

GEORGIA

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HOW THE STATE CAN REMOVE CUSTODY

Statute: §15-11-58; §15-11-94¹

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, 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, failure to comply with child support decree, aggravated circumstances, voluntary relinquishment, egregious conduct.

Exceptions: State may elect not to file petition if: 1) child being cared for by relative; 2) case plan documents compelling reason why TPR is not in best interest of child; 3) agency has not provided services agency deems necessary for safe return of child.

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. Ga. Code Ann., § 19-11-121 (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 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 to keep her baby after emancipation ²

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

² <http://www.jrplaw.org/Documents>

[/Teens%20Aging%20Out%20of%20Foster%20Care%20in%20Oregon.pdf](#)

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Separating teenage mothers in foster care from their own children was one of the complained-of practices of county foster services in *Kenny A. ex rel. Winn v. Perdue* 454 F.Supp.2d 1260 (N.D.Ga.2006), as alleged in the Complaint in a Section 1983 suit against state and local agencies and individuals alleging that the foster child services of two Georgia counties were “inadequate”.

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.

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

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.

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 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 STATE LAW

The termination of parental rights involves a 2-step process: (1) juvenile court must first consider whether there is clear and convincing evidence of parental misconduct or inability; and (2) if so, the court then considers whether termination of parental rights is in the best interest of the child. In *re D.S.* 285 Ga.App. 752 (Ga.App. 2007). Thus in *Chancey v. Department of Human Resources*, 274 S.E.2d 728 (Ga.App. 1980), where there was no indication that the mother had ever engaged in any misconduct detrimental either to two-year-old child or to any other child, and there was no evidence that she suffered from mental or physical condition which rendered her incapable of caring for child, evidence showing that she was 16 years old, unemployed, without prospects for future employment, and without any stable living arrangements was insufficient as matter of law to authorize termination of mother's parental rights. Code, § 24A-3201(a)(2). In addition, the termination of parental rights based on hearsay evidence, admitted and considered over objection, can be reversible error. *Wooten v. Department of Human Resources*, 262 S.E.2d 583 (Ga. App.1979)

The teen mom should carefully consider the factors considered by an appeals court when reviewing a termination order. In *re C.R.*, 538 S.E.2d 776 (Ga.App. 2000) evidence authorized the juvenile court's determination that termination of mother's parental rights was in child's best interests, where at not quite 17, the teen mother was pregnant again, un-emancipated, unmarried, and had not demonstrated an ability to maintain consistent employment at even a subsistence level, the lack of proper parental care

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

and control was further demonstrated by the teen mother's inability or unwillingness to exercise any scheduled visitations, her inability or unwillingness to take some initiative as to visitation, and her inability or unwillingness to use her visitations to establish a parental relationship with child, by engaging in activities such as teaching the child songs or games, the teen mother failed to maintain a parental bond with the child in any meaningful, supportive way, and the teen mother lacked realistic plans to support herself, her child, and the second child with whom the teen mother was pregnant. O.C.G.A. § 15-11-94(a). Holdings such as this are more useful as a cautionary tale. Note that an order permanently terminating a mother's parental rights to her child may not be justified merely by evidence showing poverty and instability in the mother's living arrangements. Code, §§ 24A-101, 24A-401(h), 24A-3201, 24A-3201(b). *R. C. N. v. State*, 233 S.E.2d 866 (Ga.App. 1977)

The teen mother's counsel should also keep in mind that clear and convincing evidence of a parent's present unfitness is required to terminate the rights of a parent in her natural child; however, a juvenile court may consider the parent's past conduct in deciding whether a child's deprivation is likely to continue. In *re E.J.*, 644 S.E.2d 906 (Ga.App. 2007) (The rule in Georgia is that evidence of past unfitness, standing alone, is insufficient to terminate the rights of the parent in their natural child, and clear and convincing evidence of present unfitness is required.) In *Interest of R.A.*, 486 S.E.2d 363 (Ga.App. 1997) (County Department of Family and Children Services petitioned to terminate natural mother's parental rights in child. The Juvenile Court declined to terminate mother's parental rights. Through guardian ad litem, the minor child appealed. The Court of Appeals affirmed by holding that it was not abuse of discretion to conclude that Department failed to prove by clear and convincing evidence that child was deprived due to parental unfitness or that deprivation was likely to continue.) Finally, where a third party sues the natural, custodial parent to obtain custody of a child and to terminate the parent's custodial rights in the child, the parent is entitled to custody unless the third party shows by clear and convincing evidence that the parent is unfit or otherwise not entitled to custody; past unfitness, standing alone, is insufficient. In *re A.J.M.* 169 Ga.App. 477 (Ga.App. 1984).

The statutory grounds for the termination of parental rights are independent, and if any one or more of the grounds for termination are found, termination can be granted as a result. I.C. § 16-2005. *Matter of Aragon*, 818 P.2d 310 (Idaho 1991); *Roe v. Doe*, 125 P.3d 530 (Idaho 2005). Even where the court acknowledges in its dicta that severance should be avoided "unless it is the only alternative found consistent with the best interests of the children and parents" - its final ruling may still ultimately be in favor of termination: See *State ex rel. Child v. Clouse*, 477 P.2d 834 (Idaho 1970). It is when a judge finds a statutory ground, such as neglect that he or she must decide whether termination is in the best interests of the children. I.C. § 16-2005(b). *Doe v. Department of Health and Welfare, Human Services Div.*, 2005 WL 1021613 Idaho, 2005 . In light of Georgia common law, the teen mom may choose to make, where possible, appellate arguments similar to the ones urged in *In re Doe*, 130 P.3d 1132 (Idaho 2006) where the evidence was insufficient to find that termination of the mother's parental rights was in

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NOTE: The information contained in this website is for general information purposes only, and should not be interpreted as legal advice. Each person's legal situation is unique and has its own set of facts and circumstances. You should always talk with a lawyer to get advice about your specific situation. This website provides you with contact information for various organizations and resources. The National Crittenton Foundation has no control over the nature, content and availability of resources or information offered by those organizations. The inclusion of contact information does not necessarily imply a recommendation or endorsement of the views expressed by those organizations.

the best interests of the child, where the Department of Health and Welfare's only witness, a licensed social worker's testimony that it was not in the best interests of the mother or child to terminate the relationship was neither impeached nor inherently improbable, and the evidence indicated that the termination action itself was a motivating factor in the mother's decision to straighten out her life, the mother and child had a strong emotional bond and interactions that were positive and healthy, the mother could adequately care for the child, and the mother had made efforts that went above and beyond her welfare case plan in order to provide appropriate parenting. I.C. § 16-2005(e) (2004).

RESOURCES

CHILD WELFARE AGENCY: **Department of Human Resources**

Division of Family & Children Services (DFCS) Constituent Services 2 Peachtree Street, NW Suite 18-486 Atlanta, GA 30303

Phone: (404) 657-5202

<http://www.dhr.state.ga.us/portal/site>

Legal Services

Georgia Legal Services Program

104 Marietta Street, Suite 250 Atlanta, GA 30309

Phone: (800) 498-9469

www.glsp.org

Atlanta Legal Aid Society Inc.

151 Spring Street N.W. Atlanta, GA 30303

Phone: (404) 524-5811

www.atlantalegalaid.org

Cobb Justice Foundation C/o Legal Aid Of Cobb County

30 S. Park Square Marietta, GA 30090

Phone: (770) 528-2565

Fax: (770) 528-2574

Intake Phone: (770) 528-2565

Web Site: <http://www.cobbjustice.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

Transitional or Independent Living Programs

G-CAPP

The State of Georgia joins five other states in the nation to create a network of residential programs for teen mothers under the age of eighteen. G-CAPP was selected by our state to administer this \$2.4 million initiative. Second Chance Homes are designed to provide teen mothers with supervision and nurturing support to stay in school, become self-sufficient, and avoid repeat teen pregnancies.

Main Office

100 Auburn Avenue Suite 200 Atlanta, GA 30303
Phone: (404) 524-2277
Fax: (404) 523-7753

G-CAPP / Southeast Atlanta

542 Moreland Drive 2nd Floor Atlanta, GA 30316
Phone: (404) 324-4570
Fax: (404) 324-4580

G-CAPP / Gainesville - El Puente

526 Pearl Nix Parkway Suite 204 Gainesville, GA 30501
Phone: (770) 297-7755
Fax: (770) 297-9050

The Doula House

Phone: (404) 477-0260

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

The Division of Family and Children Services (DFCS) is the part of DHR that, among other things, helps low income, out-of-work parents get back on their feet; assists with childcare costs for low income parents who are working or in job training; and provides numerous support services and innovative programs to help troubled families. Their Teen-Parent Improvement Program is an effort to improve teen parents' lives by giving them a chance to go back to school. For more information on TPIP contact:

Georgia Department of Human Resources

Division of Family & Children Services

Constituent Services

2 Peachtree Street, NW Suite 18-486 Atlanta, Georgia 30303

Phone: (404) 651-9361

Aldersgate Homes

4105 Briarcliff Rd Atlanta, GA 30345

Phone: (404) 321-3854

Connectional Unit: North Georgia Conference.

Murphy-Harpst Children's Centers

740 Fletcher St. Cedartown, GA 30125-3249

Mailing Address: PO Box 247 Cedartown, GA 30125-0247

Phone: (770) 748-1500

Fax: (770) 749-1094

Email: contact@murphyharpst.org

Residential Treatment; Foster Care; Independent Living.

Connectional Unit: GBGM Community & Institutional Ministries Unit.

The UM Children's Home

500 S. Columbia Dr. Decatur, GA 30030-4197

Phone: (404) 327-5820

Fax: (404) 327-5822

Email: kgoins@umchildrenshome.org

Residential Care; Foster Care; Counseling; Own Home Services.

Connectional Unit: North Georgia Conference.

The Methodist Home for Children & Youth

PO Box 2525

304 Pierce Ave. Macon, GA 31203-2525

Phone: (478) 751-2800

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Fax: (478) 738-0201

Residential Care, Residential Treatment, Assessment, Therapeutic Foster Care, Counseling, Crisis Pregnancy, Adoption, Independent Living, Higher Education.

Connectional Unit: South Georgia Conference.

Open Door Community House

2405 Second Ave. PO Box 1096 Columbus, GA 31902-1096

Phone: (706) 323-5518

Fax: (706) 327-7753

Open Door is a National Mission Institution of the General Board of Global Ministries

Connectional Unit: South Georgia Conference

Wesley Glen Ministries

4580 North Mumford Road Macon, GA 31210

Phone: (478) 471-3711

Fax: (478) 471-0655

Wesley Glen Ministries is a private, CARF accredited; non-profit agency and ministry established to serve mentally disabled adult persons through community housing programs and increasing the public's awareness to the strengths and barriers related to people with mental disabilities. Wesley Glen's central program office is in Macon, GA with satellite programs in St. Mary's, Jessup, and Lyons.

Connectional Unit: South Georgia Conference.

Southeastern Network of Youth and Family Services

A private, non-profit membership organization of youth service agencies in the states of Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee.

Phone: (239) 949-4414

www.senetwork.org

Mother-baby Residential Facilities

Tapestry House (Sponsored by Young Life)

Atlanta, GA

Young Mother and Child

14-17 year old range- Mother with 1st child (prefer babies under 2)

Phone: (404) 767-5580

Substance Abuse Health & Treatment Resources

The Alcove

A local emergency shelter in Monroe, GA. coordinates a Girl Power group. The group meets in order to combat high rates of teenage pregnancy in the community, once a week to help girls develop the skills and competencies needed to resist alcohol, tobacco, and illicit drugs and the risky behaviors associated with them.

Office of Georgia Addictive Diseases Services

Left untreated, addiction is often associated with teen pregnancy. Services vary by region and may include:

Residential Programs – intensive treatment and structure to help people live a drug-free life style, for adults or adolescents with severe addictive disease. Special “ready for work” programs – treatment for women on welfare who are unable to find jobs due to alcohol or other drug problems. Includes intensive outpatient treatment, continuing care and residential treatment with a therapeutic childcare component.

Crisis services – telephone or face-to-face intervention with the consumer and family to address immediate crisis and link to services. Available around the clock and in any setting. Detoxification – helps adults and teens at risk of complications withdraw safely from the physical affects of alcohol and drug use.

DUI Schools – risk reduction programs for people who have been arrested for driving or boating while under the influence, or for possession of illegal drugs.

Outpatient Services – evaluation, diagnosis, comprehensive assessment of needs, counseling, consumer and family education

To locate a regional office near you go to <http://dfcs.dhr.georgia.gov/portal/site/DHR-DFCS/menuitem.5d32235bb09bde9a50c8798dd03036a0/?vgnnextoid=dd3b2b48d9a4ff00VgnVCM100000bf01010aRCRD>

Childcare Assistance

Georgia Baptist Children’s Homes and Family Ministries, Inc.

A caring ministry of services designed to promote the spiritual, physical, and emotional well-being of children, youth and families.

Child Care Assistance

The State of Georgia's Childcare and Parent Services (CAPS) program helps Georgia families pay for early childhood and school age care programs.



Southeastern Network of Youth and Family Services

A private, non-profit membership organization of youth service agencies in the states of Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee.

Hephzibah Children's Home

6601 Zebulon Road Macon, Georgia 31220-7606
Phone: (478)-477-3383
Fax: (478)-474-6370

TANF (Temporary Aid to Needy Families) Funds

TANF Director
Division of Family & Children Services
Georgia Department of Human Resources
2 Peachtree Street, NW Suite 19490 Atlanta, GA 30303

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 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.⁷

Adolescent Health and Youth Development Program - Georgia is spending TANF funds on the Adolescent Health and Youth Development initiative, a comprehensive pregnancy prevention program. Grants are provided to counties for various types of programs, including male involvement programs. By fiscal year 2000, services had been provided to 8,664 adolescents in 13 male involvement programs across the state.

Document Link: http://www.clasp.org/publications/faq_tanf_repro_health.pdf.

Provides 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

⁷ <http://www.libraryindex.com/pages/914>

[/Comparing-New-TANF-with-Old-AFDC-TEEN-MOTHERS-WELFARE.html](http://www.libraryindex.com/pages/914/Comparing-New-TANF-with-Old-AFDC-TEEN-MOTHERS-WELFARE.html)



parents. (Levin-Epstein, J. (1999) Frequently Asked Questions: Tapping TANF for Reproductive Health or Teen Parent Initiatives. Center for Law and Social Policy).

TANF/AFS (Adult and Family Services) or other

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 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.⁸

For more detailed eligibility rules go directly to: <http://www.spdp.org/compstates/garepro.pdf>

⁸⁸<http://www.spdp.org/reprexpl.htm#mla>