

OHIO

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HOW THE STATE CAN REMOVE CUSTODY

Statute: §§2151.414 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, 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, any other factor the court considers relevant.

Exceptions: State may elect not to file petition if: 1) agency documents in case plan or permanency plan a compelling reason that permanent custody is not in the best interest of the child; 2) agency has not provided the services required by the case plan to the parents of child or the child to ensure the safe return of the child to the child's home (if services required); 3) agency has been granted permanent custody of the child; 4) child has been returned home pursuant to court order.

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.

Ohio Revised Code § 3115.13 (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 young mom in care

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

who wishes to keep her baby after emancipation ² 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 just 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 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 arguably 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 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.⁵ Finally, in negotiating with state or local bureaucrats, advocates should point out that as long as the parenting ward

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.

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

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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 foster teen's attorney might argue in favor of vacating the termination order issued by the court. *In re Sean B.* 170 Ohio App.3d 557 (Ohio App. 6 Dist. 2007) the County children services board sought termination of a mother's parental rights. The court terminated the mother's parental rights to two of her four children and granted legal custody of her remaining children to a children services agency for placement in permanent planned living arrangement. The Mother appealed and the Court of Appeals concluded that the evidence did not support the trial court's finding of the mother's unwillingness to provide an adequate and permanent home for children; also the evidence did not support the trial court's finding of the mother's failure to substantially remedy the conditions that caused the children to be removed. In *In re Nicholas P.* 169 Ohio App.3d 570 (Ohio App. 6 Dist. 2006) the evidence did not support a finding that the parents had failed to remedy the conditions that had led to the child's removal from their physical custody, and the trial court was deemed to have erred in determining that the agency was not required to provide any services to parents or show reasonable efforts at reunification. In *In re G.N.* 170 Ohio App.3d 76 (Ohio App. 12 Dist. 2007) a decision granting the agency pre-dispositional temporary custody of the children was not against the manifest weight of the evidence, however the evidence was insufficient to support finding that best interests of children required grant of permanent custody to agency. Before a natural parent's constitutionally protected liberty interest in the care and custody of her child may be terminated, the state is required to prove by clear and convincing evidence that the statutory standards for permanent custody have been met.

In re Rashaun B., 2004 -Ohio- 7349 (Ohio.App.6.Dist.Lucas.Co.,2004) The evidence did not support a grant of permanent custody of the children to the county child protection agency; although the mother had limited financial means and had a boyfriend with a criminal record, the mother completed required anger management classes, expert testimony indicated that her low intelligence would not prohibit her from adequate parenting, she had nearly saved enough money to get independent housing, the evidence indicated that the children responded well to the mother's boyfriend, the mother's displays of anger towards agency personnel were not unjustifiable, and there was no evidence that mother's completion of case plan failed to remedy the condition that caused the children to be removed from the home. R.C. § 2151.414. In *re C.W.*, 2004 -Ohio- 1987 (Ohio.App.9.Dist.Summit.Co.,2004) the record failed to support a finding that the minor child was in temporary custody of Children Services Board (CSB) for more than 12 months prior to CSB's filing of motion for permanent custody, and thus, the trial court erred in relying on this procedural ground in granting permanent custody of child to CSB. R.C. § 2151.414(B)(1)(d).

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RESOURCES

Department of Job & Family Services

30 E. Broad Street, 32nd Floor Columbus, Ohio 43215

Phone: (877) 852-0010 or (614) 466-2100

<http://jfs.ohio.gov/index.stm>

Legal Services

Community Legal Aid Services, Inc.

3rd Floor, The Rose Building 265 South Main Street Akron, OH 44308

Phone: (866) 584-2350

www.communitylegalaid.org

Legal Aid Society of Greater Cincinnati

215 East Ninth Street Suite 200 Cincinnati, OH 45202

Phone: (800) 582-2682

www.lascinti.org

The Legal Aid Society of Cleveland

1223 West Sixth St. 4th Floor Cleveland, OH 44113-1301

Phone: (216) 687-1900

www.lasclev.org

The Legal Aid Society of Columbus

40 West Gay Street Columbus, OH 43215-2896

Phone: (614) 224-8374

www.columbuslegalaid.org

Ohio State Legal Services Association

555 Buttles Avenue Columbus, OH 43215-1137

Phone: (800) 589-5888

www.oslsa.org

Legal Aid of Western Ohio

520 Madison Avenue Suite 640 Toledo, OH 43604-1371

Phone: (877) 894-4599

www.lawolaw.org

Western Reserve Legal Services

257 S Court St Medina, OH 44256-2295

General Phone: 330-723-5380

Fax: 330-535-0728

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

Ohio Department of Job and Family Services

Bureau of Family Services

255 E. Main Street, 3rd Floor Columbus, OH 43215

Phone: (614) 752-6269

Fax: (614) 466-0164

Ohio Prevention and Education Resource Center

224 Edwards 1 Bldg P.O. Box 210109 Cincinnati, OH 45221

Phone: (513) 556-0440

Family Connection Independent Living Program

P.O. Box 127 Stoutsville, OH 43154

Phone: (740) 477-5853

Email: fam@bright.net

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



Mother-baby Residential Facilities

Heritage Haven

P.O. Box 278 Pickerington, OH 43147
Phone: (614) 837-8917

New Maternity Home

3653 Warren-Sharon Rd Vienna, OH 44473
Phone: (216) 856-3616

Substance Abuse Health & Treatment Resources

The Ohio Parent Information Center (OPIRC)

A collaborative project between Lighthouse Youth Services, Inc. and The Children's Home of Cincinnati, both long-established organizations that offer a continuum of care to troubled youth. Based in Cincinnati, the OPIRC is connecting organizations across the state to cooperate to increase parents' knowledge of and confidence in child-rearing activities such as teaching and nurturing their young children. The Center is also conducting a local demonstration project offering educationally focused activities where new strategies can be field tested for eventual statewide application.

Ohio Parent Information & Resource Center Lighthouse Youth Services, Inc.

4837 Ward Street Cincinnati, OH 45227
Phone: (513) 272-0273
Fax: (513) 272-0284

Ohio Department of Alcoholism and Drug Addiction Services

280 North High Street Columbus, OH 43215
Phone: (614) 466-7893
Fax: (614) 752-8645

<http://www.state.oh.us/ada/main.html>

The mission of the Ohio Department of Alcohol and Drug Addiction Services is to "...promote, assist in developing, and coordinate or conduct programs of education and research for the prevention of alcohol and drug addiction and for the treatment, including intervention, of alcoholics and persons who abuse drugs of abuse.

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Center for the Application of Prevention Technologies

Central Region

Minnesota Institute of Public Health

2720 Highway 10 Mounds View, MN 55112

Phone: (800) 782-1878

www.ccapt.org

Community Health Center of Akron, Ohio

725 E. Market Street Akron, OH 44305

Phone: (330) 434-4141

<http://www.commdrugbrd.org>

Provides local services for compulsive and addictive disorders, health care, life skills development, prevention, wellness and rehabilitation.

Girl Scouts Seal of Ohio Council

1700 Watermark Drive Columbus, OH 43215

Phone: (614) 487-8101

<http://www.sealofohio.org>

The Ohio Prevention and Education Resource Center

224 Edwards One Bldg., PO Box 210105 Cincinnati, OH 45221-0105

Phone: (513) 556-0440

Childcare Assistance

To speak with the liaison between the National American Academy of Pediatrics and all State Early Education and Child Care activities contact childcare@aap.org or:

FAAP (Co-CCCC)

222 N Fifth St Martins Ferry, OH 43935-1582

Phone: 740-633-6480

Fax: 740-633-6475

FAAP (Co-CCCC) (District 5)

Dept of Pediatrics

2500 Metro Health Dr. Cleveland, OH 44109

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Phone: 216/778-3760

Fax: 216/778-4223

Spanish American Committee for a Better Community Cleveland, OH Midwest

The Spanish American Committee was founded in 1966 and is the oldest Hispanic nonprofit organization in the state of Ohio. Their mission is to serve as the gateway for socioeconomic success for the entire Hispanic community and is accomplished by offering programs related to employment, training, housing, childcare, and supportive services; making referrals to qualified partner agencies; developing an information bank on Hispanic community needs and the resources available to meet those needs; brokering services where gaps exist; and advocating for resources and recognition for the Hispanic community. The Spanish American Committee has provided essential programs and services to Cleveland's growing Hispanic community, and one of their achievements includes establishing the first bilingual day care in the state of Ohio and remaining the only one in Cuyahoga County.

TANF (Temporary Aid to Needy Families) Funds

Ohio's TANF is known as OWF (Ohio Works First)

Deputy Director
Office of Family Stability
Ohio Department of Job & Family Services
145 S. Font Street
Columbus, OH 43215
Phone: (614) 466-4815
FAX: (614) 752-7193

According to the internet publication <http://www.spdp.org/compstates/ohrepro.pdf>

Minor parents in Ohio are subject to both the school/training requirement and the living arrangement requirement recently added to TANF. Group homes in the foster care system and foster families are currently among the approvable "Adult-Supervised Settings" under State rules specifying which types of adult supervision are allowed.

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.

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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

See R.C. § 5107.24 (Residency requirements for pregnant minors or minor parents and their children, adult-supervised living arrangement requirement).

See also R.C. § 5111.019 (Amendment to state medicaid plan for certain parents of minor children).

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

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