

DISTRICT OF COLUMBIA

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HOW THE STATE CAN REMOVE CUSTODY

Statute: §§4-1301.09a(d); 16-2353; 16-2354(b)¹

Grounds: Abandonment or extreme parental disinterest, abuse/neglect, mental illness or deficiency, alcohol or drug induced incapacity, 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, need for continuity and care, quality of relationship, location of parent(s) unknown.

Exceptions: The District need not file a motion if the Department of Human Services determines and has documented in the case plan that: 1) the child is being cared for by an approved kinship caregiver and adoption is not the child's permanency plan; 2) a compelling reason for determining that filing such a motion would not be in the best interest of the child; 3) the District has not offered or provided to the family of the child, consistent with the case plan, such services as the District deems necessary for the safe return of the child to the child's home.

WHAT THE LAW SAYS ABOUT SEPARATING A MOTHER FROM HER BABY

It appears pursuant to state law that upon the birth of her child, the foster teen possesses legal custody to the extent she has the right to bring legal proceedings on her newborn's behalf. DC ST § 46-303.02, Formerly cited as DC ST 1981 § 30-343.2 (Proceeding by minor parent) 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 ensure that teen parents are not forced to sign a voluntary placement agreement. The agreement can have dire consequences for a young mom in

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

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care who wishes to keep her baby after emancipation² Foster teen moms often 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 that have the foster teen sign a voluntary agreement to hand over custody for a limited time. 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. Respite care is temporary or short-term home care of a child provided for pay or on a voluntary basis by adults other than the parents (birth, foster, or adoptive parents).

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.³ 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.⁴ 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 breastfeeding 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

² <http://www.jrplaw.org/Documents/Teens%20Aging%20Out%20of%20Foster%20Care%20in%20Oregon.pdf>

³ “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)

⁴ 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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initiate such action will be sufficient to motivate the agency to 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.⁵ 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.

APPLICABLE LAW

The teen mom needs to learn about her legal rights from her legal counsel and to gain some awareness of recent termination of parental rights, adoption and guardianship proceedings in the District of Columbia which may assist in asserting those rights. No order terminating parental rights shall be entered until a fact-finding hearing has been held and diligent efforts have been made to give notice of said hearing to all parties affected by such order. If parental rights are terminated, the department, agency or institution to which the child has been committed shall have complete custody rights, including but not limited to the right to consent to adoption of the child. Matter of C. A. P. 356 A.2d 335 (D.C. 1976). Mother appealed from order of the Superior Court for the District of Columbia, which terminated parental rights upon a finding of neglect. The Court of Appeals held that the Superior Court's adoption of a rule permitting the termination of parental rights based on neglect was in excess of its statutory authority as that rule abridged a substantive right. *Id.* In re A.S.C. 671 A.2d 942 (D.C. 1996) an attorney for a minor child previously adjudicated neglected and in the custody of the Department of Human Services filed a motion to terminate the parental rights of the child's natural parents. The Superior Court granted the motion, and the parents appealed. The Court of Appeals held that: (1) the need of the child for continuity of care was not better served by termination of her natural parents' parental rights; (2) the lack of bonding between the child and its natural parents could not support termination; (3) a history of drug abuse by the natural parents prior to the intervention/provision of services was not relevant to determining the best interests of the child; and (4) the hospital in which the child resided at the time of the hearing did not offer a greater potential for bringing stability into the child's life than the parents' efforts would provide if supported by meaningful assistance from social services.

⁵ 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

In *Matter of A.B.E.* 564 A.2d 751 (D.C. 1989) the D.C. court reversed a termination of parental rights in a neglect case “[i]n the absence of any substantial good to be achieved for this child.” *Id.* at 757 In the absence of any showing of substantial good to be achieved for the child by termination, termination was unwarranted. Petitions seeking adoption of the foster D.C. teen’s child and/or appointing a guardian for its care are two additional statutory procedures that the D.C. teen mom should be aware of. In the Appeal of *H.R.* 581 A.2d 1141 (D.C. 1990) an adoption petition was filed for a child born out of wedlock. The Superior Court granted the petition, but the natural father appealed. The Court of Appeals found that: (1) the statutory best interest of child standard applicable to adoptions by unrelated persons incorporates a preference for a fit unwed father “who has grasped his opportunity interest” – a preference that can only be overridden by clear and convincing evidence that it is in the best interest of child to be placed with unrelated persons; (2) the natural father’s “opportunity interest” in gaining custody of the child remained intact, considering the state’s statutory and due process violations in giving the unwed parent notice of adoption petition; and (3) remand was necessary due to the trial court’s application of the best interest standard without incorporating parental preference. *Id.*

In *White v. N. E. M.* 358 A.2d 328 (D.C. 1976) a case was reversed where the pre-adoption termination of parental rights to a minor child should not have been granted, and such termination should, instead, have been obtained through the statutory procedure to accomplish termination of parental rights as part of adoption proceeding. See D.C.C.E. §§ 16-304, 16-2305, 16-2320; D.C.C.E. SCR, Neglect Rule 18(c). After the Superior Court terminated parental rights to the infant, the putative father appealed. The Court of Appeals held that the pre-adoption termination of parental rights to the minor was not justified. *Id.* The District of Columbia also has a statute authorizing a trial court to petition for permanent guardianship based on a lower preponderance of the evidence standard, rather than the higher clear and convincing evidence standard governing adoptions and termination proceedings

RESOURCES

CHILD WELFARE AGENCY: **Child and Family Services Agency**

400 6th Street, SW, Washington, D.C. 20024

Phone: (202) 442-6000

<http://www.cfsa.dc.gov/cfsa/site/default.asp>

LEGAL SERVICES

Neighborhood Legal Services Program of the District of Columbia

680 Rhode Island Avenue, N.E. Washington, DC 20002

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Phone: (202) 269-5100

www.nlsp.org

The Children's Law Center, Inc. - Family Permanency Project

901 15th St, NW Ste 500 Washington, D.C. 20005

Phone: (202) 467-4900

Fax: (202) 467-4949

Web Site: <http://www.childrenslawcenter.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.⁶

Teen Parents and the Law Program

Phone: (301) 589-1130 ext. 245

<http://www.streetlaw.org>

Transitional or Independent Living Program

Teens living in transitional facilities are considered "homeless."

Teen Mothers Program/Sasha Bruce Youthwork

701 Maryland Avenue, N.E. Washington, DC 20002

Phone: (202) 675-9380

The Teen Mothers Program is a residential treatment facility for five teenage mothers and their babies run by the Sasha Bruce Youthwork program, a private, nonprofit agency. The Teen Mothers Program is funded directly by grants from the DC Department of Human Services, Family Service Division. It costs approximately \$110 per day per person to run the program. The participants are aged 15-18 and stay from 18 months to two years. The teen mothers are referred by the court system and are wards of the DC government. All court-remanded cases must be accepted into the home. Residents are offered a

⁶ <http://www.abanet.org/abanet/child/statesum/allstate.cfm?y=2005>

number of classes in cooking, childcare, female health and sexuality, and living and parenting skills. Counseling, tutoring, art therapy, and referrals are also available. There are no resident staff members; two staffers provide supervision at a time based on rotating shifts. Volunteers and foster grandparents are important elements of the program. A structured, caring, and therapeutic environment in which homeless teen mothers between ages 13 and 21 and their babies can remain together and receive support, guidance, and other needed assistance. Residents will be referred by the DC Child and Family Services Agency. This program will serve teenage mothers who are the victims of abuse and neglect and are wards of the District of Columbia. The program's goals are to keep mothers and their babies together, break the intergenerational cycle of abuse, and help the young mothers develop long-term self-sufficiency. Residents will receive education and career guidance, assistance with housing and employment, training in parenting and life skills, and pre- and post-natal medical support.

U.S. Department of Labor, Multicultural Career Intern Program (MCIP)

Founded in 1979 with a grant from this began as an alternative school designed to serve the growing number of limited-English-speaking refugees and immigrants in the District of Columbia. In 1989, MCIP merged with Bell Career Development Center and became Bell Multicultural High School. MCIP continues to serve the community as the nonprofit arm of the high school. Currently, MCIP raises funds to support Bell Multicultural High School programs such as the Teen Parent and Child Development Center, the Campaign for a Community Campus, the Parental Involvement Center, the Teen Pregnancy Prevention Program, the Building Renovations Program, and the Bell Scholarship Program.

For Love of Children

A nonprofit organization in Washington, DC, working to eliminate abuse and neglect, alleviate homelessness, and educate high-risk youth to be responsible, successful adults.

Mother-baby Residential Facilities

Northwest Maternity Center

4010 12th Street, N.E. Washington, DC 20017

Phone: (202) 483-7008

The Northwest Maternity Center is a private/nonprofit residential facility for five mothers with one or two children, which operates in tandem with the Pregnancy Center. The center has been open for two years, and 26 young women have completed the program. The two facilities exist on a shoestring budget of \$160,000 a year, with the Maternity Center getting about \$60,000 of that amount. Funding comes from private individuals and corporate donors and includes donations of food, toys, and furniture. The center has flexible admission and length of stay requirements. The mothers are between the ages of 15 and 24, and stay less than two years. They are referred from community agencies, schools, and the Pregnancy

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Center. The only paid staff members are the director and the social services director, so the home depends heavily on a volunteer staff of 18. The program includes counseling, referrals, and classes in parenting, child development, basic skills, and self-esteem.

St. Ann's Infant and Maternity Home

4901 Eastern Avenue Hyattsville, MD 20782

Phone: (301) 559-5500

Fax: (301) 853-6985

St. Ann's Infant and Maternity Home has provided a refuge for needy women and children in the Washington, DC area since 1860, when three Daughters of Charity, a religious community dedicated to helping the poor, established the city's first home for "foundlings" and single women "at their time of confinement in childbirth". From the start, St. Ann's opened its doors to the poor of all races and religions, a rarity in the 19th century.

Substance Abuse Health & Treatment Resources

The Latin American Youth Center (LAYC)

Established in 1969, LAYC is committed to giving youth opportunities to develop critical thinking and leadership skills. LAYC encourages youth to realize their potential through employment, self-reliance, education, arts, health, and social programs. LAYC programs include skills training, job development, job placement, educational programs, social services, crisis counseling, teen pregnancy prevention, drug treatment, residential programs, health, HIV/AIDS outreach and prevention, leadership development, arts, violence prevention, gang diversion, and recreational programs.

PSI Family Services

770 M Street, S.E. Washington, D.C. 20003

202-547-3870

Fax: 202-546-9642

psidc@psifamilyservices.com

3170 Bladensburg Road, N.E.

Washington, D.C. 20018

202-529-1298

Fax: 202-529-4815

psigoldenyears@psifamilyservices.com

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Childcare Assistance

Florence Crittenton Services of Greater Washington

1815 Silver Spring Ave. Silver Spring, MD 20910

Phone: (301) 565-9333

www.crittentonservices.org

The Mid-Atlantic Network of Youth & Family Services

135 Cumberland Road Suite 201 Pittsburgh PA 15237

Phone: (412) 366-6562

Fax: (412) 366-5407

Email: many@manynet.org

Mid-Atlantic Network of Youth & Family Services - A non-profit membership association of youth service organizations in Delaware, Maryland, Pennsylvania, Virginia, West Virginia and the District of Columbia.

AAP Chapter Child Care Contact

There is a Chapter Child Care Contact in each Chapter (State). This Chapter Contact is a liaison between the National AAP and State Early Education and Child Care activities. For more information contact childcare@aap.org or:

CCCC-Alternate

General Pediatrics

111 Michigan Ave NW Washington, DC 20010-2978

Phone: 202-387-2763

Fax: 202-884-3386

With funding from HCCA, ECEA created a paid corps of DC health and mental health professionals to serve as CCHCs. With support from the MPCA, ECEA recruited 22 participants to complete CCHC training based on the National Training Institute for Child Care Health Consultants (NTI) curriculum. Some CCHCs from this original pool continue to provide consultation on a fee-for-service basis or through their sponsoring organizations.

The Child Care and Development Fund (CCDF) is 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

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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) re-named 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.⁷

⁷ <http://www.spdp.org/reprexpl.htm#mla>

Florence Crittenton Services of Greater Washington

815 Silver Spring Ave. Silver Spring, MD 20910

Phone: (301) 565-9333

www.crittentonservices.org

Young Women's Project

Support of workshops and programs for teen women and teen moms to build leadership skills through projects that impact them personally and on an institutional level in Washington, DC.

DC Healthy Families

<http://doh.dc.gov/doh/cwp/view,a,1371,q,575858.asp>

Covers children, adolescents under age 19 who live alone, pregnant women, and parents/guardians. DC Healthy Families is funded by the District of Columbia and Federal Government and is administered by the Department of Health, Medical Assistance Administration, Department of Human Services, Income Maintenance Administration and the Office of Maternal and Child Health. General Program Requirements : In order to qualify for this benefit program, you must be a resident of the District of Columbia, under 19 years of age, not covered by health insurance (including Medicaid), a US national, citizen, legal alien, or permanent resident, and you must have an annual household income before taxes of less than \$20,800 if one person lives in the household; \$28,000 if two people live in the household; \$35,200 if three people live in the household; \$42,400 if four people live in the household; \$49,600 if five people live in the household; \$56,800 if six people live in the household; \$64,000 if seven people live in the household; \$71,200 if eight people live in the household; \$78,400 if nine people live in the household; \$85,600 if 10 people live in the household; \$92,800 if 11 people live in the household; \$100,000 if 12 people live in the household; and \$107,200 if more than 12 people live in the household. Depending on your income level, you may have to pay a premium for coverage. Please see this state's program information for details. Applications are also available at a number of sites around the city. The display boxes are regularly refilled to ensure that a sufficient number of applications are available. To date, over 300,000 applications have been distributed around the city. The Health Line staff can answer questions about the DC Healthy Families program and assist with completing DC Healthy Families applications. The health line has bilingual (English/Spanish) staff and a TDD/TTY telephone line for the hearing-impaired. Or Call the Health Line at: 888-557-1116

To fill out the English version of the application form, click here:

<http://doh.dc.gov/doh/cwp/view,a,1371,q,575816.asp>

If you would like more information about the DC Healthy Families program, please visit our web site at:

<http://doh.dc.gov/doh/cwp/view,a,1371,q,575858.asp>

Managing Agency in the District of Columbia is @ <http://www.dc.gov>



According to the Center for Law and Social Policy (http://www.clasp.org/publications/ehs_teens.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. 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 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.

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