



Representing Incarcerated Parents In Dependency Cases

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OVERVIEW

- ❖ Understanding Mass Incarceration
- ❖ Rights of Incarcerated Parents
- ❖ Law & Best Practice:
 - ❖ Reasonable Efforts
 - ❖ Visitation
 - ❖ Right to Counsel
 - ❖ Participation in Court Proceedings
 - ❖ Permanency/TPR





Understanding Mass Incarceration



THE U.S. LEADS THE WORLD IN INCARCERATION

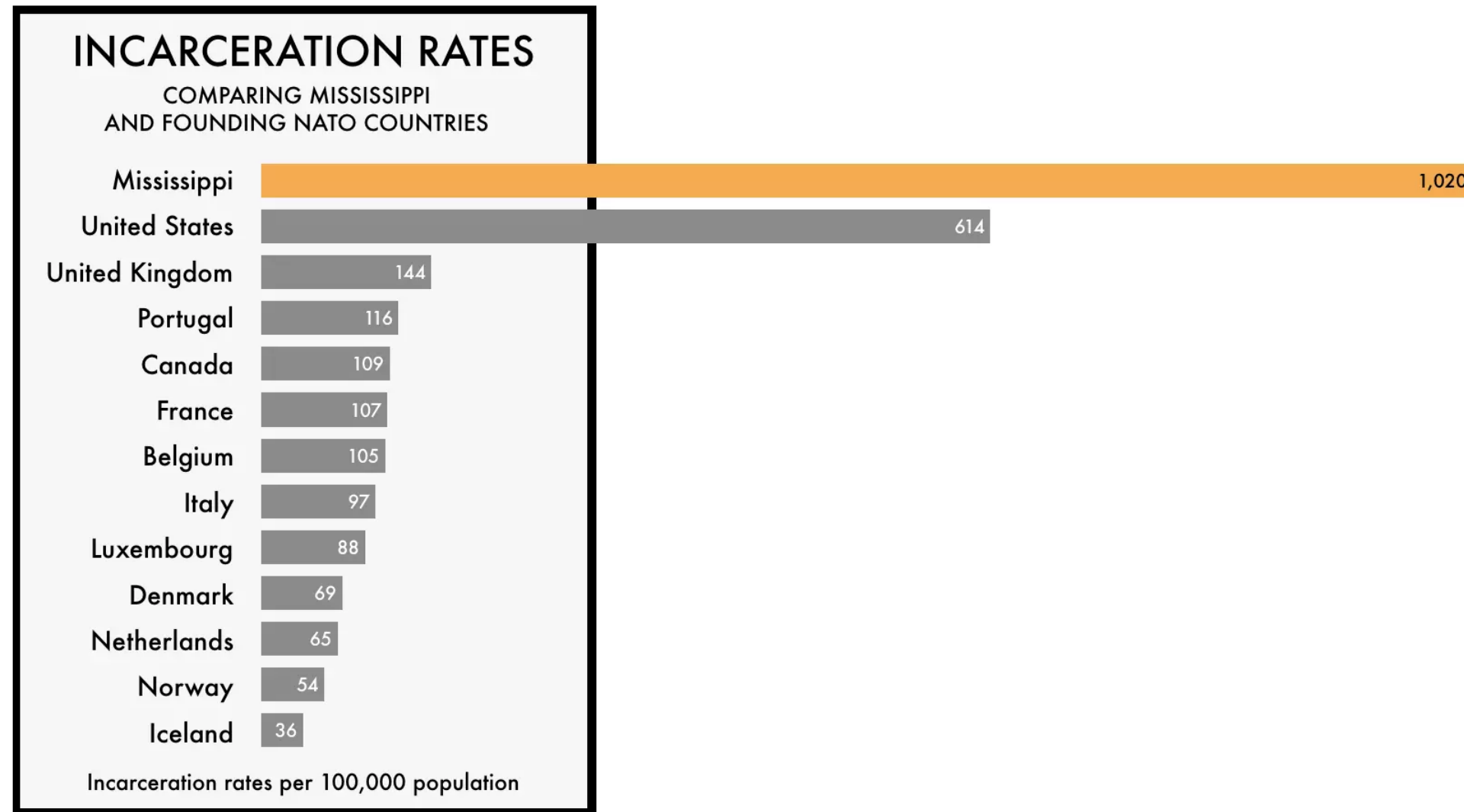
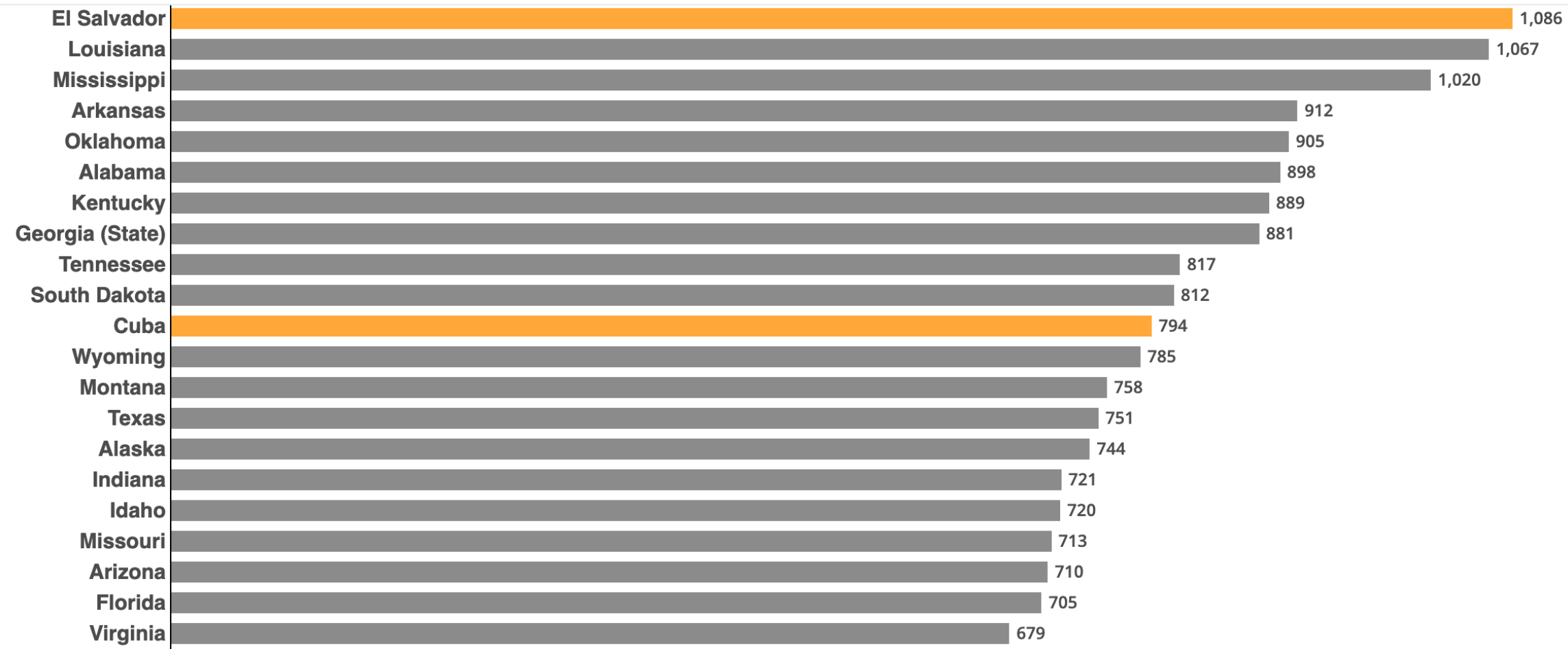


Figure 2. Compare another state:
or compare *just the U.S. with its peers.*

Source: State of Incarceration: The Global Context 2024, Prison Policy Initiative <https://www.prisonpolicy.org/global/2024.html>

MISSISSIPPI LEADS THE U.S. AND THE WORLD IN INCARCERATION

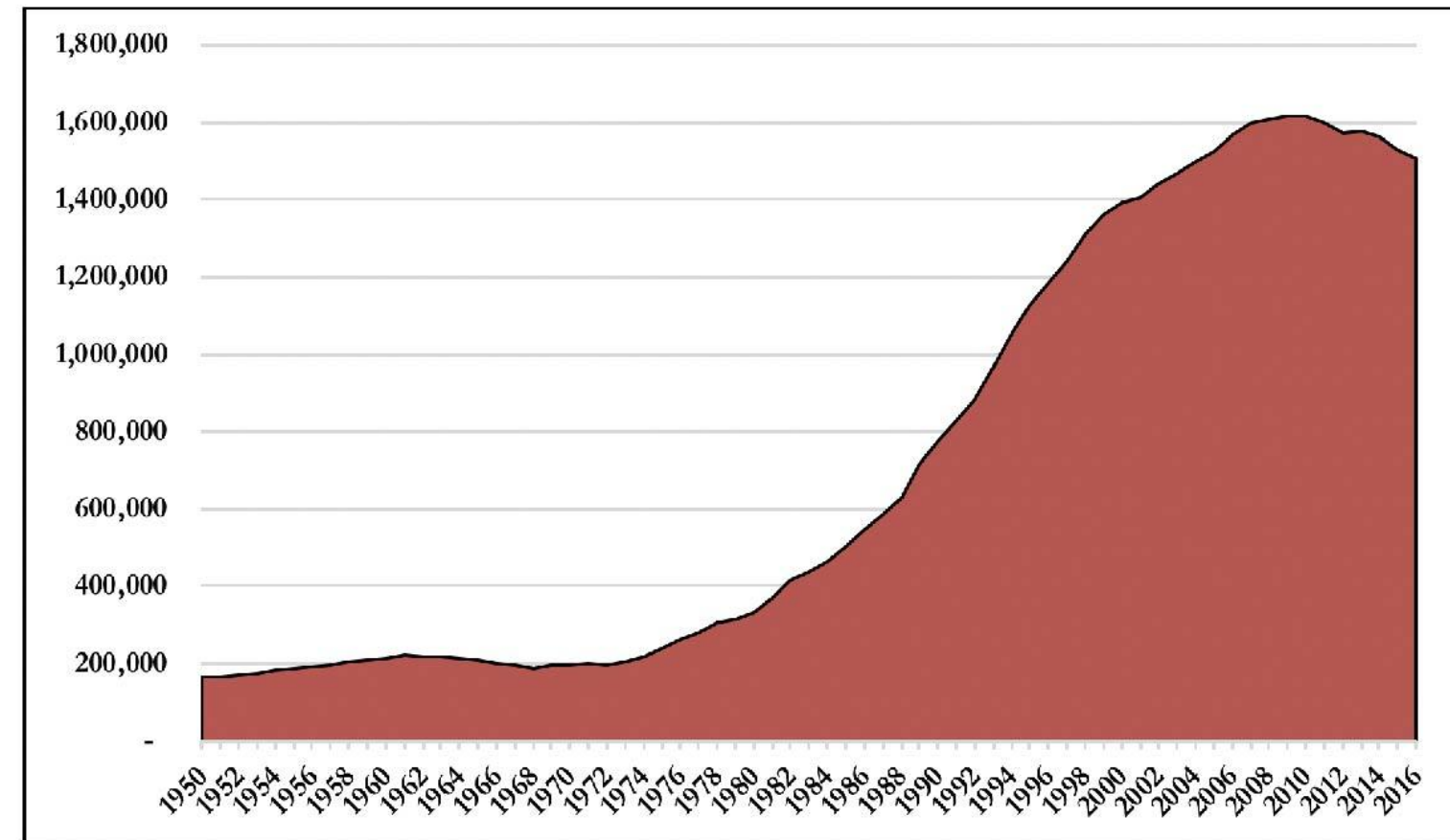
World Incarceration Rates If Every U.S. State Were A Country



Source: State of Incarceration: The Global Context 2024, Prison Policy Initiative
<https://www.prisonpolicy.org/global/2024.html>

RISING RATES OF INCARCERATION

Prison System Growth (1950-2016)



Source: Brennan Center: The History of Mass Incarceration

<https://www.brennancenter.org/our-work/analysis-opinion/history-mass-incarceration>



Rights of Incarcerated Parents



RIGHTS OF INCARCERATED PARENTS

In general, Federal and State laws do not distinguish between the rights of incarcerated parents and other parents regarding regular visits and contact with their children, engagement in case planning and the court process, and reasonable efforts to support reunification. Even when reunification appears challenging due to the parent's length of incarceration, child welfare agencies are required to pursue reunification if there is no court order directing them otherwise. Caseworkers should engage incarcerated parents early and often, from the time of arrest until release.

Child Welfare Information Gateway. (2021). Child welfare practice with families affected by parental incarceration. U.S. Department of Health and Human Services, Administration for Children and Families, Children's Bureau.

RIGHTS OF INCARCERATED PARENTS

[Video: Parents In Prison Are Losing Their Kids Forever | NBC Left Field](#)

<https://www.youtube.com/watch?v=FUEIqIDFgt0>

RIGHTS OF INCARCERATED PARENTS

Discussion:

What rights did Laurie and Corey have? What rights did their children have? How were those rights protected (or not)?

How could a lawyer have helped them?



Law & Best Practice



REASONABLE EFFORTS

Reasonable Efforts:

- Supporting parent-child relationship through visits, letters and phone calls
- Involving the parent in case planning
- Engaging the parent in decision-making for their child
- Keeping the parent informed about their child and the progress of their case
- Supporting the parent in completing case plan goals but during incarceration and as they transition back to the community after incarceration

Child Welfare Information Gateway. (2021). Child welfare practice with families affected by parental incarceration. U.S. Department of Health and Human Services, Administration for Children and Families, Children's Bureau.

REASONABLE EFFORTS

Parents who are incarcerated continue to have rights to be involved in their children's lives, regardless of their crime unless their parental rights have been terminated, aggravating circumstances are present, or the court determines that MDCPS is not required to continue involvement with the parent/s.

Like their parents who are incarcerated, children in foster care also have a right to have a relationship with their parent/s despite the parent's incarceration. There are special challenges and issues in trying to work with incarcerated parent/s but workers should consider the value of the relationship between the parent/s and the child.

18 Code Miss. R. Pt. 6, D VII

REASONABLE EFFORTS

For incarcerated parents, agency workers should:

- Identify where the parent is incarcerated
- Contact the prison social worker for assistance in working with the parent and learn prison policy and rules
- **Complete the FSP with the parent**, including informing the parent of his or her rights and responsibilities
- **Make monthly outreach to parent** by phone, correspondence, or face-to-face contact to assess the parent's FSP progress and to update them about their child
- **Make face-to-face contact with the parent every 90 days**
- **Review the FSP according to the same standards as parents who are not incarcerated**

18 Code Miss. R. Pt. 6, D VII

REASONABLE EFFORTS

Cross examination:

- When did you identify where the parent is incarcerated?
- When did you contact the prison social worker?
- Did you ask about prison policy and rules?
- Did you complete the FSP with the parent?
- Did you inform the parent of her rights and responsibilities?
- Did you make monthly outreach to parent?
- Did you review the FSP? Provide updates about the child?
- Did you make face-to-face contact with the parent every 90 days?
- Did you review the FSP according to the same standards as parents who are not incarcerated?
- That means ensuring visitation occurs regularly and in-person?

LOCATING INCARCERATED PARENTS

START WITH:

vinelink.com

[Mississippi DOC Inmate Search](#)

VISITING & CONTACT

- ❖ Children of incarcerated parents experience trauma and loss characterized by feelings of grief, shame and isolation
- ❖ Visitation can help a child's emotional adjustment and behavior
- ❖ When the incarcerated parent was the primary caregiver, visiting is especially crucial to addressing the trauma of separation

“Why Maintain Relationships,” National Resource Center on Children and Families of the Incarcerated

VISITING & CONTACT

Strategies for Maintaining Contact?

- Visitation
- Video-conference visitation*
- Phone calls
- Letter writing
- Cards/drawings
- Videos of parent reading/talking to child

*“While video visits can be a valuable supplement to in-person visits or serve as a substitute for connecting when visits are not possible, they should not replace in-person visits entirely. For more guidance on facilitating and supporting virtual visits.” Child Welfare Information Gateway. (2021). Child welfare practice with families affected by parental incarceration. U.S. Department of Health and Human Services, Administration for Children and Families, Children’s Bureau.

VISITING & CONTACT

*“According to MDCPS's policy, the caseworker is required to make every effort to arrange visitations with incarcerated or institutionalized parents or primary caretakers in accordance with the prison's guidelines. Nevertheless, [the worker] testified that **P.S. did not have visitation with I.S. and J.S. while they were in MDCPS's custody.** No substantial credible evidence in the record shows that MDCPS made reasonable efforts to help P.S. arrange visitations with his children.”*

Int. of J.S., No. 2023-CA-00932-COA, 2025 WL 1935952 (Miss. Ct. App. July 15, 2025)



Case Planning



CASE PLANNING

The case plan for each child must:
*(1) Be a written document, which is a discrete part of the case record, in a format determined by the title IV-E agency, which is **developed jointly with the parent(s) or guardian of the child in foster care***

45 C.F.R. § 1356.21

CASE PLANNING

Including the Parent in the Case Plan:

- Video conference
- In-person meeting to develop
- Phone conference

Bottom Line: It is a conversation!

CASE PLANNING

Many jails & prisons now offer:

- Parenting classes
- Drug treatment classes
- Vocational classes
- GED
- Anger management
- Individual therapy
- Medication management
- & more!



Right to Counsel and Participation in Court Proceedings



RIGHT TO COUNSEL

If the [youth] court determines that a **custodial** parent or guardian who is a party in an **abuse, neglect or termination of parental rights** proceeding is indigent, the youth court judge **shall** appoint counsel to represent the indigent parent or guardian in the proceeding.

Miss. Code Ann. § 43-21-201(2)(a)

RIGHT TO COUNSEL

The court **may** appoint counsel to represent a **noncustodial** parent if the court determines that the noncustodial parent is indigent and **has demonstrated a significant custodial relationship with the child.**

Miss. Code Ann. § 43-21-201(2)(a)

RIGHT TO COUNSEL

All parents have the right to be appointed counsel in termination of parental rights hearings, and the court shall appoint counsel if the court makes a finding that the parent is indigent and counsel is requested by the parent.

Miss. Code Ann. § 43-21-201(2)(a)

PARTICIPATION IN COURT PROCEEDINGS

In Mississippi, people have the right to participate in person in criminal matters

Is there a right to participate in person in civil matters? Quasi-criminal matters?



Permanency Planning and Termination of Parental Rights



PERMANENCY PLANNING

The Adoption and Safe Families Act (ASFA) requires DHS to file for TPR if the child is in care for 15 of the last 22 months

Exceptions to 15/22 month requirement

- Child is living with a relative
- TPR is not in the child's best interests
- DHS has not provided adequate reunification services

PERMANENCY PLANNING

Remember...

Permanency planning requires individualized consideration of best interests of the child

Children need

- The security of a permanent home
- Lifelong family connections

EXTENSION OF TIME

The court must render a judicial determination of any reasons identified by the county for extending the time frame of an [Family Service Plan] beyond 6 months.

Reasons can include but are not limited to the following:

...

- Parental incarceration*

18 Code Miss. R. Pt. 6, D VII

REASONABLE EFFORTS

Youth court **must make a determination that reasonable efforts** were made before changing the goal from reunification to adoption.

- *Int. of J.S.*, No. 2023-CA-00932-COA, 2025 WL 1935952 (Miss. Ct. App. July 15, 2025)
- *Matter of L.C.*, 394 So. 3d 517, 531 (Miss. Ct. App. 2024)

Int. of J.S., No. 2023-CA-00932-COA, 2025 WL 1935952 (Miss. Ct. App. July 15, 2025)

- Incarcerated father was non-offending parent
- Caseworker said father was sent FSP but only evidence was that prior worker said she mailed it and it was not returned to sender
- Agency provided no visits with children
- Prior worker said father completed some programs in prison, made some progress
- New worker said dad made no progress towards reunification
- Father's parental rights were terminated

- **Remanded for CPS to make reasonable efforts to reunify**
- Heavily relied on 18 Code Miss. R. Pt. 6, D VII
 - Lack of service plan in record
 - Lack of documentation of service plan being sent to parent
 - Lack of in-person meeting with parent
 - Lack of extending timeline due to incarceration
 - Lack of visitation

*“According to MDCPS’s policy, **the caseworker is required to make every effort to arrange visitations with incarcerated or institutionalized parents or primary caretakers in accordance with the prison’s guidelines. Nevertheless, [the worker] testified that **P.S. did not have visitation with I.S. and J.S. while they were in MDCPS’s custody. No substantial credible evidence in the record shows that MDCPS made reasonable efforts to help P.S. arrange visitations with his children.**”***

In re A.M.A., 986 So. 2d 999
(Miss. Ct. App. 2007)

- Termination reversed on all but one ground for incarcerated father
- Reaffirmed that termination should not be granted solely on the basis of termination
- Important take-away: **Father's unrefuted testimony that he attempted to make contact with the agency and sent his children Christmas gifts was critical in reversing grounds for termination**



Caregiver, Child & Parent Supports



CHILD & CAREGIVER RESOURCES

- ❖ Sesame Street Incarceration Toolkit
<https://sesameworkshop.org/topics/incarceration/>
- ❖ Osborne Association: See Us, Support Us
<https://www.susu-osborne.org/>
- ❖ Children of Incarcerated Parents Partnership
https://sfonline.barnard.edu/children/sfcipp_01.htm
- ❖ National Resource Center on Children and Families of the Incarcerated
<https://nrccfi.camden.rutgers.edu/>

WORDS MATTER



#WordsMatter

Think of how a child might feel when their parent is called a “criminal.” To children they are moms and dads first and forever. **#WordsMatter** and can signal to a child struggling with their parent’s incarceration that you are a safe space. Creating safe spaces for children of incarcerated parents can reduce stigma and negative effects of separation from a parent. Join us in using thoughtful language when speaking of and with people with criminal justice involvement and their families. Together we can change the narrative.

WORDS MATTER

Instead of “inmates” or “offenders” say...

Parent

People
who are
incarcerated

People who
have been in
conflict with
the law

Instead of “felons” or “ex-cons” say...

Formerly
Incarcerated
Person

Returning
Citizen

People with
prior criminal
justice
involvement

Join us in changing the narrative—by listening to the children who are directly affected, celebrating their resilience, and using humanizing language when referring to people who are incarcerated.

Find more resources at: www.osborneny.org/susu



Questions? Comments?

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