placement of children in foster care. Defense attorneys should inform their clients orally and in writing about the risks of TPR.

Criminal defense attorneys should be trained, in appropriate cases, to incorporate family impact statements during sentencing to explain the impact of incarceration on children, and future TPR consequences. Impact statements may describe parents’ caregiving responsibilities and potential consequences of parental incarceration for children. Consequences may include psychological and physical harms due to family separation, changing caregivers, moving, switching schools, financial harm, and the risk of children’s welfare system involvement. Statements might emphasize how maintaining the parent-child relationship reduces recidivism and how TPR due to incarceration has had disproportionate impacts on low-income and Black mothers. When appropriate, defense attorneys may engage children in participatory defense at their parents’ sentencing.

4. **Train case workers, judges, and family lawyers about TPR exceptions.**

The problem: Some DCF case workers and family lawyers may not know when to advocate for exceptions to TPR.

Recommendation: DCF should train case workers to file TPR exceptions when incarceration is the cause. Relevant bar associations and public defense agencies should train judges and family lawyers about TPR exceptions. The legislature should enact a statute that provides case workers, judges, and family lawyers with guidance for when to advocate for exceptions, including with respect to incarceration.
IX. Conclusion

Reform to Connecticut’s application of ASFA is urgently needed in order to reduce harm to children and their incarcerated parents. The extraordinary harm of unnecessary termination of parents’ rights is disproportionately borne by Black and low-income families. The COVID-19 pandemic has exposed and exacerbated these disparities. By implementing the recommendations detailed above, the Connecticut legislature and relevant agencies can make immediate and lasting contributions to children’s welfare.
Just Facts

- **Connecticut’s legislature has the power to enact statutory changes that provide Connecticut’s DCF with guidance about how to prevent family separation when a parent is incarcerated.**
  Although ASFA has provided child welfare agencies with the discretion to make limited exceptions to TPR, its failure to address parental incarceration has caused life-shattering consequences nationwide. By providing DCF with guidance to handle cases involving parental incarceration, legislation will create clear expectations for case workers and families, leading to consistent outcomes and fairer decisions.

- **TPR does not necessarily hasten adoption and can undermine relational stability.**
  TPR does not inherently promote stability or adoption. States can promote stability for children through maintenance of regular parent-child contact and avoiding unnecessary severing of the parent-child bond. In addition, an adoptive family may not be identified for a child prior to TPR. In those cases, TPR can make children legal orphans, meaning more time in foster care and a less stable home life.

- **The state can reinvest prison funds into these policies without increasing the budget.**
  Implementing the majority of the recommended changes should not significantly increase the budget. Connecticut’s closure of three prisons will save the state $60 million in 2022 and 2023. These funds should be reinvested in policies that keep Connecticut families together. Reinvestment will allow Connecticut to pursue urgent reforms without increasing the budget. Additionally, some recommendations may decrease costs to the state. For example, policies that reduce the likelihood that the state creates legal orphans who remain in state-sponsored foster care until they age out would decrease state spending. Implementing policies that prioritize maintenance of parent-child relationships would also decrease the likelihood that parents will return to prison once released.

- **None of the recommended changes will reduce Connecticut federal funding.**
  None of the following policy recommendations would risk reduction in federal funding because all reforms fall within the state’s existing discretion. New legislation would demonstrate legislative intent to bolster use of discretion in instances where a child’s stay in foster care is in part due to length of parental incarceration.
Appendix

“The growing number of children with an incarcerated parent represents one of the most significant collateral consequences of the record prison population in the U.S.”

CT CHILDREN WITH INCARCERATED PARENTS INITIATIVE

The CT Children with Incarcerated Parents Initiative (CTCIP) strategically works to improve the quality of supports for children with incarcerated parents through independent research, public policy and practice development, community engagement, and education. CTCIP serves as Connecticut’s primary resource center for and on children affected by parental incarceration. CTCIP operates out of the Institute for Municipal and Regional Policy (IMRP) located at Central Connecticut State University in New Britain, CT.

DEMOGRAPHIC INFORMATION

National
- 1 in 14 children have had a parent who has lived with them go to jail or prison.
- 80% of incarcerated women are mothers and are the primary caretaker for their children.
- 77% of mothers in state prisons lived with their children just prior to incarceration and provided most of the children’s daily care and needs.
- Approximately half of children with an incarcerated parent are under ten years old.

Connecticut
- It is estimated that a child experiences a parental arrest more than 62,000 times annually in Connecticut alone.
- More than half of the state prison population are parents.

CHILD & FAMILIAL DISTRESS

- The U.S. Centers for Disease Control and Prevention (CDC) identifies having had an incarcerated parent as an Adverse Childhood Experience (ACE) but is distinguished from other ACEs because of the unique combination of trauma, stigma, and shame.
- Parental incarceration is independently associated with higher rates of learning disabilities, ADHD, behavioral problems, emotional dysregulation, and developmental delays in the child.
- A CTCIP study showed that the child loses many important supports when a parent becomes incarcerated, including but not limited to: basic financial support, help with personal problems, assistance with completing school work, talking with teachers, coaches, etc., transportation, child care, government assistance, and care for medical or special needs.
- Studies have shown that the absence, or unavailability of a parent is emotionally equivalent to life-threatening for children.
- When a parent becomes incarcerated, the reduction of parental involvement exposes children to prolonged absence of important people in their lives.

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ECONOMIC HARDSHIP

- Parental incarceration creates a significant financial hardship that often contributes to the family's reliance on state-funded social services, programs and financial assistance.
- On average, a family's income declines by 22% when a father becomes incarcerated. Even in the year after the father is released, the family income remains 15% lower than the year before incarceration.10
- Both education and parental income are strong indicators of children's future economic mobility.11
- Nationally, formerly incarcerated people are unemployed at a rate of over 27% — higher than the total U.S. unemployment rate during any historical period, including the Great Depression.12
- Parents left to care for CIP report difficulties in meeting basic household needs such as food, housing, utilities, transportation, and clothing.13
- According to a 2015 survey, 2 in 3 families had difficulty meeting basic needs due to a family member's incarceration and 70% of these families were caring for at least one child under 18 years old.14

SYSTEMIC BARRIERS, RECIDIVISM REDUCTION & PUBLIC SAFETY

- Collaborations among state correctional, child welfare, education, labor, and human services agencies, as well as community-based organizations, improves the efficacy of services provided to both the child and the incarcerated parent15
- Case management techniques that include the family and child of an incarcerated individual have demonstrated reduction in likelihood that the parent will return to criminal activity after release.16
- Family contact through prison visits, phone calls and financial support have been shown to help an individual transition back into the community.17
- The first month after release from incarceration is the time during which the risk of becoming homeless and/or recidivism is highest. A supportive family with a strong connection to the previously incarcerated individual can assist in alleviating some of these immediate concerns.18

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4 Children of Incarcerated Parents, National Conference of State Legislatures, 2009
7 Connecticut Department of Correction data, June 2018
14 Ibid.
16 Ibid.
18 Ibid.

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References


Ibid.

Ibid.


35 Ibid.
49 Ibid.
50 Ibid.
52 Ibid.

The Administration for Children and Families in the U.S. Department of Health and Human Services has found that “children who enter care and have their parents’ parental rights terminated more frequently fail to discharge and stay in care longer than children whose parent’s parental rights are not terminated. As the age at entry increases, the likelihood of these children staying in care also increases.” Administration for Children and Families. (2021). *Achieving permanency for the well-being of children and youth*. U.S. Department of Health and Human Services. http://www.cwla.org/wp-content/uploads/2021/01/ACYF-CB-IM-20-09.pdf

Though states vary, the three general requirements for TPR under ASFA include: “1. when a child has been in foster care for 15 of the most recent 22 months; 2. when a child has been determined to be an abandoned infant (as defined in State law); or 3. when the parent has been convicted of murder or voluntary manslaughter of his/her own child, been convicted of aiding or abetting, attempting, conspiring or soliciting to commit such a murder or voluntary manslaughter, or committing a felony assault that resulted in serious bodily injury to his/her own child.”


Ibid.


Greenaway, A. (2002). When neutral policies aren’t so neutral: Increasing incarceration rates and the effect of the adoption and safe families act of 1997 on the parental rights of African-


99 Ibid.  


104 Ibid.  

105 Ibid.  


Children of parents who experienced foster care placement or parental incarceration as children are more likely to experience the foster care placement and incarceration. Ng, I. Y. H., Sarri, R. C., Stoffregen, E. (2013). Intergenerational incarceration: Risk factors and social exclusion.


Ibid.

Ibid.


Guardians in Connecticut can negotiate with the state for a percentage of the foster care rate, but there is no guarantee that a guardian would receive that subsidy. Connecticut Alliance of Foster & Adoptive Families. (n.d). Comparison of transfer of guardianship and adoption. Retrieved December 17, 2020, from https://caafact.org/documents/FAQGuardianshipvAdoption.pdf


Guardian and foster payments for recently release parents would not increase the foster care budget, since they are for families whose children would go to stranger foster care if their actual families did not receive foster funding.


Since DCF already internally monitors this data the only additional costs are those of aggregating and reporting on internal data, which is essential to transparency.


Creamer, K., Gottlieb, C. (2021, February 9). If Adopt and Safe Families Act can’t be repealed, here’s how to at least make it better. The Imprint. https://imprintnews.org/uncategorized/afsa-repealed-how-make-better/51490


Since DCF already internally monitors this data, the only additional costs are those of aggregating and reporting on internal data, which is essential to transparency.


Ibid.