

## MINNESOTA

### 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: §§260.012; 260C.301<sup>1</sup>

Grounds: Abandonment or extreme parental disinterest, abuse/neglect, alcohol or drug induced incapacity, felony conviction/incarceration, failure of reasonable efforts, abuse/neglect or loss of rights of another child, failure to maintain contact, failure to provide support, failure to establish paternity, 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, egregious harm, voluntary relinquishment.

Exceptions: State may elect not to file petition if: 1) transfer of permanent legal and physical custody to a relative is in best interest of child; 2) local social service agency documents a compelling reason why TPR is not in best interest 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 that she has the right to bring legal proceedings on her newborn's behalf.

Minnesota Statutes § 518C.302 (Action by minor parent) thus sets forth that a minor parent, or a guardian or other legal representative of a minor parent, may maintain a proceeding on behalf of or for the benefit of the minor's child. Attorneys and judges can help ensure that teen parents are not forced to sign a voluntary placement agreement. The agreement can have dire consequences for a youth in care who wishes to keep his baby after emancipation <sup>2</sup> 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

<sup>1</sup> National Center for State Courts' Knowledge and Information Services.

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





child's family in order to prevent removal of the child from the child's family; or upon removal, services to eliminate the need for removal and reunite the family. The court in *K.S.K.* found this statute to be ambiguous as to whether, when a child has been removed from the parental home, the court may consider all services provided to the parent in determining whether the responsible social services agency has made "reasonable efforts," or if the court may only consider those services offered or provided after removal. The court did not ultimately resolve this issue since, as Anoka County noted, it offered or provided the mother extensive services before the removal of the teen's child, K.S.K., from the home. After doing so, it placed the mother in a long-term residential program designed to address her reluctance to be a full-time parent. The mother refused to return to that program after only two months, even though it was explained to her that her doctor said she could return and that her daughter would be placed in foster care if she did not. So the county then arranged a program of supervised visitation, but the mother missed more than half the visits and did not interact well with her daughter when she did attend. Under the circumstances, the county was not obligated to make additional efforts beyond this and removal was initiated. Also taken into account was that since the county removed K.S.K. from mother's home more than 16 months prior to the instant adjudication, at the time of the court's opinion, the teen's infant was approximately 40 months old and had spent about 40% of her life in foster care or the Juvenile Horizons program. The court thus notes that "Long-term foster care "is a highly disfavored disposition for a child under age 12."" Citing *In re Welfare of J.M.*, 574 N.W.2d 717, 722 (Minn. 1998). Note that the teen mother in *K.S.K.* repeatedly showed unwillingness or inability to commit to being a full-time parent, in addition nothing in the record was able to cast any doubt on the district court's conclusion that this situation "will continue for a prolonged, indeterminate period." Based on such circumstances the court could not reverse the trial court's conclusion that termination of the teen mother's parental rights was in her child's best interests.

M.S.A. § 257.025 (Custody Disputes):

In any proceeding where two or more parties seek custody of a child the court shall consider and evaluate all relevant factors in determining the best interests of the child, including the following factors:

- the wishes of the party or parties as to custody;
- the reasonable preference of the child, if the court deems the child to be of sufficient age to express preference;
- the child's primary caretaker;
- the intimacy of the relationship between each party and the child;
- the interaction and interrelationship of the child with a party or parties, siblings, and any other person who may significantly affect the child's best interests;
- the child's adjustment to home, school, and community;
- the length of time the child has lived in a stable, satisfactory environment and the desirability of maintaining continuity;

the permanence, as a family unit, of the existing or proposed custodial home;  
the mental and physical health of all individuals involved; except that a disability, as defined in section 363A.03, of a proposed custodian or the child shall not be determinative of the custody of the child, unless the proposed custodial arrangement is not in the best interest of the child;  
(10) the capacity and disposition of the parties to give the child love, affection, and guidance, and to continue educating and raising the child in the child's culture, religion, or creed, if any;  
the child's cultural background; and  
the effect on the child of the actions of an abuser, if related to domestic abuse as defined in section 518B.01, that has occurred between the parents or the parties.

The court may not use one factor to the exclusion of all others. The court must make detailed findings on each of the factors and explain how the factors led to its conclusions and to the determination of the best interests of the child.

The fact that the parents of the child are not or were never married to each other shall not be determinative of the custody of the child.

The court shall not consider conduct of a proposed custodian that does not affect the custodian's relationship to the child.

The court shall consider evidence of a violation of section 609.507 in determining the best interests of the child.

A person may seek custody of a child by filing a petition or motion pursuant to section 518.156.

Section 518.619 applies to this section.

## RESOURCES

### **Dept of Human Services**

204 First St. NW Aitkin, MN 56431

800-627-3529

[http://www.dhs.state.mn.us/main/idcplg?IdcService=GET\\_DYNAMIC\\_CONVERSION&RevisionSelectionMethod=LatestReleased&dDocName=Children](http://www.dhs.state.mn.us/main/idcplg?IdcService=GET_DYNAMIC_CONVERSION&RevisionSelectionMethod=LatestReleased&dDocName=Children)

### **Legal Services**

#### **Legal Aid Service of Northeastern Minnesota**

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302 Ordean Building 424 West Superior Street Duluth, MN 55802  
(800) 622-7266  
[www.lasnem.org](http://www.lasnem.org)

**Central Minnesota Legal Services Inc.**

430 First Ave. North Suite 359  
Minneapolis, MN 55401-1780  
(612) 334-5970  
[www.centralmnlegal.org](http://www.centralmnlegal.org)

**Legal Services of Northwest Minnesota Corporation**

1015 7th Ave. N., P.O. Box 838 Moorhead, MN 56561-0838  
(800) 450-8585  
[www.lsnmlaw.org](http://www.lsnmlaw.org)

**Southern Minnesota Regional Legal Services**

166 E. Fourth Street, Suite 200 St. Paul, MN 55101-1448  
(651) 228-9823  
[www.smrls.org](http://www.smrls.org)

**Anishinabe Legal Services Inc.**

411 First Street N.W., P.O. Box 157 Cass Lake, MN 56633-0157  
(800) 422-1335

**Legal Assistance of Olmsted County Volunteer Attorney Program**

1812 2nd St SW Rochester MN 55902-4127  
General Phone: 507-287-2036  
Fax: 507-287-2035  
Intake Phone: 507-287-2036  
Web Site: <http://legalassistanceofolmstedcounty.org>  
Organization Email: [laoc@sparc.isl.net](mailto:laoc@sparc.isl.net)

**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

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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.<sup>7</sup> (Some Minnesota teen moms can also utilize Anishnabe Legal Services - 335-2223 H.O.M.E. Line - Tenant Hotline - 866-866-3546 (Answers and advice about evictions, repairs, damage deposits, tenant privacy rights, and more) Northwest Minnesota Legal Services - 751-9201)

### **Transitional or Independent Living Programs**

#### **Anoka-Hennepin Independent School District No 11 - Teen Parent Program**

2727 North Ferry Street, Anoka, MN 55303

Phone: (763) 506-1571

#### **Independent School District 77 - Central High School Teen Parent Program**

110 Fulton Street, Mankato, MN 56001

Phone: (507) 387-3047

#### **PATHinc.org**

Headquarters: 9766 Fallon Ave., Suite 104, Monticello, MN 55362

Phone 763-271-1670 - Fax 763-271-1677

#### **Alexandria**

Phone 320 / 732-6186

#### **Bemidji**

505 Bemidji Avenue North #2, Bemidji, MN 56601

Phone 218 / 333-8000 - Fax 218 / 751-0253

#### **Brainerd / Clinical Office**

17025 Commercial Park Road # 6, Brainerd, MN 56401

Phone 218 / 828-3900 - Fax 218 / 828-3935

#### **Central / St. Cloud**

600 25th Ave S # 104, St. Cloud, MN 56301

Phone 320 / 529-0862 - Fax 320 / 654-8875

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<sup>7</sup> <http://www.abanet.org/abanet/child/statesum/allstate.cfm?y=2005>

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### **Duluth**

306 W Superior St # 500, Duluth, MN 55802  
Phone 218 / 722-6106 - Fax 218 / 722-8356

### **Marshall**

212 W Main, Marshall, MN 56258  
Phone 507 / 532-4635 - Fax 507 / 532-2757

### **Metro**

2021 East Hennepin Avenue, Suite 100, Minneapolis, MN 55413-1769  
Phone 612 / 259-1700 - Fax 612 / 259-1789

### **Moorhead**

715 11th Street North #306 Moorhead, MN 56560  
Phone 218 / 291-5858 - Fax 218 / 284-2167

### **Rochester**

124 Elton Hills Lane NW, Suite 200, Rochester, MN 55901  
Phone 507 / 280-0304 - Fax 507 / 280-8882

### **West Central / Fergus Falls**

220 W Washington Ave # B2, Fergus Falls, MN 56537  
Phone 218 / 739-3074 - Fax 218 / 739-2063

### **Windom**

Phone 507 / 830-1296

## **Mother-baby Residential Facilities**

### **New Beginnings**

40 N. 25th Ave St. Cloud, MN 56303  
Phone: (800) 328-4827 Ext 831  
Phone: (320) 255-1252

### **Alpha Maternity Home**

Savage, MN 55378  
Phone: (952) 440-1400

### **Substance Abuse Health & Treatment Resources**

#### **Three Rivers Community Action, Inc.**

Through its programs, Three Rivers is serving people and communities throughout twenty counties in southeastern MN. Incorporated in 1966, TRCA is a non-profit human service organization with a mission "to work with community partners to address basic human needs thereby improving the quality of life of the individual, family and community."

#### **Wayside Treatment Center**

3705 Park Center Boulevard St. Louis Park, MN 55416  
Phone: 952-926-5626  
Fax: 952-926-9713  
email: [info@waysidehouse.org](mailto:info@waysidehouse.org)  
[www.waysidehouse.org](http://www.waysidehouse.org)

**Evergreen House** - 751-8223

**Hope House** - 444-6748

**Timber Bay House** - 751-9783

**Upper Mississippi Mental Health Center** - 751-3280

### **Childcare Assistance**

FAAP (District 6)  
Lakeview Clinic  
424 State Hwy 5 West Waconia, MN 55387  
Phone: 952-467-2888

The liaison between the National American Academy of Pediatrics and all State Early Education and Child Care activities. For more information contact [childcare@aap.org](mailto:childcare@aap.org) or:

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### Child Care Resources and Referrals

MAHUBE Child Care Resource & Referral - 218-732-7204 Toll-free: 800-450-1385

### Child Care and Development Fund (CCDF)

The primary Federal program specifically devoted to child care 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 child care quality and availability. [http://www.acf.hhs.gov/programs/ccb/ccdf/ccdf06\\_07desc.doc](http://www.acf.hhs.gov/programs/ccb/ccdf/ccdf06_07desc.doc)

### TANF (Temporary Aid to Needy Families) Funds

Minnesota's TANF is known as MFIP (Minnesota Family Investment Program)

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.

Transition to Economic Stability Division  
Minnesota Department of Human Services  
444 Lafayette Road  
St. Paul, MN 55155-3834  
Phone: (651) 297-7515  
FAX: (651) 297-5040

### 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.<sup>8</sup>

See also M.S.A. § 256J.14 (Eligibility for parenting or pregnant minors)  
And M.S.A. § 256J.396 (Support from parents of minor caregivers living apart)

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<sup>8</sup> <http://www.spdp.org/reprexpl.htm#mla>