

The Legalities of Foster Care

Q I've heard a lot about family reunification over the years I have been a foster parent. Is a child in my care allowed only to have a plan for returning to her birthparents?

A The goal of most children in foster care is to return home. In fact, most children in foster care do return home and do so within several months of entering care. However, there are children in care whose parents cannot or will not make the changes they must make so that their children can be returned home safely. In the past, efforts to help parents toward reunification tended to go on indefinitely. There was a major change, however, with the enactment of the Adoption and Safe Families Act of 1997. This federal law requires that adoption be considered for children who have been in foster care for 15 of the most recent 22 months. Now, agencies must move forward to terminate birthparents' rights within specific time frames. In addition, the law encourages agencies to use a process called concurrent planning, which means that social workers are allowed to consider alternative plans, such as adoption, while they are working to reunify children with their birthparents. In these cases, two goals are viable at once. If the parents are not able to make the progress so that the child and family can be reunified, the social worker can then focus on the other goal for the child.

Q I know that raising a child can be expensive. Is there any financial assistance available to help with the costs of adopting and raising a child in foster care who has special needs?

A Yes. Agencies that make arrangements for the adoption of children in foster care with special needs offer "adoption assistance," a program that helps with the cost of adoption and provides ongoing financial support. Families may be reimbursed for one-time nonrecurring expenses, such as attorney's fees, and may also receive an adoption subsidy for the child. This monthly payment cannot exceed the amount that is paid each month for the child's foster care. Children who qualify for subsidy also qualify for health care coverage under Medicaid or a state-administered child health insurance program. It is important that families apply for adoption assistance and receive approval for it before the adoption is finalized.

Q What rights do I have as a foster parent to participate in court proceedings that involve a child who is currently in my care?

A A foster parent's degree of participation in court proceedings varies according to the laws of each state. As a result of the Adoption and Safe Families Act of 1997, foster parents must be given notice of and an opportunity to be heard in any court review or court

hearing regarding a child in their care. This law does not require that foster parents be considered parties to the review or the hearing. States, as a result, vary with regard to the participation of foster parents in such proceedings. Some states simply provide foster parents with the federally-required opportunity to be heard but do not allow them to present evidence or witnesses. Other states allow foster parents to be parties to such proceedings, and present evidence and witnesses. If they disagree with the court's decision, foster parents may appeal the ruling.

Because the rights of foster parents vary so greatly from state to state, it is important to speak with an attorney in your state to determine what your legal rights are with respect to children in your care. The best thing you can do is to arm yourself with knowledge.

—*Judith Sperling-Newton and Jason R. Smith*

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