

Family Reunification Act

Legal Aid Society of Minneapolis Youth Law Project

Legal Aid Society of Minneapolis is introducing legislation this session that amends Minnesota's child protection statutes to include a provision allowing children who are wards of the state to reunify with family.¹

The Issue:

Youth Law Project represents the legal rights of children in child protection court cases. Our clients are children. We propose this legislation on behalf of the 14 year old who has been a ward of the state since she was nine, the 17 year old who re-entered wardship after a failed adoption, and the 6 year old who entered the system at birth but was never adopted. Other states have solved this problem². It is time for Minnesota to look at the system through the eyes of a child.

Minnesota Facts:

Current Numbers

- In 2008, 615 children became state wards as a result of a TPR. 104 children aged out of foster care and 757 were adopted. At the end of 2008, there were 1,241 children still under state guardianship.³
- The number of children aging out of guardianship each year between 1998 and 2007 increased more than 330 percent.
- The cost of maintaining a state ward is greater than the cost of a Reestablishment of the Child-Parent Relationship.

AVERAGE 2007 COST OF A CHILD IN FOSTER CARE

Age	0-11	12-14	15-18
Foster Care Payment ⁴	\$585/ month	\$681/ month	\$699/ month
Total Title IV Expenditure ⁵	\$2,340/ month	\$2,724/ month	\$2,796/ month

Who are these children?

- **Older Youth:** Adoptions of older children are the minority.
 - While the children age 12 or above made up 36.4% of those remaining in guardianship at year end, only 11% of the children adopted in 2008 were in that age group.⁶
 - In contrast, of the 757 wards adopted in 2008- 37.4% were ages 0-5.
- **Racial Minorities:** American Indian children are 5x more likely and African American children are 4.6x more likely to be state wards than white children.⁷
 - In 2008, 56.8% of American Indian children and 47.1% of African American children stayed in foster care for 3 or more years before aging out.
- **Dream of Home:** Research shows that biological family remains psychologically present for wards despite their physical separation.⁸
 - Extensive research shows that children who "age out" of or "run away" from foster care often return to biological family.⁹

New Provision: REESTABLISHMENT OF THE CHILD-PARENT RELATIONSHIP

What is the Procedure?

- Hearing on motion conducted during regularly scheduled court review
- No motion can be brought if one has been filed within the past two years
- Motion may be granted, granted conditionally, or dismissed

Who can Motion?

• Minor child	• Indian child's tribe
• Some terminated parents	• Guardian Ad Litem
• Responsible Social Services Agency	

What is the Standard?

Reestablishment would only be available if the court finds:

- Child has not been adopted
- Child has been in foster care for 2 years or more
- Parent has not been terminated based on sexual abuse, conduct resulting in the death of a minor, or convicted of a crime of egregious harm.
- Reestablishment would achieve reunification of parent and child
- Clear and Convincing evidence that reestablishment is in the best interests of the child.

Considering:

1. Parent has corrected the conditions that led to termination
2. Child's agreement to reestablishment
3. Child's relationship with siblings
4. Any other competing interests of the child
5. Whether the parent is presently fit to maintain, safely, the day to day care of the child

What is the Effect if Granted?

- Legal and Physical custody are fully restored upon granting the reestablishment
- Children are reconnected to their fit parents and can now enjoy the legal rights that flow from this bond
- Any future children born will not face an automatic petition for termination of parental rights or CHIPS filed



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¹ If the court terminates a parent's rights (TPR) then guardianship of that child is transferred to the Commissioner of DHS. These children are referred to as "Wards of the State" or "State Wards."

² Currently five states have reinstatement statutes: California, Nevada, Washington, Louisiana, and New York. Illinois and Georgia are currently trying to pass reinstatement statutes.

³ Minnesota Department of Human Services. Children and Family Services, Minnesota's Child Welfare Report, 2007. "Report to the 2008 Minnesota Legislature." August 2008. Available at www.dhs.state.mn.us.

⁴ The foster care payment is the direct payment made to the foster parent. National Resource Center for Family-Centered Practice and Permanency Planning. Hunter College School of Social Work, Foster Care Maintenance Payment; Additional costs not included: Initial clothing allowance \$389 ages 0-11; \$685 ages 12-14; \$744 ages 15-18. Administrative, training, and judicial costs.

⁵ Based on rates as reported in 2004 House Ways and Means Committee "Green Book". U.S. Congress. U.S. House of Representatives. Committee on Ways and Means.

⁶ Minnesota Department of Human Services. Children and Family Services, Minnesota's Child Welfare Report, 2007. "Report to the 2008 Minnesota Legislature." August 2008 p 3. Available at www.dhs.state.mn.us.

⁷ National studies have consistently found that parents of color do not maltreat their children any more than white parents, yet they are investigated for maltreatment and substantiated for abuse and neglect at much higher levels.-United States Government Accountability Office, July 2007 Report to the Chairman, Committee on Ways and Means, House of Representatives, African American Children in Foster Care. Stats: Minnesota Department of Human Services. Children and Family Services, Minnesota Child Welfare Disparities Report, February 2010. Available at www.dhs.state.mn.us.

⁸ Samuels, G.M. (2008). A reason, a season, or a lifetime: relational permanence among adults with foster care backgrounds. University of Chicago: Chapin Hill Publications.

⁹ Chapman, M. V., Wall, A., & Barth, R. P. (2004). Children's voices: The perception of children in foster care. American Journal of Orthopsychiatry, 74(3), 293-304; Courtney, M. E., Dworsky, A., Ruth, G., Keller, T., Havlicek, J., & Bost, N.

(2005). Midwest Evaluation of the Adult Functioning of Former Foster Youth: Outcomes at Age 19. Chicago, IL: Chapin Hall Center for Children at the University of Chicago; Courtney, M. E., & Hughes-Heuring, D. (2005). Chicago, IL: University of Chicago Press; Courtney, M. E., Skyles, A., Miranda, G., Zinn, A., Howard, E., & Goerge, R. (2005). Youth Who Run Away from Substitute Care. Chicago, IL: Chapin Hall Center for Children at the University of Chicago; Jones, L., & Kruk, E. (2005). Life in government care: The connection of youth to family. Child and Youth Care Forum, 34(6), 405-421.