

MICHIGAN

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HOW THE STATE CAN REMOVE CUSTODY

Statute: §712A.19b (1), (3), (6)¹

Grounds: Abandonment or extreme parental disinterest, abuse/neglect, 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, felony assault of child or sibling, murder/manslaughter of sibling child, failure to comply with guardianship plan or court-ordered plan, risk of harm if returned home, voluntary relinquishment, identity of parent(s) unknown.

WHAT THE LAW SAYS ABOUT SEPARATING A MOTHER FROM HER BABY

Michigan's administrative code explicitly sets out that a minor parent in foster care and her child must live together under the supervision of an appropriate adult (not the child's other parent).² The adult acts as parent to the minor parent while she cares for her child. The minor parent executes a voluntary placement agreement with respect to her child that does not have the usual six-month limit. 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 emancipation³ 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 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 child care, the infant is returned to her pursuant to the terms of the temporary foster care contract she signed. The teen mom should obtain legal counsel to assist and advise as to the temporary foster care alternative.

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

² <http://www.sog.unc.edu/programs/app/pdf/appbook2.pdf>

³ <http://www.jrplaw.org/Documents/Teens%20Aging%20Out%20of%20Foster%20Care%20in%20Oregon.pdf>

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.⁴ 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.⁵ 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 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.⁶ 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

In *Fritts v. Krugh*, 354 Mich. 97, 113, 92 N.W.2d 604 (1958), the Court fashioned guidelines for determination of whether a permanent custody order should issue. A permanent custody order "must be based upon testimony of such a nature as to establish or seriously threaten neglect of the child for the

⁴ "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)

⁵ 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.

⁶ 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

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long-run future” 354 Mich. 114, 92 N.W.2d 604. The advantages of a foster home should not be weighed against the home of the natural, legal parents. Id., 115, 92 N.W.2d 604. The rights of the natural parents should not be terminated because of a short marital dispute or because of a temporary period of desertion by one of the parents. Id., 116, 92 N.W.2d 604. “There must be real evidence of long-time neglect, or serious threats to the future welfare of the child to overthrow permanently the natural and legal right of parents.” 354 Mich. 116, 92 N.W.2d 604. The adoption order was vacated in *In re JK*, 661 N.W.2d 216 (Mich. 2003) since the evidence was insufficient to establish that mother failed to provide proper care for child and that there was no reasonable expectation that mother would be able to do so within a reasonable time, and thus termination of parental rights order was clearly erroneous; mother had obtained appropriate housing and employment, she was able to care for herself, she had completed an independent living program, she had been drug-free for over a year, and she had complied with all of the requirements of her caseplan. M.C.L.A. § 712A.19b(3)(g).

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

RESOURCES

Dept of Human Services

P.O. Box 30037, 235 S. Grand Ave. Lansing, MI 48909
517-373-2035

<http://www.michigan.gov/dhs>

Michigan Legal Aid

Legal Aid & Defender Association, Inc. & Wayne State University School of Law
5435 Woodward Ave. Detroit, MI 48202
313-964-4700

<http://www.michiganlegalaid.org/>

Community Legal Resources

220 Bagley Ave 900 Detroit, MI 48226
General Phone: 313-964-4130
Fax: 313-964-1192

Intake Phone: 313-964-4130

Counties Served: Statewide

Web Site: <http://www.clronline.org>

Organization Email: clr@michiganlegal.org

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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

Transitional or Independent Living Programs

In Michigan, check out Montcalm County Pregnancy Counseling (self referrals welcome) (616) 456-1443 They offer straight-forward answers to questions in a confidential, caring atmosphere, assistance in obtaining medical services and finding a supportive place to live during pregnancy, support groups, assistance in beginning to fulfill the responsibilities of being a parent, temporary foster care for her infant if the teen mom needs more time to decide what to do, and release services if she ultimately decides adoption is best for her and her infant.

Community Housing Network

570 Kirts Blvd, Suite 231 Troy, MI 48084
Phone: (248) 928-0111 in Oakland County
Phone: (866) 282-3119 (toll free)
Fax 248-928-0122

Michigan Department of Social Services

235 S. Grand, Suite 510
Lansing, MI 48909
Phone: (517) 335-3983
Fax: (517) 241-704

Doula Teen Parent Program

447 Munson Avenue, Traverse City, MI 49686
Phone: (231) 947-0067

Hartford Public Schools - Teen Parent Program

Hartford, MI 49057
Phone: (269) 621-4433

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Father Pat Jackson House Program

1014 South Main Street Ann Arbor, MI 48104

Phone: (313) 761-1440

Father Pat's is a transitional home that houses five teenage mothers and their babies. Residents can stay for up to two years, but the average stay is four to six months. The house is staffed by a director, social worker, two house mothers, and two overnight staff. Volunteers are generally U of Michigan students who provide transportation and mentoring. Due to Father Pat's affiliation with St. Mary's Parish, funding comes mostly from grants in the Catholic community and from private grants.

Child & Family Services, Capital Area

Offers adoption, foster care, and family services to mid-Michigan families.

Ennis Center for Children

Nonprofit, multi-service agency providing community based, in home, foster care, adoption and group home services to children and families through Southeast Michigan.

Mother-baby Residential Facilities

Honey Creek Teen Parenting Support Services

2505 Ardmore SE Grand Rapids, MI 49506

Phone: (616) 942-7294

New Life Pregnancy Resource Center

P.O. Box 790 Gaylord, MI 49735

Phone: (517) 732-1626

Substance Abuse Health & Treatment Resources

Family Service Children's Aid

330 W. Michigan Ave. Jackson, Michigan 49201

Phone: (517) 787-7920

142 East Maumee, Suite #2Adrian, Michigan 49221

Phone: (517) 263-2625

On the web : <http://www.strong-families.org/Program%20Brochure%203-08.pdf>

Catholic Charities Substance Abuse counseling

Big Rapids (231) 796-1583
Grand Rapids (616) 356-6289
Hart (231) 873-0250
Holland (616) 796-9595
Ionia (616) 522-0836
Ludington (231) 843-4899
Muskegon (231) 726-4735
Stanton (231) 796-1583

Childcare Assistance

CACS Head Start & Preschool Programs

Phone: (800) 585-9997

Michigan State University's Spartan Child Development Center

Phone: (517) 353-5154

Family Resource Center

1407 S. Harrison, Suite 225 E. Lansing, MI 48823

Phone: (517) 432-3745

<http://www.frc.msu.edu>

United Way for Southeastern Michigan's Success by 6®

Manager, Success by 6® for Oakland County

United Way for Southeastern Michigan

Resource Investment & Community Partnership

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.

Michigan's TANF is known as the *FIP (Family Independence Program)*

Bureau of Family Independence Services

Michigan Department of Human Services

235 South Grand Avenue PO Box 30037 Lansing, MI 48909

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The National
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Foundation

EMPOWERING GIRLS, YOUNG WOMEN
AND THEIR FAMILIES SINCE 1883

Rights and Resources

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Department of Human Services (Mt. Clemens District) serving Chesterfield Twp., Clinton Twp., Harrison Twp., Mt. Clemens, St. Clair Shores, Selfridge ANG* Base. (586) 469-7700

Department of Human Services (Sterling Heights District) serving Armada, Memphis, New Baltimore, New Haven, Richmond, the Macomb County section of Rochester, Romeo, Roseville, Utica, Washington. (586) 254-1500

Department of Human Services (Warren District)

Center Line, Eastpointe, Fraser, Roseville and Warren. (586) 573-2300

State MICHild* help line (888) 988-6300

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