

ALABAMA

Topics:

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HOW THE STATE CAN REMOVE CUSTODY

Statute: § 26-18-7

Grounds: Abandonment or extreme parental disinterest, abuse/neglect, mental illness or deficiency, alcohol or drug induced incapacity, felony conviction/incarceration, failure of reasonable efforts, sexual abuse, abuse/neglect or loss of rights of another child, failure to maintain contact, failure to provide support, felony assault of child or sibling, murder/manslaughter of sibling child, aggravated circumstances.

WHAT THE LAW SAYS ABOUT SEPARATING A MOTHER FROM HER BABY

It appears from the caselaw that the foster teen retains parental rights to her child if not full legal custody, which may be terminated upon a proper showing: *R.F. v. State Dept. of Human Resources* 740 So.2d 1093 (Ala.Civ.App. 1999) The County Dept of Human Resources (DHR) petitioned for temporary custody of the minor child while the 15-year-old mother was in DHR custody. The mother had been in foster care during her pregnancy. The juvenile court awarded DHR legal custody of the child, finding that the child was dependent and that it was in the child's best interests to be placed in DHR's custody. After reviewing the record, the state appellate court reversed, concluding that the trial court's decision to terminate the mother's parental rights was premature. *L.A.T. v. State Dept. of Human Resources* 588 So.2d 471 (Ala.Civ.App. 1991) (favoring joint placement over termination of parental rights of teen mother) *R.F. v. State Dept. of Human Resources* 740 So.2d 1093 (Ala.Civ.App. 1999). Clear and convincing evidence std for terminating teen mother's parental rights.

It appears pursuant to state law that upon the birth of her child, the foster teen possesses legal custody to the extent that she has the right to bring legal proceedings on her newborn's behalf. Ala.Code 1975 § 30-3A-302 (Action by minor parent) thus sets forth that a minor parent, or a guardian or other legal representative of a minor parent, may maintain a proceeding on behalf of or for the benefit of the minor's child.

Attorneys and judges can attempt to ensure that teen parents are not forced to sign a voluntary placement agreement. The agreement can have dire consequences for a young mom in care who wishes

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to keep her baby after emancipation.¹ Some foster teen moms may need a chance to “catch their breath” after their baby’s birth. The alternative of temporary foster care is available through the state and services have the foster teen sign a voluntary agreement to hand over custody for a limited time only. When the separation is over and the foster teen is ready to resume responsibility for childcare, the infant is returned to her pursuant to the terms of the temporary foster care contract she signed. The foster teen should obtain legal counsel to assist and advise as to the temporary foster care alternative.

If young parents are to assume daily responsibility for the care of their children after discharge, they must be allowed to practice that responsibility while in foster care.² Ensuring that the young mother and her child are placed together is a primary responsibility of the ward's attorney. Reports and anecdotal evidence suggest that local child welfare systems do not have enough mother/child placements to meet the population's needs.³ The separation of mother and infant is damaging to both. The baby is left alone in the hospital for the entire night and portions of the day, precluding breast feeding and crucial bonding with the mother. The state, in turn, pays an enormous price to keep a healthy child in the hospital. Such separations are counterproductive and inhumane. They are also illegal.

Attorneys for parenting wards can address this problem from several angles. First, in some cases, steps may be taken while the ward is pregnant to ensure that the relevant agency is making appropriate plans for the client's post-pregnancy placement. Next, when a client is illegally separated from her child, attorneys have several options. In most states, the parent may file a writ of habeas corpus against the child welfare or foster care agency, demanding that the child be returned to the mother. In some circumstances, an attorney's threat to initiate such action will be sufficient to motivate the agency to

¹ <http://www.jrplaw.org/Documents/Teens%20Aging%20Out%20of%20Foster%20Care%20in%20Oregon.pdf>

² *The Legal Status of Pregnant and Parenting Youth in Foster Care*(See article @ http://64.233.167.104/search?q=cache:GDLCdv7_FaUJ:www.kidscounsel.org/Legal%2520Status%2520Preg-Parent%2520Youth%2520Foster%2520Care.doc+%22TEEN+mother%22+%22joint+placement%22+%22foster+CARE%22&hl=en&ct=clnk&cd=5&gl=us)

³ In Illinois, the lack of appropriate placements too often results in postnatal stays in temporary shelters. In California, the legislature has officially acknowledged that the dearth of placements results in temporary separations of parenting wards and their children. In New York, the scarcity of mother/child beds often results in the mother and infant remaining in the hospital long after they are medically ready for discharge. In other instances, the mother is discharged to her prior placement while her baby remains in the hospital nursery. In New York City, as in other locales, this is difficult at best because mother/child placements are awarded on a first-come, first-served basis. Additionally, due to the higher demand for beds and the high cost of leaving beds vacant, programs are unable to reserve beds for pregnant teens. Nevertheless, advocates can seek court orders directing the ward's agency to make appropriate plans for the teen's placement following delivery.

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reunite mother and child in an appropriate placement. Another option is to seek relief from a court with jurisdiction over the teen's foster care placement. The attorney should avail herself of state policies, such as those discussed above, to argue that the ward has a right to placement with her child.⁴ Finally, in negotiating with state or local bureaucrats, advocates should point out that as long as the parenting ward retains legal custody of the infant, failure to place the mother and child together will compromise the state's ability to receive federal reimbursement for the infant's care.

RESOURCES

CHILD WELFARE AGENCY: Alabama Department of Human Resources

Center for Communications, Suite 2104, 50 North Ripley St. Montgomery, AL 36130
(334) 242-1310
<http://www.dhr.state.al.us/Index.asp>

Legal Services Alabama Inc.

207 Montgomery St. Suite 1200 Bell Building, Montgomery, AL 36104
334-223-0240
www.LegalServicesAlabama.org

The Teen Parents and the Law (TPAL) program is based on a national teen court curriculum and serves to teach teen parents life skills through the prism of civic education. The intensive program takes place over a number of weeks and covers topics such as landlord-tenant law, consumer protection, child custody, child abuse and neglect, domestic violence, voter registration, and state mandatory education requirements. The program is designed to teach teen parents the skills to be effective parents and self-advocates. In April 2005, the Administrative Office of the Courts held a 'train the trainers' program on the TPAL curriculum for Family Court staff members. Ten Family Courts were supplied curriculum materials and are either implementing the program or are in the planning stages of implementation.⁵

⁴ For example, attorneys in California can now argue that the court or the agency has failed to make diligent and active efforts to place "the minor parent and the child together in as family-like a setting as possible" as mandated by state statute. In all jurisdictions, the attorney should also argue that separating the ward from her child is clearly contrary to the ward's best interest

⁵ <http://www.abanet.org/abanet/child/statesum/allstate.cfm?y=2005>



Transitional or Independent Living Programs

UM Children's Home

1712 Broad Street PO Box 830 Selma, AL 36702

Phone: (334) 875-7283

Fax: (334) 875-5161

Residential Care; Foster Care; Emergency Shelter; Group Homes.

Connectional Unit: Alabama West Florida & North Alabama Conferences.

Alabama HR Dept , Transitional Living and Independent Living Programs:

http://www.dhr.state.al.us/large_docs/TLPILPQuestionsandResponsesFinal03080718%20Answered.pdf

Independent Living Program Specialist

50 Ripley Street

Montgomery, AL 36130

Phone: (334) 353-4208

Fax: (334) 353-1491

Mother-baby Residential Facilities

LifelineVillage

2908 Pumphouse Road Birmingham, AL 35243

205.967.0811

lifeline@lifelineadoption.org

Women's Hope Center

171 Westgate Parkway

Dothan, AL 36303

334.793.0002

888.420.0867

whcdothan@aol.com

Substance Abuse Health & Treatment Resources

Spectra Care The Haven

831 John D Odom Road Dothan, AL 36303

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Rehab Contact

Phone: (334) 794-3771

Intake: (334) 671-1919

Hotline: (800) 951-4357

Childcare Assistance

FAAP

Partners in Pediatrics

8160 Seaton PI Montgomery, AL 36116-7204

Phone: 334/272-1799

Fax: 334/272-4876

Child Care and Development Fund (CCDF)

The primary Federal program specifically devoted to childcare services and quality. It enables low-income parents and parents receiving Temporary Assistance for Needy Families (TANF) to work or to participate in the educational or training programs they need in order to work. Funds may also be used to serve children in protective services. In addition, a portion of CCDF funds must be used to enhance childcare quality and availability. The component funds of the CCDF were provided under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA). As of October 1, 1996, PRWORA repealed the old welfare-related childcare programs provided under the Social Security Act (AFDC/JOBS Child Care, Transitional Child Care, and At-Risk Child Care). The repealed programs were replaced by Mandatory and Matching Funds appropriated for fiscal years (FYs) 1997 through 2002 under a new section (418) of the Social Security Act. The Administration for Children and Families (ACF) renamed the block grant funds provided under the Child Care and Development Block Grant (CCDBG) Act of 1990, as amended, the Discretionary Fund, to signify that it must be appropriated annually. PRWORA required that the new Mandatory and Matching Funds be transferred to a State's Lead Agency for the CCDBG and be administered by that agency, using the provisions of the CCDBG Act, as amended by PRWORA. Although the Discretionary Fund was authorized at \$1 Billion (B) a year through FY 2002, Congress has routinely appropriated amounts in excess of \$1 B for each fiscal year through FY 2006 and has proposed appropriations in excess of \$2 B for the CCDBG in FY 2007. In 2006, Congress passed legislation appropriating \$2.9 B in Mandatory and Matching Funds for each of FYs 2006 through 2010. http://www.acf.hhs.gov/programs/ccb/ccdf/ccdf06_07desc.doc

TANF (Temporary Aid to Needy Families) Funds

TANF is time-limited public assistance payments made to poor families, based on Title IV-A of the Social Security Act. The program provides parents with job preparation, work, and support services to help them become self-sufficient.

TANF/AFS (Adult and Family Services) or other

TANF legislation includes two rules specific to minor parents (parents under age 18). One rule requires that minor parents live in an approved arrangement, usually with their parents. The other rule requires that minor parents typically participate in education leading to a high school diploma or GED.

The living arrangement requirement to receive TANF says that a state is prohibited from spending federal TANF funds on assistance to an unmarried, minor, custodial parent unless she lives with a parent, legal guardian or other adult relative or is approved for an exception. The law recognizes limited exceptions to this rule including situations in which a parent, legal guardian, or other adult relative is not available or when such a placement could result in harm to the minor parent and/or her child. When residing with a parent, legal guardian or other adult relative is inappropriate, the state must "provide, or assist the individual in locating, a second chance home, maternity home, or other appropriate adult-supervised setting." Alternatively, the state may determine that a teen parent's independent living arrangement is appropriate and that it is in the "best interest" of her child to make an exception to the general rule.⁶

For Our Children

Project goal is to provide improved health care services to 2,500 K - 12 students by using grant funds to provide a full-time Registered Nurse and one dedicated social worker to local public schools.

According to the Center for Law and Social Policy⁷, Early Head Start programs can facilitate relationships in the medical community and help provide information to teen parents about the medical needs of their children with disabilities. Teen parents of children with disabilities are likely to experience the health care system more acutely than other parents—they may be in more situations requiring parental decision-making, and they may face specific issues around consent that adult parents do not encounter. The legal ambiguity resulting from a teen's age can be difficult. While teens may legally be empowered to make medical, educational, and mental health decisions (related to disability) for their children, they may not legally be able to do so for themselves. The same legal ambiguity can affect the teen's lack of knowledge

⁶ <http://www.spdp.org/reprexpl.htm#mla>

⁷ http://www.acf.hhs.gov/programs/ccb/ccdf/ccdf06_07desc.doc



about a child's disabilities in general. Teens' lack of knowledge is sometimes due to the fact that they are not the primary caregivers, at least not for the purposes of medical attention.

The publication http://www.clasp.org/publications/faq_tanf_repro_health.pdf provides some answers to frequently asked questions about how to use TANF funds for pregnancy prevention and teen parent services. The paper addresses the purposes for which TANF can be used, what TANF cannot pay for, the population that can be served, and numerous other TANF issues that pertain to teen parents. (Levin-Epstein, J. (1999) Frequently Asked Questions: Tapping TANF for Reproductive Health or Teen Parent Initiatives. Center for Law and Social Policy).