

Essentials of Life

~ A Newsletter Dedicated to Helping Women Face the Challenges of Prison Life ~

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Dear Sisters:

Welcome to our first issue of *Essentials of Life: A Newsletter Dedicated to Helping Women Face the Challenges of Prison Life*. As most of our readers know, for over 24 years, PLS has published *Pro Se*, a bi-monthly newsletter, sent free of charge to individuals incarcerated in New York State who requested to be placed on our mailing list. *Pro Se* informs its readers about changes in the law, provides practice pieces to assist them in complying with statutory and regulatory requirements, and explains technical aspects of the various laws affecting prisoners. While we hope that the information in *Pro Se* is helpful to all incarcerated individuals, we also know that female prisoners face some unique issues that require specific attention. Moreover, a review of our current subscriber list indicates that while 15% of the male prison population subscribes to *Pro Se*, less than 5% of the female prison population does so. In an effort to reach more women and to provide you with relevant and helpful information, we developed *Essentials of Life*, a newsletter specifically for women in prison, and, as a pilot project, we are distributing both the most recent issue of *Pro Se* and the debut issue of *Essentials of Life* to every woman in DOCCS custody.

The staff at PLS has significant experience in the area of prisoners' rights and, in turn, we are aware of some of the issues faced by women in prison, but the fact of the matter is that you, our female readers, are the experts when it comes to identifying the issues that are most important to women in prison. Because of this, we would like to hear from you! Whether you are facing family issues, problems with your conditions of confinement, medical or mental health issues, or would like to share a personal story regarding your time in prison, your input is of great value. Your ideas, questions and comments, are key to making this project a success. We look forward to hearing from you and to the success of *Essentials of Life*.

Warm Regards,

Karen L. Murtagh
PLS Executive Director

Betsy Hutchings
Editor, *Pro Se* and *Essentials of Life*

To start off our pilot project we would like to share with you one of PLS' Executive Director's favorite poems.

Room Full of Sisters
by Dr. Mona Lake Jones

*A room full of sisters, like jewels in a crown:
vanilla, cinnamon, and dark chocolate brown.
Now picture yourself in the midst of this glory,
as I describe the sisters who are part of this story...*

*They were wearing purple, royal blue, and all shades of red;
some had elegant hats on their heads.
With sparkling eyes and shiny lips,
they moved through the room swaying their hips...*

*Speaking with smiles on their African faces;
their joy and laughter filled all the spaces.
They were fashionable and stylish in what they were wearing;
beautiful sisters all, who were loving and caring...*

*You see, it's not about how these sisters appeared;
their beauty was in the values they revered.
They were smart, articulate and well read,
with all kinds of Black history stored in their heads...*

*Jugglers of professions, managers of lives -
mothers of children, lovers and wives.
They were good-hearted and kind, reaching out to others;
giving back to the community and supporting our brothers...*

*All these sisters had struggled in the path;
suffered from prejudices and endured the wrath.
But they brushed off their dresses and pushed on the door;
and they came back stronger than ever before...*

*Now imagine if you will,
the essence and thrill,
as you stand feeling proud
in the heart of this crowd...*

*The Sojourner Truths of today,
still out in front, blazing the way...*

*A room full of sisters, like jewels in a crown:
vanilla, cinnamon, and dark chocolate brown.*

MAINTAINING CONNECTIONS WITH CHILDREN

For many parents, one of the greatest heartaches of being in prison is losing daily contact with their children. We all know that relationships between mothers and their children deepen as they spend time together, even time that is spent together doing mundane activities such as preparing meals, doing chores, reading, shopping and getting ready for bed. Do mothers in prison have to develop other routines and shared experiences to maintain and deepen their relationships with their children? Let us know what you think and what you have done to strengthen and enrich your relationships with your children while you are in prison. You can write a letter, a story or poem. We will then share your ideas in a later issue of *Essentials of Life*. If you write, let us know whether we can publish your letter and if so, whether we can use your name.

The following article describes the limits that the law imposes on social services agencies which are responsible for children who are in foster care due to their parents' incarceration. The law stresses the importance of a parent's efforts to maintain and deepen her relationships with her children in order to defeat the presumption that it is preferable for a parent's parental rights to be terminated than for a child to remain in foster care.

Protecting Your Parental Rights: The Importance of Contact With Children

Not infrequently, when a mother goes to prison, her children are placed in foster care. In the past, because of the State's view that adoption is generally better for children than long term foster care, there was pressure on social services agencies to reunite the family or terminate parental rights within two years of a child's entry into the foster care system. When a mother is in prison, it is not possible to work toward reunification in the sense that it is used in the statute, because the child's mother is not in a position to change her circumstances: the sentence is the sentence and she will remain in prison until she is paroled or the sentence expires and she cannot rejoin her children until she is released. Thus, the considerations that drive most situations involving the placement of children in foster care – a parent who has been found to be irresponsible in a way that endangers his or her children, but who may be able to remedy the situation and regain custody of her children – are not present when the parent is sent to prison.

Several years ago, recognizing that the rules governing an agency's efforts to reunite families were unfair to parents who 1) had lost custody of their children for conduct which was often not directly related to their parenting, and 2) were not in a position to engage in the type of rehabilitation that parents who are not in custody are expected to engage, NYS enacted a law that requires the Department of Social Services to take into consideration the special circumstances of an incarcerated parent in determining whether her child is "permanently neglected" under the Social Services Law. Previously, social services agencies were required to begin proceedings to terminate parental rights when a child had been in foster care for fifteen of the most recent twenty-two months. Under that version of the statute, in order to prevent termination of parental rights, an incarcerated parent was required to fulfill the same responsibilities as a non-incarcerated parent without regard to the significant obstacles that incarceration imposes, such as limited and costly visitation and limited access to telephones. The amended statute takes these obstacles into consideration.

Social Services Law §384-b allows the foster care agency to delay filing for termination of parental rights where a child's placement in foster care for 15 of the most recent 22 months is due to a parent's incarceration or participation in a residential substance abuse treatment program. In most cases, the foster care agency is required to demonstrate that it made diligent efforts to assist, develop, and encourage a meaningful relationship between the parent and child. For parents in prison or in residential drug treatment, this diligent effort includes providing information to the parent about his/her legal rights and

obligations as a parent in prison or in a residential substance abuse treatment program, information on any social or rehabilitative services in the community including any family visiting services to aid in the development of a meaningful relationship, and where possible, any information concerning transitional and family support services in the community where the parent will be released. The social services agency is also required to make diligent efforts to arrange for transportation of the child to a correctional facility for visitation.

In the past, when applying to terminate an incarcerated parent's parental rights, the social services agency did not have to show that it had made diligent efforts to assist and encourage a meaningful relationship if the parent failed to notify the agency of his/her location for 6 months. The updated provisions of the law now permit the court to take into consideration any delays and barriers that a parent in prison or in substance abuse treatment encountered in keeping the court informed of his/her location.

Under the provisions of §384-b, before a foster care agency files a petition to terminate parental rights, the court may also order the agency to gather input from the child, the parent(s), the child's law guardian, family members, other important persons in the child's life, the parent's attorney, correctional staff, and mental health and substance abuse treatment personnel. Based on this information, the court may find that the agency should not initiate termination proceedings even though the child has been in foster care for 15 of the last 22 months.

The above described statutory provision also allows the court to consider the special circumstances of parent(s) in prison or in a residential substance abuse treatment program in determining whether a child is a "permanently neglected child" under the Social Services Law. Factors the court may consider include limitations on contact with family and lack of services to aid in the development of a meaningful relationship, which interfere with a parent's ability to maintain consistent contact with the child.

Once a child is in foster care, the social services district must work on a family service plan in consultation with the child's parent. Where the parent is in prison or in a residential substance abuse treatment program, the statute now allows the consultation and any plan reviews to be conducted by videoconference or teleconference. The statute also states that the plan "shall reflect the special circumstances and needs of the child and the family" affected by a parent's incarceration or residential drug treatment.

In the next issue of *Essentials of Life*, we will discuss some of the recent court decisions relating to the termination of parental rights where a parent is in prison.

These will be the only issues of *Pro Se* and *Essentials of Life* that will be mailed to all women in prison in New York. If you enjoy reading *Pro Se* and find this issue of *Essentials of Life* useful and would like to continue receiving the publications, write to us and ask us to add your name to our mailing list. **Be sure to tell us which newsletter you want to receive.** You can subscribe to both if you want to. To have your name added to the *Pro Se* and/or *Essentials of Life* mailing lists, please write to:

Prisoner' Legal Services
Attention: *Pro Se* and *EOL* Staff
114 Prospect Street
Ithaca, NY 14850

Essentials of Life Staff

Editors: Betsy Hutchings, Esq., Karen L. Murtagh, Editor

Production and Copy Editing: Aleta Albert