

Terminating parental rights: State policies vary widely

In this Tuesday, April 26, 2016 photo, Denise Moore, center, in white, of Des Moines, Iowa, poses with her family, from left, daughter Alex Gibbs, Emily Bosch, son Kodi Baughman, granddaughter MacKenzie Moore, sons Kori Moore, Kelli Moore, daughter Andy Gibbs, and son Kasi Baughman during a visit to Water Works Park, in Des Moines, Iowa. Moore, a mother of seven, nearly lost her parental rights after her arrest in 2003 for conspiracy to deliver methamphetamine. (AP Photo/Charlie Neibergall)

DAVID CRARY,
AP National Writer

Published: May 30, 2016

NEW YORK (AP) — For child-welfare agencies across the United States, it's the ultimate sanction: terminating the rights of parents to raise their own children due to concerns about abuse and neglect.

All states resort to this step when deemed necessary for a child's well-being, but there are wide state-to-state disparities in the rate of terminations and the extent of support services to avoid foster care placements. According to federal data, some states terminate parental rights at a rate 25 times higher than states at the low end of the scale.

Calling for reforms to help more families stay together are many child welfare officials and academics, and also some parents who've faced the threat of termination proceedings themselves.

Among them is Denise Moore of Des Moines, Iowa, a mother of seven who nearly lost her parental rights after her arrest in 2003 for conspiracy to deliver methamphetamine. Caseworkers allowed the children to remain in their home in the care of their grandmother, but ordered Moore to vacate the house and follow a regimen that would end her addiction to meth.

Over an 18-month span, Moore failed to accomplish this, but her caseworker gave her one last chance at a meeting where all seven of the children were present. Grateful for the reprieve, Moore overcame her addiction, enrolled in college and is now working with a state-backed program that assists families during their initial contacts with the child welfare system.

Moore says her children, ranging in age from 12 to 27, are all thriving; one son hopes to become a family-law attorney. But she says the support she and her family received was the exception, not the rule.

"I think we terminate too easily," she said. "I always believe that families can change, and we just need to find the right intervention to help them get there."

Each state has its own system for dealing with cases in which termination of parental rights is considered. Federal law spells out certain conditions and timelines, but states interpret and apply them differently.

An Associated Press analysis of data compiled by federal officials shows some striking variations. Maryland, for example, had a rate of 10.5 parental rights terminations for every 100,000 children in 2014; at the high end of the scale, the rate per 100,000 children was 283 in neighboring West Virginia and 252 in Oklahoma.

Even looking only at the children placed in foster care, there are pronounced differences. Children affected by a termination order accounted for about 30 percent of the 30,358 youths in the Texas foster care system; Maryland tallied only 142 children affected by termination orders — about 3.5 percent of its foster care population of 4,032.

Economic, cultural and political differences among states partly explain the variances.

In West Virginia and Oklahoma, the high termination rates are fueled to a large extent by severe drug abuse problems. West Virginia has the highest rate of drug overdose deaths, and Oklahoma has the highest rate of incarcerating women — many of them single mothers who are the sole caregiver for their children.

Both states have struggling economies, and advocacy groups say there is inadequate funding for services that might help fragile families stay together, such as quality child-care programs, mental health care and drug treatment programs.

"The money is just not there," said Terry Smith, executive director of the Oklahoma Institute for Child Advocacy. "Services get cut, and the result you get is abuse, neglect and termination."

Across the country, the availability of effective support services is viewed as crucial in helping reduce the need for foster care placements and parental rights terminations, both of which are considered undesirable outcomes for most children.

Professor Martin Guggenheim, a child welfare expert at New York University School of Law, is among those contending that too many parents lose their rights and too many children go into foster care. Parents' legal prospects vary widely from state to state when it comes to challenging termination, he says; many who are indigent are represented by court-appointed lawyers with heavy caseloads.

Too often, Guggenheim said, terminations produce "legal orphans" — young people who are separated from their parents, then do not receive

a successful adoption placement, and eventually age out of the foster care system on their own.

"They've lost their family and gained nothing in return," he said.

Nationwide, according to federal figures, the number of children affected by parental rights terminations declined from 85,525 to 64,398 between 2005 and 2014, mirroring a broader drop in the number of children placed in foster care. Arizona and Texas were among a handful of states bucking the trend, with more terminations and more children in care.

Figures from Arizona show how difficult it is for a parent to block a termination order once it's requested by child-welfare officials. In a six-month period last year, 2,232 termination petitions were granted and seven were denied.

Under federal law, states are required to file for termination of parental rights after a child has spent 15 of the previous 22 months in foster care. However, there are exceptions — for example, in cases when the state agency documents a "compelling reason" why termination is not in a child's best interest, or when a state has failed to provide services necessary for a family's reunification.

States have taken widely divergent approaches to the federal timeline, said Christopher Church, a policy expert with the Children's Law Center at the University of South Carolina School of Law.

In some states, he said, there's strong interest in handling cases on an individualized, family-specific basis in deciding if and when a termination should be sought. In other states, "it's like an alarm clock that goes off," Church said. "They feel they have to file for termination regardless of a family's current situation."

In Texas, the high rate of parental rights terminations has developed against a backdrop of major problems for the state's child-welfare system. There has been turnover in senior leadership, a class-action lawsuit alleging pervasive flaws, and controversy over the deaths of some foster children.

Patrick Crimmins, spokesman for the Texas Department of Family and Protective Services, cited several factors behind the termination rate: rampant drug abuse, lack of engagement on the part of some parents, and the inability of other parents to address risk factors under the timetables that govern foster care and adoption placements.

For legal reasons, children in foster care can be adopted only after a termination of parental rights. Critics of the Texas system say it is sometimes too quick to conclude that adoption is the best outcome for a child, and doesn't give biological parents an adequate chance to address problems so their child could stay with them.

"We give up on parents very quickly in Texas," said Will Francis, government relations director at the Texas chapter of National Association of Social Workers. "We believe adoptions are much more of a cure-all than they really are."

Johana Scot of the Austin-based Parent Guidance Center said many parents are unable to reunify with children taken into foster care because of lack of legal and other services that could help them. Once termination proceedings begin, she argued, "there's a culture of bias against the biological parent."

Crimmins, in an email, said his department works toward family reunification in all cases where a child is removed from home, "unless the court finds aggravated circumstances."

He cited several initiatives aimed at promoting reunification, such as a program arranging for biological parents to visit with their children when they're in foster care. In the San Antonio area, District Judge Peter Sakai has been spearheading an initiative aimed at resolving child-welfare cases more quickly, with the aim of avoiding unnecessary foster-care placements and terminations.

"For the most part, our cases are tied to poverty, drugs, lack of mental health services," Sakai said. "If we empower the families, we can reunify them."

Oklahoma and West Virginia also are taking steps to reduce terminations.

West Virginia recently launched a program that seeks to reduce the number of 12-to-17-year-olds in foster care, supporting services so they can stay with their families or elsewhere in their community. Katelynn Burns, a spokeswoman for Oklahoma's Department of Human Services, said 700 child-welfare positions have been added in the past four years, easing workloads so caseworkers have more time to interact with parents.

Hiring more caseworkers in New Jersey was cited by Allison Blake, commissioner of the Department of Children and Families, as helping lower that state's rate of terminations — now 44 per 100,000 children, roughly half the national rate.

In Maryland, where the rate of terminations has been among the lowest for a decade, the Department of Human Resources cites two initiatives as key factors.

One is the Guardianship Assistance Program, which places at-risk children with relatives who get ongoing financial assistance while seeking to become the child's legal guardian. The program, which has encompassed more than 2,800 children at a time, allows relatives to take full legal responsibility for a child without terminating parental rights, so children can maintain contact with their biological parents.

The other initiative, called Alternative Response, seeks ways to work with at-risk families to keep children in their own homes, rather than remove them, after a report of suspected abuse or neglect is received.

"Children remaining safely at home or with family is always preferable to placement in foster care," said Katherine Morris, a human resources department spokeswoman.

Through organizations such as the Birth Parent National Network, some parents who've lost children through termination orders have become forceful advocates for keeping at-risk families together.

Among them is Kimberly Mays, a mother of 10 from Washington state, who lost parental rights to nine of her children during years of drug abuse and criminal convictions. She kicked her drug habit, prevailed in a bid to raise to raise her 10th child, earned a master's degree, and now works with the Parents Representation Program of the state's Office of Public Defense.

She recalls being deceived and belittled during her multiple termination proceedings, and wishes caseworkers would take an approach that's supportive rather than punitive.

"Take the time to get to know the parent's real story, and not be judging them or looking down on them," she said. "You need to understand that people can change. The past doesn't dictate a person's future."

[\[Back\]](#)

The Akron Legal News • 60 South Summit St. • Akron, Ohio 44308 • Phone: 330-376-0917 • Fax: 330-376-7001