



The “Death Penalty” of Child Welfare: In Six Months or Less, Some Parents Lose Their Kids Forever

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Twenty-five years ago, Congress passed a law aimed at speeding up adoptions of children languishing in foster care. In the process, it destroyed hundreds of thousands of families through the termination of parental rights.



Jackie Snodgrass in her younger daughter's bedroom in Charleston, West Virginia

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CHARLESTON, W.Va. — In the months after a West Virginia court permanently took away their right to parent their daughters this past April, Jackie Snodgrass and her husband were left in a quiet house. The kids' rooms remained untouched. The same dolls and stuffed animals were arranged on their younger daughter's bed. The same clothes in the closets, becoming outgrown. The same photos on the walls, outdated.

The court had denied a final visit — despite the children continually saying they missed their mother — so the parents never got to say goodbye to them in person. Snodgrass worried about them constantly, especially

her older daughter, who has diabetes. An app pinged her intermittently with updates on her child's blood sugar. Occasionally, it would dip too low or spike too high.

“What if something happens to her?” Snodgrass said. “And if it does, I’m not going to be allowed to be there.”

Once considered a last resort reserved for parents who abandon their children, the involuntary and permanent termination of parental rights now hangs over every mother and father accused of any form of abuse or neglect — including allegations of nonviolent behavior like drug use or truancy, the two central parenting issues in the Snodgrasses’ case. Known in the legal world as the “death penalty” of child welfare, it can happen in a matter of months.

No state terminates parental rights more frequently or faster than West Virginia, according to a ProPublica and NBC News analysis. One in 50 children here experienced the severing of their relationships with both of their parents from 2015 to 2019, the last full year of federal child welfare data available before the pandemic. For most of them, it occurred within 11 months of being removed from their home for the first time.

In the Snodgrasses’ case, it took only five months.

Nationally, the parents of about 327,000 children lost their rights from 2015 to 2019, the analysis found. In one-fifth of those cases, it happened in less than a year.

Over the past 25 years, courts and child protective services agencies have increasingly turned to this ultimate consequence, partly in response to Clinton-era federal policies that support faster adoptions. According to a recent study, the risk that a child will experience the loss of their legal relationship with their parents roughly doubled from 2000 to 2016. One in 100 U.S. children — disproportionately Black and Native American — experience termination through the child welfare system before they turn 18, the study found.

Most of those families became entangled in the system because of allegations of neglect, a broad category closely linked to poverty and substance use. Just 15% of children whose parents’ rights were severed around the country from 2015 to 2019 had been removed from their homes because of concerns about physical or sexual abuse, according to the ProPublica and NBC News analysis. (The reasons ultimately cited for the terminations themselves weren’t provided in the data.)

“None of us believes banishing a child from a family of origin is a perfectly fine result,” said Marty Guggenheim, a retired New York University law professor and child welfare expert who has argued termination cases before the Supreme Court. “But that’s where we are today. We are off of our moral compass.”

The hurry to end families can be traced to the 1997 Adoption and Safe

Families Act, passed with bipartisan support in Congress and signed by President Bill Clinton.

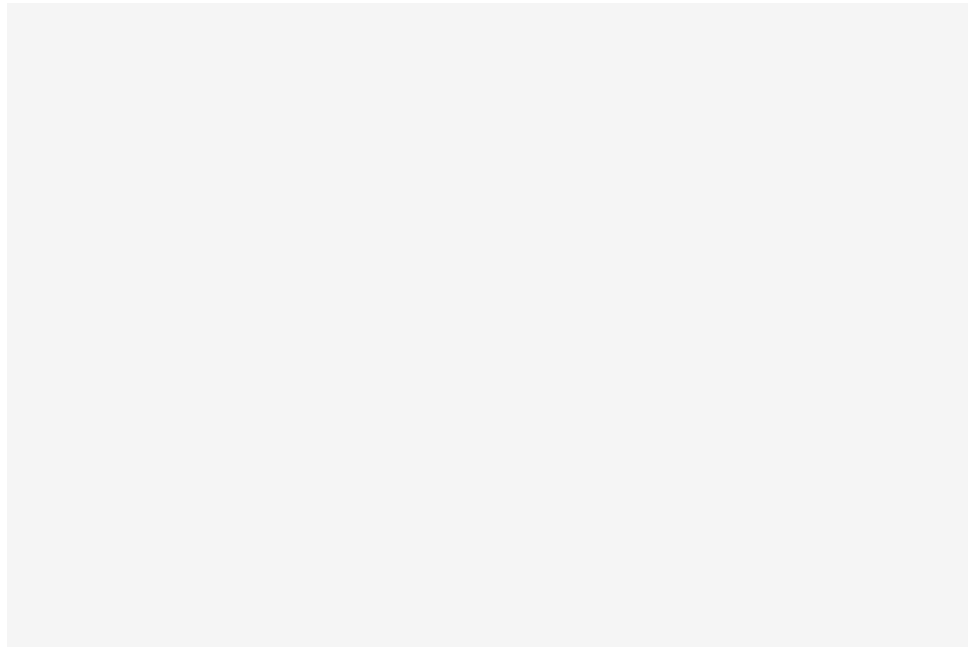
In a tough-on-crime era, the new law was supposed to keep fragile, abused children from languishing for too long in foster care. It created a rigid timeline — a ticking clock — for every child who entered state custody after having been removed from home because of an allegation of child maltreatment. After 15 months, barring specific exemptions, state and local agencies were required to file for termination of the birth parents' rights or face losing federal funding. And states that increased adoptions were rewarded with bonuses for every additional child they placed.

Despite the law's goal of getting more kids adopted, tens of thousands of such children have remained in foster care for months or years after being cut off from their parents. They are known as "legal orphans," with no birth families anymore but no adoptive ones, either.

And research shows that many children who experience termination of their parents' rights will suffer what is known as ambiguous loss, similar to grieving after a death but without the closure of knowing a loved one is gone forever.

To understand the impact of the child welfare system's most extreme outcome, ProPublica and NBC News surveyed hundreds of families who experienced termination of parental rights and interviewed dozens of parents, children, caretakers, caseworkers and attorneys. Those we spoke to described a confusing legal system that at times seemed stacked against birth families trying to reunite and inured to the pain of long-term family separation.

"There was all this lost time when me and my dad had wanted to talk to each other but were being prevented by the state government," said Reed Ridens, a graduate student in Albuquerque, New Mexico, who spent years in foster care as a legal orphan. "There was a lot of damage and a lot of repair that needed to be done between us, and a lot that had been taken away."



Snodgrass' kids' rooms remain untouched. She and her husband, Wes, haven't seen them in person for over a year.

Some of the 1997 law's original supporters — and even some top child welfare officials — now warn that the timeline Congress prescribed is too rigid and that some states may have taken the reforms too far.

Maureen Flatley, a child welfare consultant who helped craft the law, said she now believes it urgently needs to be revamped, including the prescribed timeline for terminating parental rights. “We can't pretend anymore that adoption is just some magic panacea,” she said in an interview.

The federal government also has voiced concerns about focusing too narrowly on termination time frames. In the final days of the Trump administration, the Department of Health and Human Services' Administration for Children and Families issued a memo warning states against rushing to end rights.

Jerry Milner, a top official at the agency under President Donald Trump, said the Clinton-era law should be overhauled or repealed. Its timeline was the product of political negotiation, he said, not scientific research on how long parents should be given for recovery or redemption before they lose their rights to their children. “But it's hanging over parents' heads like a death sentence,” he said.

Yet the Biden administration has continued to defend the law. The statute allows states to make exceptions to the timeline if they believe termination would not be “in the best interest of the child” or if the state has failed to provide adequate reunification services, an ACF spokesperson said in response to written questions. Decisions are to be made on a case-by-case basis, the agency added.

And recent attempts by Congress to revise the timeline have failed to gain

much traction.

Rep. Sheila Cherfilus-McCormick, D-Fla., believes it's imperative for lawmakers to try once more: She plans to introduce a child welfare bill in the next Congress to allow states to extend the timeline for termination to 24 months, among other changes.

“The harsh timeline doesn't allow people to be rehabilitated or give them a chance to be reunited with their children,” she said.

Five Months to End a Family

Jackie Snodgrass and her husband, Wes, attracted the attention of West Virginia's Department of Health and Human Resources in February 2021 because their girls had missed too many days of school. It was a problem that the family and the child protective services agency had tussled over for years, according to court documents Snodgrass provided to ProPublica and NBC News, but it came to a head when their absences piled up amid virtual schooling during the pandemic. Both parents were placed under court-ordered supervision.

The family moved from their tiny town of 1,400 to Wes Snodgrass' mother's home in the capital city, Charleston, to be closer to school for the girls, whose attendance was improving. They started a tree-trimming business and were making ends meet.

By October 2021, Jackie Snodgrass was busy planning her older daughter's dream 16th birthday party — with pink decorations and a DJ, like on MTV.

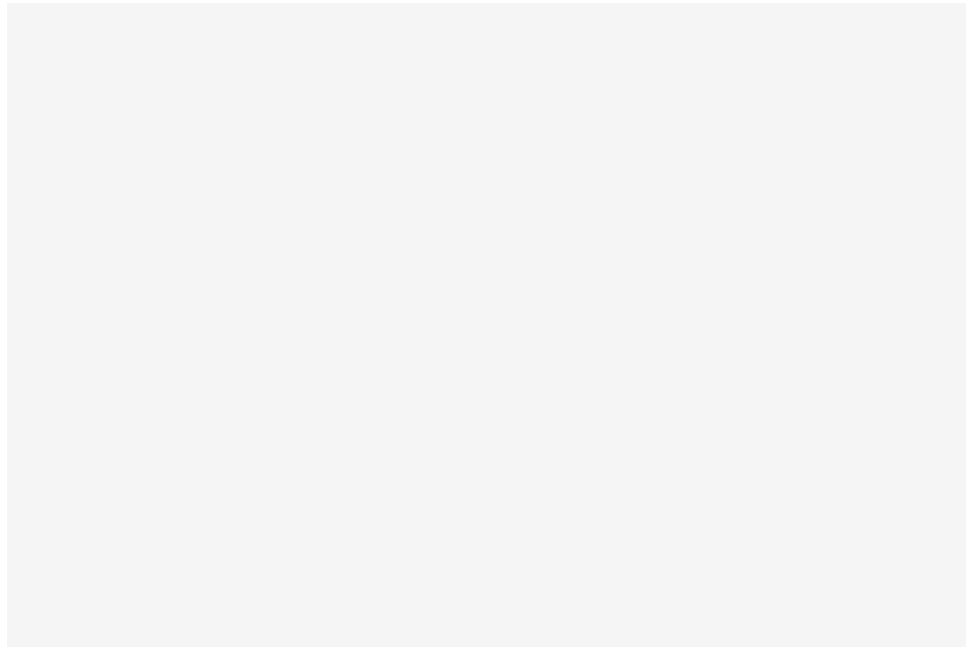
“I like their birthdays better than Christmas, because it's just their day,” she said of her children.

But the stress of the move and the truancy case had taken a toll. Snodgrass' husband said he had used methamphetamine during that time, and in November, on an impulse, she tried it too. When the court overseeing their case started mandating drug screens, both parents failed.

The child welfare agency's response was immediate: Like many states, West Virginia considers failed drug tests to be proof that a child is in danger, which can lead to the child's removal. Snodgrass said a caseworker told her and her husband over the phone that they had to immediately pack up and leave the children with her husband's mother.

After just five months and a few hearings, as the Snodgrasses struggled to comply with court orders, the judge ruled that they were unfit to raise their girls ever again.

They haven't seen them in person for over a year.



The property in the tiny town of Liberty, West Virginia, where the Snodgrasses lived before they moved their family to Charleston

Jackie Snodgrass' parents now have custody of the children and plan to adopt them. Her mother said the girls have taken the separation hard, acting out and asking why they can't see their mom and dad. Visiting is prohibited even though they live 5 miles apart.

In West Virginia, which has been ravaged by drug epidemics in recent decades, children are more likely to enter foster care than anywhere else in the country. Substance use was the most common reason cited for removing children from their homes in the state's parental rights termination cases, according to the ProPublica and NBC News analysis.

Nearly every state acts more quickly when drugs are involved than when children are removed based on concerns about physical or sexual abuse. But West Virginia is particularly aggressive, giving parents the least amount of time to recover: More than a fifth of the state's terminations involving parental drug use occurred less than six months after the children were first removed, the news organizations found.

In response to ProPublica and NBC News' findings, state Del. Danielle Walker, a Democrat, expressed outrage at West Virginia's haste in terminating parental rights and said the Legislature needed to conduct an intensive study to look at termination and related issues.

"There is no advocacy for the biological parents in this state. There's none," said Walker, who said her office would research the subject and compare West Virginia's child welfare practices to those in other states. "Since when is six months enough to have proper recovery — any kind of recovery?"

Family attorneys and advocates say this posture toward addiction and recreational drug use punishes many parents whose children may not be

in danger. Parents who are committed to seeking help to get their children back can be penalized if they relapse, even though drug treatment experts have long said such setbacks are a normal part of recovery.

“It’s a race against the clock for these families to oftentimes deal with a generational trauma,” said Jim McKay, director of Prevent Child Abuse West Virginia, an advocacy group. “We should be partnering with families and working alongside them rather than having it be a prisoner of an arbitrary date on the calendar.”

Ray Kendall, a former caseworker for the state’s Department of Health and Human Resources, said the agency’s “astronomical” workload caused many of his colleagues to become jaded toward substance use cases. West Virginia had 1 caseworker for every 167 children it investigated in 2019. That was among the nation’s highest caseloads, leaving less time for workers to help parents access services that can prevent termination.

“I don’t think six months is enough time to truly become completely sober and able to be in control of your life and take care of your kids, so it is a bit unrealistic,” said Kendall, who left the agency in 2019 in part because of frustrations that he couldn’t do more for families.

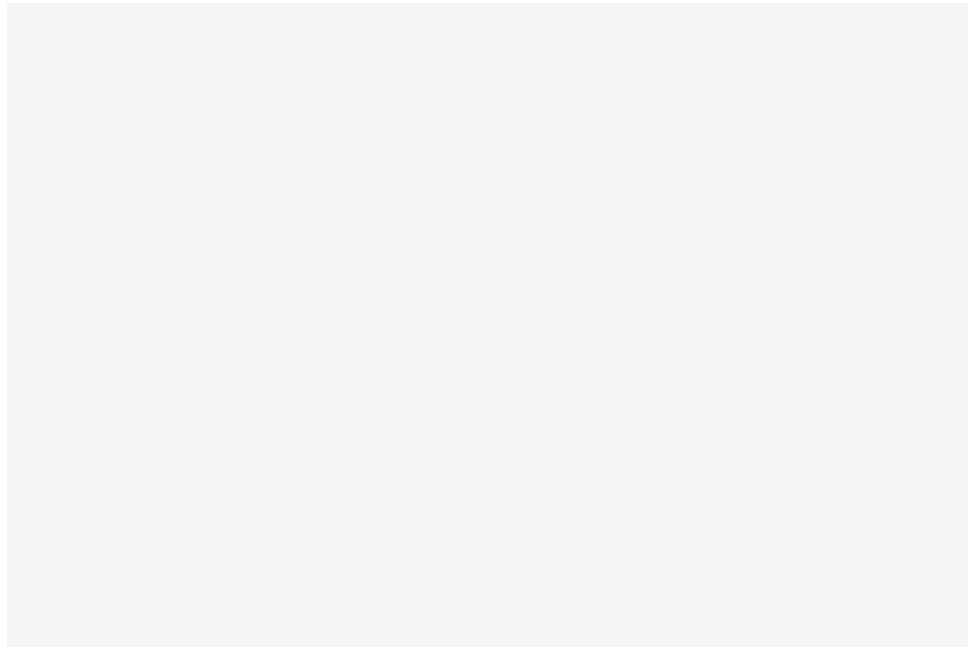
West Virginia has also been rewarded by the federal government for acting quickly to end families, having received \$24 million in incentive payments under the 1997 law for increasing the number of adoptions it finalizes. (The program expanded in 2014 to include payments for guardianships, in which responsibility for children is transferred to other adults without completely severing parental rights.) Adjusted for child population, West Virginia has brought in 65% more in these incentives than the next highest state, Alaska.

The state’s Department of Health and Human Resources declined to make officials available for interviews. In response to written questions, the department didn’t dispute ProPublica and NBC News’ findings about the frequency and speed of termination in the state; it denied that the state’s statutes and policies fail to provide parents enough time for reunification.

Courts have the discretion “to make individualized decisions based upon the actions of the parents and the best interest of the child,” said Jessica Holstein, a spokesperson for the agency, who added that parents can also appeal the decisions.

Holstein said the agency has tried to reduce caseloads by adding staff members, increasing salaries and using temporary “crisis teams” to backfill vacancies.

“The culture at DHHR supports family connections,” she said, noting that the department prioritizes foster care placements with relatives when possible, as happened in the Snodgrass’ case.



A trampoline that Snodgrass' daughters used to play on at their Charleston home

Cindy Largent-Hill, director of the juvenile division of the West Virginia Administrative Office of the Courts, said the state's termination schedule is meant to prevent cases from dragging on too long.

"They may look a bit unfair because three months doesn't sound like a long time, or six months, or 12 months," said Largent-Hill, who works with the state's circuit court judges. But, she said, "you don't want cases to languish in court for three, four or five years."

Snodgrass said she still is shocked by how quickly her case devolved. After the judge's decision, whenever she felt a glimmer of hope, she would reread the order: "Any and all parental, guardianship, and custodial rights of the respondent parents ... are hereby permanently and forever TERMINATED."

"There's, like, anger or something behind it," Snodgrass said. "It seemed way too fast, but it also feels like years since I've seen my kids."

The Push for Permanency

For most of U.S. history, it was rare for courts to permanently cut parents' legal ties to their children without consent, according to a forthcoming paper by Chris Gottlieb, director of the New York University School of Law Family Defense Clinic. Typically, child welfare cases would end in termination only when states could prove that parents had abandoned their kids or as part of voluntary adoptions.

After states began requiring teachers, doctors and other professionals to report suspected child abuse or neglect in the 1970s, the number of kids entering foster care rose dramatically. In many cases, children stayed for

years in out-of-home placements.

By the 1990s, a substantial body of research showed that such long foster care stays could harm child development. At the same time, increased access to birth control and abortion had led to a sharp decline in the number of children available for prospective adoptive parents, according to Gottlieb's research.

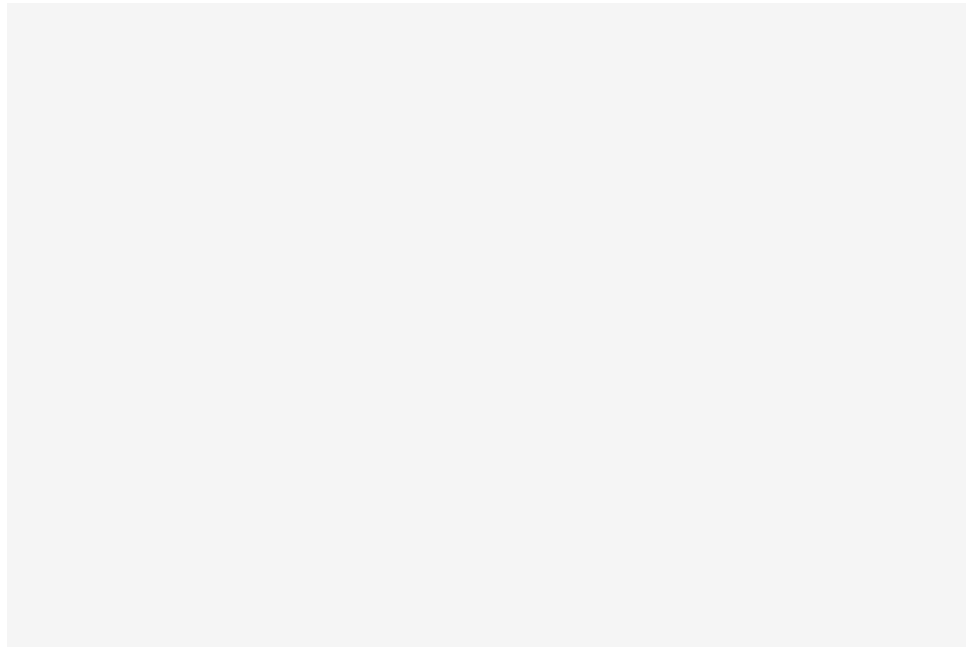
The 1997 federal law was meant to address both trends. Its prominent supporters pointed to high-profile cases in which children were brutally beaten or killed after having been returned to their parents from foster care. Many argued that it was far more important to move children quickly into permanent homes than to spend an indeterminate amount of time trying to "fix" birth families. That ultimately would make more kids available for adoption.

Adoptions out of foster care increased from 31,000 in 1997 to 66,200 by 2019, according to federal data, while the foster care population has declined.

All states now have statutes that meet the federal law's timeline requiring them to pursue termination if a child has spent 15 of the previous 22 months in the foster system, according to a ProPublica and NBC News survey of all 50 states and Washington, D.C. The law allows states to move slower if a child is placed with relatives but also faster under certain circumstances, such as if a parent has committed a serious criminal offense.

More than 30 states have even tighter timelines, the news organizations found — in some cases when young children are involved, under the rationale that they are in greatest need of immediately stable homes where they can start bonding with permanent families.

In Texas — the only state other than West Virginia with a median time to termination of less than a year — most counties put the penalty on the table the moment children are temporarily removed from a home, in order to place "parents on notice from the beginning of the case," according to the state child welfare agency's policy handbook.



A sign points to the Department of Health and Human Resources, the agency that handles child welfare cases, in Romney, West Virginia.

Not every state moves so quickly: ProPublica and NBC News' analysis found 16 states where the median time to termination is more than two years. Those longer cases, in some instances, can signal systems aren't working as they should, reflecting bureaucratic dysfunction or what some child welfare officials describe as a pattern of giving parents "too many chances" that ultimately doesn't help reduce termination rates, according to a [2021 report](#) on state child welfare practices by the federal Department of Health and Human Services.

Still, longer timelines can also reflect a stronger focus on family reunification and a willingness to devote greater resources to meet that goal, child welfare experts say. New York and Illinois, for example, offer more robust social services, and they are also places with influential parent advocacy groups, said Christopher Wildeman, a child welfare expert and sociology professor at Duke University. (Wildeman is the director of the National Data Archive on Child Abuse and Neglect, which provided the data used in the ProPublica and NBC News analysis.)

In the wake of the opioid crisis, which has led to [more kids being in foster care](#), Congress has tried to increase support for parents involved in the child welfare system. In 2018, it passed the [Family First Prevention Services Act](#), approved with bipartisan support and signed by Trump. The law allows states to put federal funding previously restricted for foster care expenses toward mental health services, substance use treatment and parenting classes to help keep families together.

The Administration for Children and Families "is committed to focusing on prevention and early intervention so that families who come into contact with child welfare systems do not find themselves in the position of facing a termination of parental rights," a spokesperson said.

But the legislation has strict requirements for which programs it will fund, and states have been slow to implement it. Eleven states are still waiting for their plans to be approved by the federal government, according to recent agency data, and six haven't submitted plans at all. And some child welfare advocates have criticized the law's focus on narrow initiatives like parenting classes, which they say fail to address poverty and the other root causes of neglect that prompt most child welfare cases.

"If I don't have a house and I'm struggling, how are some parent education classes going to help?" said Christine James-Brown, the president and CEO of the Child Welfare League of America, a Washington, D.C.-based advocacy group.

West Virginia has drawn on the new federal funding but has spent only \$125,000 since the summer of 2021, according to agency officials. The state is also trying to expand "family treatment courts," designed to promote reunification rather than termination.

West Virginia's senators, Joe Manchin, a Democrat, and Shelley Moore Capito, a Republican, told ProPublica and NBC News that they are committed to keeping families together when possible. Capito added that the news organizations' findings are "concerning" and that her staff would look into those issues.

But when they were asked whether the state has adequate resources for family reunification — or whether the federal timeline for termination should be altered — neither senator responded directly.

Test Clean or Else

Some family advocates doubt that any new funding would have a significant impact on termination rates without a fundamental change in attitudes among local agencies and courts toward parents accused of child maltreatment, especially those struggling with substance use.

Judges have ultimate authority in such cases, but there is limited scrutiny of what happens in their courtrooms. In many states, including West Virginia, the public isn't allowed to observe child welfare proceedings, and documents are typically kept under seal. Some judges order parents not to speak about their cases to anyone who isn't involved, and if they disobey, it can be held against them.

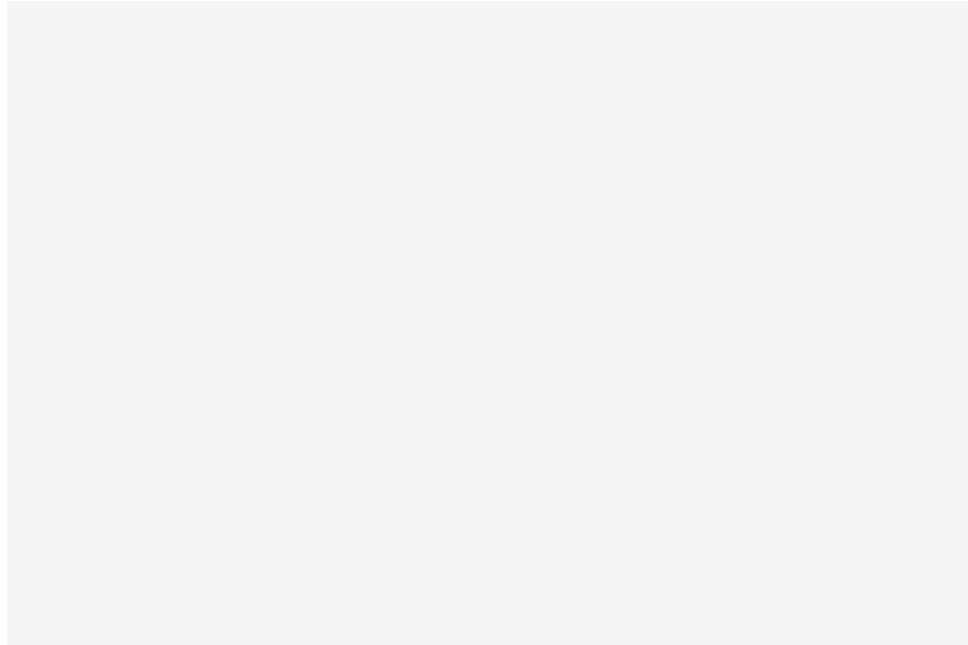
What's more, West Virginia judges often require parents to admit in court that they have a drug problem before they grant them an "improvement period," said Joshua Edwards, a public defender in the state. If they refuse and the state proves to a judge that they used drugs, it becomes highly unlikely they will get their kids back, he said.

Jackie Snodgrass admitted in court to using drugs and neglecting her children's education; she acknowledged in an interview that she regretted

that her instances of meth use had put her family in jeopardy. But she never thought the mistake could lead to the end of her relationship with her daughters. After all, Snodgrass said, she had never hurt the girls, and according to court documents, they wanted to go home.

But the outcome hinged on whether the Snodgrasses complied with the services they were offered, including parenting classes and drug tests. And the government had little patience for mistakes or disagreements.

Snodgrass said she was required to call daily before 10 a.m. to find out whether she needed to be drug-screened. Once, around Thanksgiving, she said, she called a few minutes late, and the test was considered a failure.



Snodgrass goes through drawings left behind by her daughters.

From the start, Snodgrass and her husband were prohibited from seeing their daughters, even for supervised visits, because they couldn't test clean consistently. She was testing positive for marijuana at the time, but she said she soon became so hopeless about the prospect of losing the girls forever that she used methamphetamine again to cope.

Snodgrass said she saw the phrase "termination of parental rights" in court papers for the first time early this year. Soon after, she said, a caseworker told her she would have to enter a long-term inpatient drug treatment program, probably for at least 45 days.

The family's tree-trimming business didn't have many clients yet, and Snodgrass, who was working as an assistant at a nursing home, was the primary earner. She said she feared they wouldn't be able to pay their rent if she took an extended leave from work, and she told the caseworker that she was open to outpatient treatment, instead.

Her reluctance to enter an inpatient program proved critical, according to case documents. West Virginia is among 22 states with statutes saying that

parents' failure to comply with court-ordered rehabilitation or drug treatment plans, regardless of any evidence of harm to children, can itself be grounds for permanent termination of parental rights, according to a ProPublica and NBC News analysis of state laws.

Near the end of the case, Snodgrass said, her lawyer suggested that she divorce her husband because she was testing clean more often than he was. But the two were childhood sweethearts, and despite his drug use, he was a good father and her best friend, she said.

Still, she told the judge, "If I need to leave my husband, I'm willing to do that to bring my kids home."

Her husband said in an interview that he was shocked to hear this in court but that he understood the position she was being put in. "I felt real low," Wes Snodgrass said. "I felt like I didn't have a family no more."

It didn't matter. In their case file, DHHR listed five general criteria for determining whether to recommend termination of parental rights to the court, including how long a child has been in foster care, whether a case involves serious abuse or abandonment by the parents or whether their rights have been severed before.

The couple met just one of the criteria: The agency concluded that there was "no reasonable likelihood" that the neglect allegations against them could be "substantially corrected in the near future," citing their failure to comply with the court's requirements within the previous five months.

Still denied any visits with the girls, they had no chance to hug them goodbye.

Rethinking the "Death Penalty" of Child Welfare

Fueled in part by the 2020 demonstrations for racial justice nationwide, family rights activists have made a renewed push to change the child welfare system — including the repeal of the Clinton law.

At the start of the new Congress, Cherfilus-McCormick, the representative from Florida, plans to introduce a bill to allow states to extend the timeline for termination and exempt parents who are actively participating in classes, treatment or other services; it would also encourage states to place more foster children with relatives instead of strangers. The bill was originally introduced last year by Rep. Karen Bass, D-Calif., but it failed to move forward, and Bass recently was sworn in as the new mayor of Los Angeles.

Cherfilus-McCormick and other Democratic lawmakers say they plan to make the issue a priority next year.

But that could be challenging given the changing balance of power in the

House. Republicans, who will take the majority in January, have yet to co-sponsor any of the recent proposals to alter the federal timeline for termination.

Meanwhile, there has been growing support for alternative custody arrangements that don't require termination of birth parents' rights. In 2008, Congress passed a law allowing states to access federal funds to support guardianship by family members, and 40 states and the District of Columbia now have such programs.

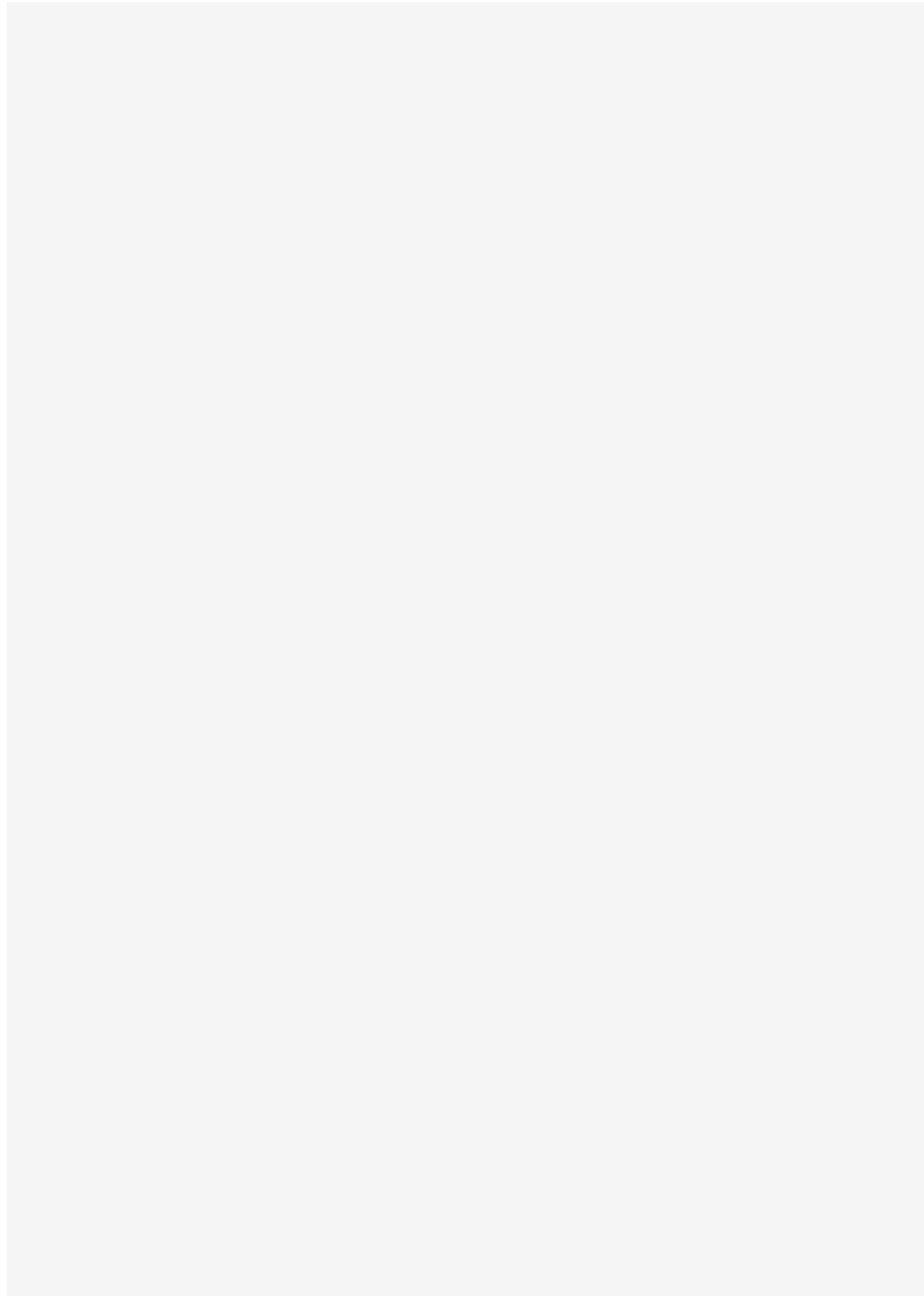
And about half of states have laws that would allow parental rights to be reinstated or restored, although that is still rare and is often limited to cases in which the children lack permanent homes.

Support for such reforms varies widely among states, and the changes have yet to have a major impact on national adoption or reunification rates.

Washington, D.C.'s nonvoting delegate in the House of Representatives, Democrat Eleanor Holmes Norton, said the outsize impact of termination on low-income and Black families makes it especially urgent for Congress to fix the mistakes it made in the 1997 law. "It's indefensible to have such short timelines," said Norton, a longtime member of the Congressional Foster Care Caucus.

"The most important relationship in a family is the relationship between parents and children," she said. "We should do everything we can to preserve that."

Lost Time



“There’s, like, anger or something behind it,” Snodgrass said of the order that terminated her parental rights. “It seemed way too fast, but it also feels like years since I’ve seen my kids.”

Jackie Snodgrass said the gravity of what was happening in court didn’t hit her until the judge finally said the words: He was terminating her parental rights.

“My heart just fell to my knees,” she said. “It felt like I had just died. Like everything had been taken out of me.”

Snodgrass and her husband say they’ve been clean for several months, and they recently have had a new reason to hope. Her parents said state adoption officials told them that they will most likely be allowed to let the Snodgrasses see their children again, once the adoption is finalized.

But for now, they still aren't supposed to have contact with their girls or even ask how they are doing. Since being separated, the older daughter has reached out to Snodgrass and they've talked by phone and instant messaging. Snodgrass is worried her daughters won't think she cares about them if she keeps missing major life events like birthdays.

Still, she is more fortunate than many parents whose rights are terminated. When foster children are adopted by strangers, they can be cut off completely from their biological parents. Another mother in West Virginia who spoke with ProPublica and NBC News said she scours social media for photos of her daughters and stares at their adoptive home in a nearby town on Google Street View.

Snodgrass said that even if she is allowed back in her children's lives, it still scares her that she has no control over their relationship, including any legal rights to make decisions about their medical treatment.

In between phone calls they're not supposed to have, Snodgrass continues to get updates from her daughter's blood sugar app. She said it provides a small comfort.

Hannah Rapple, of NBC News, and [Asia Fields](#), of ProPublica, contributed reporting. [Alex Mierjeski](#) and [Mollie Simon](#), of ProPublica, contributed research.

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