



Termination of Parental Rights

TERMINATION OF PARENTAL RIGHTS (“TPR”) IS THE MOST SEVERE ACTION A STATE CAN TAKE IN child welfare, permanently severing the legal relationship between a parent and child. While intended to protect children, TPR can create disproportionate harms for survivors of human trafficking. The very circumstances of their exploitation—such as coerced criminal behavior, substance use, or housing instability—are often used against them in child welfare proceedings. This increases the likelihood of family separation and long-term trauma for both mothers and children.

THE INTERSECTION OF HUMAN TRAFFICKING AND TPR

The U.S. Supreme Court has long recognized the parent–child relationship as a fundamental right,¹ but states may terminate parental rights when a child’s safety or well-being is determined to be at risk. Federal laws such as the Child Abuse Prevention and Treatment Act (“CAPTA”) of 1974² and the Adoption and Safe Families Act (“ASFA”) of 1997³ have shaped the system. In practice, these laws have incentivized child removals and imposed rigid timelines for permanency, accelerating the termination of parental rights in many cases.

For trafficking survivors who have been criminalized, the risk of TPR is especially acute. Mothers who are incarcerated are more likely than fathers to have their children placed in foster care,⁴ and the timelines under the ASFA often extend beyond prison terms, leaving little opportunity for reunification.⁵ Survivors who are not incarcerated but face poverty, housing instability, or substance use challenges may also be judged “unfit,” even when these circumstances stem directly from their victimization.

These vulnerabilities intersect with broader systemic inequities. Families of color and low-income households are disproportionately surveilled by child welfare systems, making them more likely to face separation. Safe Harbor laws, while designed to protect child victims of sex trafficking, often default to child welfare involvement. When access to services depends on system entry, families may be unnecessarily pulled into adversarial proceedings that create additional trauma and risk family separation.

The consequences of TPR are profound. Losing custody can intensify financial instability, increase mental health struggles, and heighten vulnerability to re-exploitation. Many survivors describe their children as a central motivator to leave a trafficking situation; when custody is terminated, that source of hope and determination is stripped away. For children, separation disrupts family bonds and can result in long-term emotional harm, including anxiety, depression, and attachment disorders. Children who remain in foster care without permanency face especially high risks of homelessness, incarceration, and trafficking. Research shows that 86 percent of likely child sex trafficking victims were in the care of social services when they went missing.⁶ Additionally, since ASFA’s enactment, over 200,000 children have had parental rights terminated but never achieved permanency.⁷

CONCLUSION

The intersection of TPR and trafficking underscores the need for careful policy and practice. Trauma-informed, community-based services can reduce reliance on child welfare involvement and support family preservation. Flexibility in timelines is critical for parents working toward stability while navigating incarceration, treatment, or recovery. Expanding access to quality legal counsel and creating opportunities to reinstate parental rights when circumstances change can help prevent unjust, permanent separations. Above all, child welfare and legal systems should recognize the broader context of trafficking victimization and avoid punitive responses that deepen harm.

1 See *Meyer v. Nebraska*, 262 U.S. 390 (1923); *Pierce v. Society of Sisters*, 268 U.S. 510 (1925); *Troxel v. Granville*, 530 U.S. 57 (2000).

2 Child Abuse Prevention and Treatment Act, Pub. L. No. 93-247, 88 Stat. 4 (1974) (codified as amended at 42 U.S.C. §§ 5101-5116i).

3 Adoption and Safe Families Act of 1997, Pub. L. No. 105-89, 111 Stat. 2115.

4 See Carla Laroche, *The New Jim and Jane Crow Intersect: Challenges to Defending the Parental Rights of Mothers During Incarceration*, 12 COLUM. J. RACE & L. 517, at 531 (2022).

5 See *Id.* Over 72% of women in state prison and 69% of women in federal prison are serving a sentence of 36 months or more, thus mothers who are imprisoned have a hard time disputing the fifteen-out-of-twenty-two-month reunification requirement under ASFA.

6 See Samantha Davey, *Snapshot on the State of Black Women and Girls: Sex Trafficking in the U.S.*, Congressional Black Caucus Foundation (2020), <https://www.cbcfinc.org/wp-content/uploads/2020/05/SexTraffickingReport3.pdf>.

7 See Airenhue B. Omoragbon, *A 21st Century Analysis of the Adoption and Safe Families Act of 1997 and its Impact on Incarcerated Black Women*, Congressional Black Caucus Foundation (2024), <https://www.cbcfinc.org/wp-content/uploads/2024/11/A.Omoragbon-Capstone-Final.pdf>.