**Incarcerated Mothers Law Project**

Loss of Parental Rights Overview

Loss of parental rights can happen voluntarily, when a birth parent chooses to give up their rights to a child, or involuntarily, which happens by a court process most commonly involving a petition from a city agency such as NYC Administration for Children's Services (ACS) or Child Protective Services (CPS).

Termination of Parental Rights (Involuntary Loss of Rights)

A termination of parental rights proceeding takes place when a city agency or foster care agency files a petition in Family Court asking a Judge to end a parent's parental rights. “The petition must give a ground (legal reason) for the termination. There are five legal grounds to terminate parental rights: abandonment, permanent neglect, mental illness, and severe and repeated abuse.” <https://nycourts.gov/courthelp/family/parentalRights.shtml>

Conditional Surrender (Voluntary Loss of Rights)

A conditional surrender is the surrender of a child in court to a department/agency with conditions. <https://affcny.org/what-is-conditional-surrender-vs-trp/> A conditional surrender can lead to an **open adoption**.

In a conditional surrender, the birth parents may keep some of their parental rights while allowing the child to be adopted. This could include (1) having input in who adopts the child; (2) having the right to contact or visit the child; or (3) receiving updates or photos of the child after the adoption. This is known as an open adoption and most commonly happens through private agency adoption: <https://nycourts.gov/courthelp/family/adoptionTypes.shtml>)

In an **unconditional surrender**, the birth parents give up all parental rights, including the right to contact or communicate with the child.

Conclusion

It is almost impossible to reverse an adoption that has been legally finalized. The only possibilities for reversing an adoption involves showing the birth parents [terminated their parental rights](https://www.lawinfo.com/resources/family-law/termination-of-parental-rights.html) by fraud, misrepresentation or undue duress.

Frequently Asked Questions:

Answers quoted from: https://nycourts.gov/courthelp/family/parentalRights.shtml

*Can a conditional surrender be reversed (undone)?*

Once finalized, the surrendering of parental rights is **irrevocable**. “This means that it's a permanent decision and can't be canceled or changed.”

This is especially true in voluntary surrenders if consent was given in front of a judge.

*Does it matter if a surrender happens in court or out of court?*

In voluntary surrenders leading to private placement adoptions, consent can be given by a parent in front of a judge (a judicial consent) or not in front of a judge (an extra-judicial consent).

Private placement adoption: In a [private placement adoption](https://nycourts.gov/courthelp/family/adoptionTypes.shtml), private individuals must give their consent before a child can be adopted.

The consent to an adoption can be given in writing in court in front of a judge. In this case, it's **immediately irrevocable.** This means that the parent cannot change their mind and have their child returned.

If the consent is given outside of a courtroom, such as in a hospital, the consent must be in a writing that is signed and notarized.

*What if a parent changes their mind?*

In a voluntary surrender that leads to private placement adoption, if consent is given outside of court, the parent has 45 days to change their mind and take back the consent. However, even if consent is withdrawn during those 45 days, it does not mean that the child will be returned to the birth parents. If the adoptive parents oppose the withdrawal of consent, then a hearing will be required. During the hearing, a judge will determine if the consent was properly taken back in time and decide custody of the child based on what would be in the [best interest of the child.](https://nycourts.gov/courthelp/family/bestInterest.shtml)

This may also apply to involuntary signings by parents.

*What if a parent signed involuntarily?*

A court may look to proof if the birth parent’s consent to adoption was the product of fraud, misrepresentation, or undue influence.