Remove Time Limits on Reunification; Choose Guardianship over Adoption

Stephen Butts
Golden Gate University School of Law, lawreview@ggu.edu

Follow this and additional works at: http://digitalcommons.law.ggu.edu/ggu_law_review_blog

Part of the Family Law Commons

Recommended Citation
http://digitalcommons.law.ggu.edu/ggu_law_review_blog/25

This Blog Post is brought to you for free and open access by the Student Scholarship at GGU Law Digital Commons. It has been accepted for inclusion in GGU Law Review Blog by an authorized administrator of GGU Law Digital Commons. For more information, please contact jfischer@ggu.edu.
Remove Time Limits on Reunification; Choose Guardianship over Adoption

Permanence is the goal for children in foster care. To achieve this goal, adoption is used if reunification with birth parents cannot be accomplished within fifteen months. This is detrimental to children whose natural parents suffer from the chronic disease of addiction. Recovery within fifteen months is difficult for an addict and if recovery is not achieved, adoption strips natural parents of any future possibility of reunification. While long stays in foster care should be avoided, adoption should be discarded in favor of guardianship to ensure the possibility of reunification no matter how long recovery takes. Unlike adoption, guardianship does not terminate parental rights, but instead allows another caregiver to assume physical and legal custody of the child until reunification is possible. Guardianship is in the best interests of the child, allowing the creation of new attachments with guardians without severing the possibility of repairing the attachment ruptures between addicted parents and their children.

Drug addiction is an epidemic in the United States. Its most detrimental effects are felt by children whose natural parents suffer from the disease. A parent’s drug addiction can cause an absence in the child’s life, which prevents attachment between parent and child. According to attachment theory, children who are unable to attach to a natural parent will have future problems with emotional regulation and social relatedness, creating an increased risk of depression, anxiety, and behavioral problems. This separation also often results in child neglect, increasing the child’s risk of being placed into foster care. Dependency courts may find drug-addicted parents are unfit to manage the custody and care of their children.

If natural parents can regain their fitness, reunification should occur no matter the length of separation from their children. The connection between a natural parent and his or her child should be protected. This assertion is supported by the United Nations and Supreme Court; as well as attachment theory, which posits the attachment between a natural parent and child is essential in the healthy development of the child.

In foster care, though, since permanence is the goal for the child, adoption occurs if reunification is unsuccessful within fifteen months. Adoption and reunification plans are even developed simultaneously. This focus on permanence prevents reunification for many natural parents suffering from the chronic disease of addiction because recovery within fifteen months is difficult. Recovery is a long process and relapse is common. Approximately half of drug addicts will relapse within the first year of sobriety. Furthermore, available treatment services are unable to support the need. At least ninety days of residential treatment are necessary for long-term abstinence, and one year of treatment is preferred. Dependency drug courts were created to address drug addiction in parents, but these courts lack sufficient space and some parents are ineligible to participate. Moreover, a parent’s inability to maintain sobriety, which is a common symptom of the disease of addiction, may result in termination from the program. This makes reunification within fifteen months difficult.

Child welfare laws do not specifically discuss the reasons for a focus on permanency, but a child’s health and safety are listed as paramount concerns. As discussed, the health and safety of a child are strongly influenced by the ability to attach to a stable caregiver. The longer a child is unable to attach to any caregiver, the more prolonged the negative effects will be. If children are unable to attach to a natural parent, they can attach to a different caregiver instead. Therefore, an argument in favor of permanence is that attaching to a caregiver within fifteen months, through reunification or adoption, will minimize the attachment disruption created when the child was placed into foster care, thereby minimizing any negative effects.

Unfortunately, this argument is flawed. While minimizing attachment disruptions is of the
It's Still Perilous to Catch a Lyft in San Francisco

Space Rock Mining: A Land Rush Without Title

No comments yet... Be the first to leave a reply!

Leave a Reply

Enter your comment here...