



ALASKA

Topics:

How the State Can Remove Custody
What the Law Says About Separating A Mother From Her Baby
Applicable State Law
Resources

HOW THE STATE CAN REMOVE CUSTODY

Statute: §25.23.180(a), (c); § 47.10.011; § 47.10.080 (c3), (o); § 47.10.088 (a) – (h) ¹

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, child judged in need of services/dependent, child's best interest, child in care 15 of 22 months (or less), felony assault of child or sibling, murder/manslaughter of sibling child, parent without custody unreasonably withholding consent, homicide of other parent, child induced to commit crime.

Exceptions: State may elect not to file petition if: 1) agency documents compelling reason for determining that filing petition would not be in best interests of child, including that child is being cared for by relative; 2) agency has not provided to parent the services that the agency has determined are necessary for safe return of child.

Grounds for Termination in Alaska

- Abandonment or Extreme Parental Disinterest
- Abuse/Neglect
- Mental Illness or Deficiency
- Alcohol or Drug Induced Incapacity
- Felony Conviction/Incarceration
- Failure of Reasonable Efforts
- Abuse/Neglect or Loss of Rights of Another Child
- Sexual Abuse
- Child Judged in Need of Services/Dependent
- Child's Best Interest
- Child in care 15 of 22 months (or less)

¹ National Center for State Courts' Knowledge and Information Services.

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- Felony assault of child or sibling
- Murder/Manslaughter of sibling child

Not Grounds for Termination in Alaska

- Failure to Maintain Contact
- Failure to Provide Support
- Failure to Establish Paternity

WHAT THE LAW SAYS ABOUT SEPARATING A MOTHER FROM HER BABY

The teen mom can exercise her right to appeal a trial court's decision to terminate her parental rights. In Nicole H. v. State, Dept. of Health and Social Services Not Reported in P.3d, 2006 WL 895084 (Alaska 2006), the appellant-mother was not barred on appeal from challenging the adequacy of the Office of Children's Services' (OCS) "active efforts" to prevent breakup of the family before a permanency hearing, which efforts OCS was statutorily required to make in this case.

A state appellate court can choose to vacate a prior termination of parental rights for numerous reasons. For example, in S.J. v. L.T. 727 P.2d 789 (Alaska 1986) the Supreme Court of Alaska held that the trial court erred in terminating the plaintiff's parental rights on public policy grounds, and ruled that the involuntary termination of parental rights may not be accomplished absent some statutorily mandated procedure.

Alaska jurisprudence reflects the dangers of communicating a willingness to give up parental rights to OCS; **the bottom line is that once the court has decided to terminate parental rights, the parent may not be able to revisit the issue of relinquishment at a later date.** Thus the parent in Alden H. v. State, Office of Children's Services 108 P.3d 224 (Alaska 2005) who wished to "change his mind" and withdraw what the OCS interpreted to be voluntary surrender of his parental rights – was ultimately unsuccessful in reversing the termination of parental rights. The alarmed parent moved for a hearing to review his "relinquishment" and also moved for an order to enforce the provision of relinquishment purporting to grant him visitation rights. The Superior Court denied both motions, and the father appealed. The Supreme Court finally held that: (1) the relinquishment was not conditional on the successful placement of the children, (2) interpreting the relinquishment agreement as not retaining the father's right of contact was not plain error, (3) the evidence supported the denial of visitation, (4) the father was not entitled to a hearing to review the relinquishment; and (5) the trial court's denial of a de novo hearing of the master's report did not constitute an abuse of discretion.

ALASKA 2

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For potential constitutional considerations, in an unrelated constitutional law case, State v. Planned Parenthood of Alaska 171 P.3d 577 (Alaska 2007) the Alaska Supreme Court found that the Parental Consent Act (which prohibited doctors from performing abortions on minors without parental consent or judicial authorization), violated the state constitution. The court held that the law placed a burden on the minors' fundamental right to privacy and thus was subject to strict scrutiny, the State has compelling interests in protecting minors from their own immaturity and in aiding parents to fulfill their parental responsibilities, however the law was not the least restrictive means of achieving the State's compelling interests and was thus unconstitutional.

APPLICABLE STATE LAW

Except as provided in AS 47.10.080 (o), the rights and responsibilities of the parent regarding the child may be terminated for purposes of freeing a child for adoption or other permanent placement if the court finds **by clear and convincing evidence that** the child has been subjected to conduct or conditions described in AS 47.10.011; **and** the parent has not remedied the conduct or conditions in the home that place the child at substantial risk of harm; **or** has failed, within a reasonable time, to remedy the conduct or conditions in the home that place the child in substantial risk so that returning the child to the parent would place the child at substantial risk of physical or mental injury; **and by preponderance of the evidence that** the department has complied with the provisions of AS 47.10.086 concerning reasonable efforts.

In making a determination under (a)(1)(B) of this section, the court may consider any fact relating to the best interests of the child, including;

- the likelihood of returning the child to the parent within a reasonable time based on the child's age or needs;
- the amount of effort by the parent to remedy the conduct or the conditions in the home;
- the harm caused to the child;
- the likelihood that the harmful conduct will continue; and
- the history of conduct by or conditions created by the parent.

In a proceeding under this chapter involving termination of the parental right of a parent, the court shall consider the best interests of the child.

Except as provided in (e) of this section, the department shall petition for termination of a parent's rights to a child, without making further reasonable efforts, when a child is under the jurisdiction of the court under AS 47.10.010 and 47.10.011, **and**

- the child has been in foster care for at least 15 of the most recent 22 months;



- the court has determined that the child is abandoned under AS 47.10.013 and the child is younger than six years of age;
- the court has made a finding under AS 47.10.086 (b) or a determination under AS 47.10.086 (c) that the best interests of the child do not require further reasonable efforts by the department;
- a parent has made three or more attempts within a 15-month period to remedy the parent's conduct or conditions in the home without lasting change; or
- a parent has made no effort to remedy the parent's conduct or the conditions in the home by the time of the permanency hearing under AS 47.10.080(l).

If one or more of the conditions listed in (d) of this section are present, the department shall petition for termination of the parental rights to a child unless the department

- has documented a compelling reason for determining that filing the petition would not be in the best interests of the child; a compelling reason under this paragraph may include care by a relative for the child; or
- is required to make reasonable efforts under AS 47.10.086 and the department has not provided to the parent, consistent with the time period in the department's case plan, the family support services that the department has determined are necessary for the safe return of the child to the home.

A child is considered to have entered foster care under this chapter on the earlier of

- the date of the first judicial finding of child abuse or neglect; or
- 60 days after the date of removal of the child from the child's home under this chapter.

This section does not preclude the department from filing a petition to terminate the parental rights and responsibilities to a child for other reasons, or at an earlier time than those specified in (d) of this section, if the department determines that filing a petition is in the best interests of the child.

The court may order the termination of parental rights and responsibilities of one or both parents under AS 47.10.080 (c)(3) and commit the child to the custody of the department. The rights of one parent may be terminated without affecting the rights of the other parent.

The department shall concurrently identify, recruit, process, and approve a qualified person or family for an adoption whenever a petition to terminate a parent's rights to a child is filed. If the court issues an order to terminate under (j) of this section, the department shall report within 30 days on the efforts being made to recruit a permanent placement for the child if a permanent placement was not approved at the time of the trial under (j) of this section. The report must document recruitment efforts made for the child.

No later than six months after the date on which the petition to terminate parental rights is filed, the court before which the petition is pending shall hold a trial on the petition unless the court finds that good

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cause is shown for a continuance. When determining whether to grant a continuance for good cause, the court shall take into consideration the age of the child and the potential adverse effect that the delay may have on the child. The court shall make written findings when granting a continuance.

The court shall issue an order on the petition to terminate within 90 days after the last day of the trial on the petition to terminate parental rights.

For more information, see:

- Alaska Statutes.
- Title 47. Welfare, Social Services and Institutions
- Chapter 10. Children in Need of Aid
- Section 88. Termination of Parental Rights and Responsibilities.
- AS 47.10.088. Termination of Parental Rights and Responsibilities.

RESOURCES

CHILD WELFARE AGENCY: Department of Health & Social Services, Office of Children's Services

130 Seward St, Room 406 P.O. Box 110630 Juneau, AK 99811-0630

Phone: 907-465-3170

Alaska Legal Services Corporation

1648 Cushman Street, Suite 300 Fairbanks, AK 99701

Phone: 800-478-5401

www.alsc-law.org

Transitional or Independent Living Programs

When young people reach age 18 in foster care they are no longer in the State's custody. These young people often are faced with living on their own without family or financial support. The Casey Family Program recently reports that youth of the approximately 2500 children in Alaska Office of Children's Services (OCS) custody and placed in out-of-home care, approx 18% (or 450 youth) are age 14 and above. From available data 100 youth will enter this group every year. Of the youth in OCS custody placed in out-of-home care approx 9% or 225 are age 16 and above. Based on current data, it is projected that 100 youth will enter this population every year. It is reported that approx. 40 youth age out

ALASKA 5
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of foster care in Alaska each year. Independent living skills and resources fill the gap by helping these young adults to survive as they reach the age of majority and lose the safety net of services available to children. <http://hss.state.ak.us/ocs/services.htm>

Alaska Women's Resource Center

111W. 9th Avenue, Anchorage, AK 99501
Phone: 276-0528
www.awrconline.org

Juneau School District - Juneau Teen Parent Program

Juneau, AK 99801
Phone: (907) 463-1940

Center for Families

3745 Community Park Loop, Suite 102 Anchorage Alaska 99508
Phone: 276-4994
Preschool Day Treatment
Phone: 522-8696
www.acf.ak.org
Parenting Ed & Muldoon Family Center
Phone: 770-0512

Alaska Job Corps Center

Ages 16 to 24 – assistance acquiring GED, employability skills and career development
Phone: (907) 562-6200 or toll free at 1-800-733-JOBS
ak.admissions@jobcorps.org.

Gentle Beginnings Childbirth Education W Doula Services

Serving Fairbanks Alaska and Surrounding Areas.
Services: Young Parents Support Program at no cost, Childbirth education, birth and postpartum doula services, pregnancy support, resources on parenting and childbirth, breastfeeding support. All services free of charge for those 21 and under or in special cases.
Phone: 907-474-8020
www.alaskabirth.com

Additional Statewide Contact Information

Office of Children's Services
130 Seward Street, Room 511

ALASKA 6
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P.O. Box 110630
Juneau, Alaska
Phone: (907) 465-8659
Fax: (907) 465-3397
<http://hss.state.ak.us/ocs/IndependentLiving>

Regional Independent Living Specialist

550 W. 8th Ave
Anchorage, Alaska 99501
Phone: (907) 269-4063

Regional Independent Living Specialist

695 E. Parks Hwy., Unit 3 Wasilla, Alaska 99654
Phone: (907) 352-8902

Regional Independent Living Specialist

751 Old Richardson Hwy., Suite 300 Fairbanks, Alaska 99701
Phone: (907) 451-2064

Regional Independent Living Specialist

3025 Clinton Drive Juneau, Alaska 99801
Phone: (907) 465-1664
PO box 110631 Juneau, Alaska, 99811

Continuation Program and Crossroads High School

907-742-1170
907-742-1174

Alaska Health & Human Services also supports several healthy marriage programs (activities and research), including Building Strong Families, Supporting Healthy Marriages, and the Community Healthy Marriage Initiative. The purpose of the Building Strong Families project is to evaluate healthy marriage services for romantically involved low-income, unwed parents around the time of the birth of a child. The purpose of Supporting Healthy Marriages is to inform program operators and policymakers of the most effective ways to help married parents to strengthen and maintain their marriages. <http://aspe.hhs.gov/hhsplan/2007/hhsplanpdf/hhsplanc4.pdf>

ALASKA 7

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Mother-baby Residential Facilities

Child Care Program Office (CCPO)

CPC Pregnancy Center of Anchorage
2900 Boniface Parkway Suite 2 Anchorage, Alaska 99504
Phone: 907.337.9292
Fax: 907.337.9262
Email: info@cpcanchorage.com
<http://www.cpcanchorage.com/>

Booth Memorial Youth & Family Services

Booth Memorial Adolescent Treatment Center
3600 E. 20th Ave. Anchorage, AK 99508
Phone: (907) 279-0522

Substance Abuse Health & Treatment Resources

Healthy Change

419 6th Street Juneau, AK 99801
Phone: (907) 463-6137

Home visiting services to support women of childbearing age to prevent Fetal Alcohol Spectrum Disorder (FASD) births: supports women to follow through with substance abuse treatment and recovery activities while reducing the risk of unplanned pregnancies; advocates for access to formal and informal community supports; promotes safe home environments and appropriate health care for children; women do not need to be pregnant or have children to be referred for services.

Comprehensive Family Support Program

2225 Jordan Ave. Juneau, AK 99801
Phone: (907) 463-6104

The Comprehensive Family Support Program provides family preservation, family reunification and family support services to Juneau families.

The program provides intensive in-home services that include mental health assessments, crisis intervention and concrete services design to make the home a safe and nurturing place for children and their families.

The Tongass Alaska Girl Scout Council (Juneau) hosts an annual weekend “transition retreat” for approximately 50 girls who are entering middle school and high school. Because teenage alcohol use

ALASKA 8

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rates in Alaska are high, the retreat focuses on the prevention of alcohol abuse. The program is supported by the Girl Scout Council, the local school district, and the Alaska affiliate of the National Association of State Alcohol and Drug Abuse Directors.

Alaska Children's Services

4600 Abbott Rd Anchorage, AK 99507-4314

Phone: (907) 346-2101

Fax: (907) 346-2748

Email: akchild@ak.net

Comprehensive residential and community based treatment services for children and adolescents: 60 psychiatric residential treatment beds, 40 children in therapeutic foster care, and up to 100 children in home-based wrap-around support services; serve boys and girls ages 3-18 Connectional Unit: Alaska Missionary Conference.

Child Care Assistance

Child Care Program Office (CCPO)

619 E. Ship Creek, Suite 230 Anchorage, AK 99501

Phone 907-269-4500

Northern Regional Office:

542 4th Avenue #212 Fairbanks, AK 99701

907-451-3198

Southeast Regional Office:

P.O. Box 110640

150 3rd St., Ste. 107 Juneau, AK 99811

907-465-4756

Toll-free statewide at: 1-888-268-4632

Child Care Assistance Program

Phone: 907.463.6124 and Toll-Free 800.505.6124

419 6th Street Juneau, AK 99801

The Child Care Assistance Program aids low to medium income families with the cost of child care as they work or participate in education or training programs. The goal of the program is to ensure that safe, healthy, quality childcare is affordable and accessible to all of Alaska's children and families. Funding for the Child Care Assistance Program is provided by the State of Alaska, Department of Health & Social Services, Division of Public Assistance, Child Care Program.

Child Care Connection

3350 Commercial Drive #203, Anchorage Alaska 99501

Assistance locating child care homes or centers. Toys and books available for loan. Training for childcare providers.

Phone: 563-1966

www.childcareconnection.org

Head Start/Kids Corp

3710 E. 20th Ave. #2, Anchorage Alaska

Infant/toddler Program 272-0133

Focus – Infant Learning Program

18606 Old Glenn Hwy Chugiak Alaska 99567

Special needs children 0-3

www.focusinc@gci.net

Also check out Alaska Statutes Title 47. Welfare, Social Services and Institutions Chapter 35. Child Care Facilities, Child Placement Agencies, Child Treatment Facilities, Foster Homes, and Maternity Homes)

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 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 temporary assistance program in Alaska is called the ATAP (Alaska Temporary Assistance Program). Reauthorization of ATAP in 2006 was contingent on the promise that Alaska would implement a much more meaningful work participation rate requirement in future years of the program. The current version of Alaska TANF thus includes stricter requirements not found in earlier welfare programs. Families receive cash benefits for only 60 months (5 years) unless the family qualifies for a time-limit exemption. The program applies the “Work First” principle to promote family self-sufficiency, i.e. families must build on their strengths and actively seek employment. A family completes their own Family Self Sufficiency Plan plus an employment assessment. Families must participate in work activities, complete their self-sufficiency plan, and cooperate with Child Support enforcement.

ALASKA 10
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Minor teen parents must live with a parent or in another approved living arrangement plus continue their education. (This appears to apply to minor parents who happen to be in the foster system at the time of the newborn's arrival.) Alaska TANF includes cash benefits to help pay for basic living expenses while a family makes progress toward economic independence through employment. Alaska TANF may purchase or reimburse the costs of services deemed necessary to support work activities such as childcare, transportation and job related training.

Alaska's TANF contact

Division of Public Assistance
Alaska Department of Health & Social Services
350 Main Street, RM 317
Juneau, AK 99811
Phone: (907) 465-5847

TANF/AFS (Adult and Family Services) or other

A.R.S. § 47.40.100 (Purchase of services for pregnant women)

The Department of Health and Social Services shall pay within appropriation the cost of prenatal services which are not available from an existing state or federal program other than medical services for a pregnant woman experiencing social and economic difficulties, including the costs of transportation to and from a maternity home or a foster home, counseling, adoption assistance, maternity home and foster home care, and parenting skills.

A.R.S. § 46-134 (Powers and duties; expenditure; limitation)

The state department shall:

- 2. Administer child welfare activities, including:
- (e) Providing the cost of care of unwed mothers who are under the age of eighteen years during the period of their pregnancy and confinement in foster family homes or institutions and when determined by the department to be economically eligible. Costs of hospitalization and medical expenses attendant to the care of the mother and child shall be excluded from any payments made under this subdivision.

<http://www.libraryindex.com/pages/914/Comparing-New-TANF-with-Old-AFDC-TEEN-MOTHERS-WELFARE.html>

To receive TANF benefits, states were required to submit plans detailing their efforts to reduce out-of-wedlock births, especially among teenagers. In order to be eligible for TANF benefits, unmarried minor

parents (including teen mothers in foster care) are required to remain in high school or its equivalent as well as to live in an adult-supervised setting. One provision in the law allows for the creation of second-chance homes for teen parents and their children, a type of home that already existed in some states. These homes require that all residents either enroll in school or participate in a job-training program. They also provide parenting and life skills classes as well as counseling and support services.

States are precluded from providing assistance with federal TANF funds to an unmarried, minor (under age 18) custodial parent unless the minor teen lives with a parent, legal guardian or other adult relative; if such a living arrangement is not appropriate the state may require the minor teen parent to live in an adult supervised setting (e.g., "second chance home") and under limited circumstances may allow "independent living" by the minor teen. The law establishes that the state has an affirmative duty to assist in locating adult supervision for those minor teen parents in need of it. (Under TANF, states are precluded from spending federal TANF funds on minor, unmarried, custodial teen parents (with a child 12 weeks of age or older) unless the minor participates in an educational activity or approved training program. Some states have placed similar restrictions on other students or have expanded the restrictions.)

The Alaska Resource Family Handbook states that reimbursement rates for foster parents are set yearly by the state of Alaska's Health and Social Services Dept. <http://www.acrf.org/resources/ResourceFamilyHandbook.pdf> Rates include base/standard rates, emergency shelter rates, and augmented rates. Reimbursements are financial benefits to offset the costs associated with caring for a child so that the cost of care does not burden the resource family and are not intended to be a wage or salary to the resource family. Teen Parent/Baby: If a teen parent and baby are placed in the same foster home, augmentation may be paid for either the parent or the baby, depending on custody. Augmentation may also be paid for a teen parent placed in his or her own biological or legal home.

For eligibility rules for minor parents and their child go to: <http://www.spdp.org/compstates/akcateg.pdf>

Health Care Program for Children with Special Needs (HCP-CSN)

Alaska Stat. § 18.05.010, et. seq. (1992)

Alaska Admin. Code tit. 7, § 23.110, et. seq.

Telephone: (907) 269-3460

Fax: (907) 269-3465

Health Care Program for Children with Special Needs

1231 Gambell Street Anchorage, AK 99501

Toll-free Hot Line: Healthy Alaskans Information Line Telephone: 1-800-478-2221

ALASKA 12
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Denali KidCare (Medicaid)

A runaway, homeless or emancipated teen who is living independently of his or her parents may apply for herself:

From within the Anchorage area, phone 269-6529.

From other areas of the state, you may phone toll free 1-888-318-8890

denali.kid.care@alaska.gov

Come by our office at 3601 C Street, Frontier Building, Suite 120, Anchorage or mail us at P.O. Box 240047, Anchorage, Alaska 99524-0047

Homepage: <http://hss.state.ak.us/dhcs/DenaliKidCare/default.htm>

Additional Statewide Contacts

Division of Public Assistance

Denali KidCare Office Manager

P.O. Box 240047, Anchorage, AK 99524-0047

(907) 269-6464

Medical Assistance Administrator/SCHIP

Medicaid and Health Care Policy

P.O. Box 110660, Juneau, AK 99811-0660

(907) 465-5833

If a foster teen's baby is removed from the home and the child now needs a major but non-emergency medical/dental procedure, the teen mom's consent may be mandatory (as the birth parent, who retains residual parental rights even after removal), but if the teen's rights have already been voluntarily relinquished/legally terminated, Alaska OCS² must consent to the procedure.

<http://www.acrf.org/resources/ResourceFamilyHandbook.pdf>

According to the Center for Law and Social Policy, health insurance and medical expenses for teen moms can create barriers because even when the teen parent has access to health insurance, the required co-pays pose a financial burden. http://clasp.org/publications/ehs_teens.pdf

In the Alaska macroscopic policy sphere, Federal deficit reduction measures in Medicaid and will shift more costs to states. For example, Targeted Case Management, a service formerly reimbursable by

² Office of Children's Services (OCS) is the entity responsible for the care, safety and well being of children in State of Alaska's custody. OCS is comprised of one Central Office; 4 regional offices, and numerous field offices located statewide.



Medicaid and used by states for children in foster care will soon have to be provided at increased state expense. Further deficit reduction measures at the expense of states are now being anticipated.

<http://aspe.hhs.gov/hhsplan/2007/hhsplanpdf/hhsplanc4.pdf>

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. While health care issues may exist for many parents, 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. At the CLASP working session, EHS providers indicated that teen parents often report negative experiences with physicians in gathering information about their child’s condition. The physicians might not talk with the mother but instead focus on the grandparent or on a professional in a support role to her. Teen mothers feel “put down,” unacknowledged, and disrespected by doctors and other professionals. The steps identified that the Office of Head Start could take to help address these issues by facilitating these relationships:

Head Start will train EHS providers on how to address the “age of consent” issue, as this can affect the services that a teen may choose for a child. However, because age of consent laws are almost always state specific, regional partnerships will be critical.

Head Start will clarify for providers the law and policy regarding the provision of information regarding disability when the child is in a third party’s physical or legal custody.

The Office of Head Start will therefore seek to partner with training programs to address the lack of child mental health specialists trained to work with teen parents. Nationwide, there are very few professionals trained as specialists in early childhood mental health. The number of professionals who are also trained in working with teen parents is even lower. There is a significant need for these specialists to work with EHS programs, to serve children and parents with disabilities relating to mental health. Early Head Start need to work to help programs establish links with adolescent specialists, whether through partnerships with educational institutions or through other methods

http://clasp.org/publications/ehs_teens.pdf

In the legal sphere, Alaska Health & Social Services appears to be aggressively promoting a policy of improving medical support by requiring the state to consider each parent’s access to health insurance coverage when establishing child support orders.

<http://aspe.hhs.gov/hhsplan/2007/hhsplanpdf/hhsplanc4.pdf>

According to CLASP the legal ambiguity resulting from a teen’s age can be difficult. While teens may legally be empowered to make medical 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 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: in some cases, the teen's parents receive and analyze information regarding the disability of their grandchild.

(http://clasp.org/publications/ehs_teens.pdf)