

Help Children and Youth Achieve Permanency and Preserve Connections to Family

Permanency for a child does not require a termination of parental rights (TPR). Children whose parents' rights are terminated will more frequently fail to discharge from foster care and stay in care longer than children whose parent's rights are not terminated.¹ Nationally, it is estimated that 10 to 25 percent of adoptions disrupt prior to finalization, which sends children back to foster care.² Making alternative permanency options more accessible helps more children exit foster care faster while preserving important relationships and connections to the child's family and community.³

Why should Minnesotans care?

Minnesota Statute 260C.513 governs permanency dispositions in child protection cases when a court determines a child cannot return home. Minnesota is one of few states with explicit statutory language preferring TPR and adoption. The current law puts procedural obstacles in place and requires that attorneys rebut the TPR presumption before alternative permanency options may be considered.⁴ Additionally, policies preferring TPR and adoption have a disproportionate effect on communities of color. In Minnesota, children of color are more likely to have their parents' rights terminated and are less likely than their white peers to be adopted.⁵

What does this mean for Minnesota's most vulnerable children and families?

Social science and legal research conclude that terminating the legal parent-child relationship harms children even if the children cannot return to their parents.⁶ Children can form bonds with new caregivers without severing previous caregiver attachments.⁷ Furthermore, research has firmly established that alternative permanency options,

such as guardianship, are just as lasting as adoption and allow more children to leave foster care to permanent families.⁸ Lastly, a TPR may violate some cultural norms, however, alternative permanency options may be more acceptable to relatives who do not wish to be involved with a termination of their family member's parental rights.⁹

What can Minnesota do?

Minnesota's statutory preference for TPR should be amended to indicate a continuum of permanency options that prioritize options with relatives when it is in the best interests of the child. This is consistent with the purpose of child protection proceedings to preserve and strengthen the child's family ties whenever possible.¹⁰ A TPR should be considered a last resort after a court has determined other permanency options are not in the child's best interests.

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1 Darling, E., *Achieving Permanency for the Well-being of Children and Youth*. Department of Health and Human Services 9 (January 2021), <https://www.cwla.org/wp-content/uploads/2021/01/ACYF-CB-IM-20-09.pdf>.

2 Child Welfare Information Gateway, *Discontinuity and disruption in adoptions and guardianships*. U.S. Department of Health and Human Services, Administration for Children and Families, Children's Bureau 6 (2021), <https://www.childwelfare.gov/pubs/s-discon/>.

3 Gupta-Kagan, *The New Permanency*, 19 U.C. Davis J. of Juv. L. & Pol'y 11 (2015), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2497434.

4 Minn. Stat. §260C.515, Subd. 4(6)

5 Minnesota Department of Human Services, *Minnesota's Out-of-Home Care and Permanency Report, 2019-2020*, 28-29, 31-32 (October 2020), <https://docs.dhs.state.mn.us/lfs/Server/Public/DHS-5408LA-ENG>.

6 Gupta-Kagan, *supra* at 10.

7 Darling, E., *supra* at 12.

8 Gupta-Kagan, *supra* at 1, 3, 9.

9 Casey Family Programs, *How can guardianship be better utilized to promote permanency and well-being?* 2 (May 2021), <https://casefamilypro-wpengine.netdna-ssl.com/media/21.07-QFF-SF-Guardianship.pdf>.

10 Minn. Stat. §260C.001, Subd. 2(b)(3).