

UTAH

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HOW THE STATE CAN REMOVE CUSTODY

Statute: §§78-3a-311(2)-(4); 78-3a-402(2); 78-3a-403(2); 78-3a-407; 78-3a-408¹

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, felony assault of child or sibling, murder/manslaughter of sibling child, voluntary relinquishment, a history of violent behavior, location of parent(s) unknown.

Exceptions: State may elect not to file petition if: 1) child is being cared for by a relative; 2) agency has: a) documented in the child's treatment plan a compelling reason for determining that filing a petition for TPR is not in the child's best interest, and b) made that treatment plan available to the court for its review; 3) agency has not provided, within the time period specified in the treatment plan, services that had been determined to be necessary for the safe return of the 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. U.C.A. 1953 § 78-45f-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 attempt to 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 Some foster teen moms may need a chance to "catch their breath"

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

² <http://www.jrplaw.org/Documents>

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).

APPLICABLE STATE LAW

In *State ex rel. R.A.J.* 991 P.2d 1118 (Utah App. 1999) the denial of a petition for termination of parental rights based on the lack of clear and convincing evidence that termination would be in the child's best interests, was not abuse of discretion. The right of a parent not to be deprived of parental rights without a showing of unfitness, abandonment, or substantial neglect is so fundamental and basic as to rank among the rights contained in the State and Federal Constitutions. Const.Art. 1, § 7; U.S.C.A.Const.Amends. 9, 14 *In re J. P.*, 648 P.2d 1364 (Utah 1982). Before a juvenile court terminates the parental rights of either parent, it must conduct a bifurcated analysis, reaching 2 distinct findings: first, the court must find that specific ground for termination exists, finding parent unfit or incompetent based on ground enumerated in applicable statute; second, court must find that termination of parental rights serves best interests of the child. U.C.A.1953, 78-3a-402(2), 78-3a-406(3), 78-3a-407; thus in *State ex rel. C.K.* 996 P.2d 1059 (Utah App. 2000) the juvenile court's decision not to terminate the mother's parental rights was adequately supported by its findings that it would not be in the children's best interest to be raised by parents other than their own, as the state had contended, and that the state had failed to present clear and convincing evidence that the children's best interest would be served by terminating the mother's parental rights. U.C.A.1953, 78-3a-407. Even in cases where a parent may present evidence of rehabilitation to counter clear evidence of prior misconduct, the ultimate burden of proving that termination is warranted remains on the State. U.C.A. § 78-3a-407. The State has the ultimate burden of proving grounds for termination of parental rights by clear and convincing evidence. U.C.A. § 78-3a-407. The trial court's consideration of whether the minor child could "withstand visits" with out-of-custody parents and what was "fair" to the parents did not invalidate the trial court's decision denying the petition to terminate parental rights; the court's findings adequately examined the statutory factors though not referring expressly to the statute governing the standard "best interest" analysis, and the court was permitted to properly consider the potential impact on child of visits with parents. U.C.A.1953, 78-3a-406(3), 78-3a-409. *R.A.J.*, *supra*.

RESOURCES

Department of Human Services

120 North 200 West, Room 319 Salt Lake City, Utah 84103

801-538-4001; 800-662-3722

<http://www.dhs.state.ut.us/>

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.

traditional classroom environment. Their licensed therapists are on site, interacting with youth, groups, family units and staff on a daily basis. This support intensifies and compliments all activities and experiences of the program. The unique atmosphere helps teens and parents build emotionally healthy relationships, thus healing families one youth at a time.

Mother-baby Residential Facilities

Crisis Pregnancy Ctr. of Northern Utah

3480 Washington Blvd. Ogden, UT 84401
Phone: (801) 621-4357

The Pregnancy Resource Center of Salt Lake

805 E. 900 South Salt Lake City, UT 84105
Phone: (801) 363-5433

Substance Abuse Health & Treatment Resources

Copperhill Youth Center

West Jordan, UT
Phone: (801) 561-3377

Cinnamon Hills Youth Crisis Center

Saint George, UT
Phone: (435) 674-0984

Gathering Place UCCODAR

Orem, UT
Phone: (801) 226-2255

Lighthouse Life and Learning Center

Price, UT
Phone: (435) 637-8958

Davis Behavioral Health Inc Bountiful Outpatient

Bountiful, UT
Phone: (801) 298-3446

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Partnerships for Youth Transition

PYT is an initiative of SAMHSA (the Federal Substance Abuse and Mental Health Services Administration) focusing on developing transition service systems for youth with behavioral or emotional difficulties (2002-2006). PYT projects are in ME, PA, MN, UT, and WA. The National Technical Assistance Center for Youth Transition at the University of South Florida coordinates PYT Project activities and evaluation. On this web site, learn more about the PYT initiative and individual projects and access an extensive collection of web links, e-newsletters, and other publications: www.ntacyt.fmhi.usf.edu

Family Front

3300 North Running Creek Way Building E, Suite 100 Lehi, UT 84043
Local phone: 801-768-2533
Toll free: 1-888-70-FRONT (888-703-7668)
Fax: 801-768-1207
E-mail: info@familyfront.com
Website: www.familyfront.com

Childcare Assistance

Teen Mother and Child Program

3690 South Main St. Salt Lake City, UT 84115
Tel 801.468.3278
Fax 801.468.3953
<http://www.ped.med.utah.edu/smc/tmcp.pdf>

FAAP

1790 Sun Peak Dr, # A101 Park City, UT 84098-6624
Phone: 435/655-0926
Fax: 435/649-3748

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 or:

Child Care and Development Fund (CCDF)

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.
http://www.acf.hhs.gov/programs/ccb/ccdf/ccdf06_07desc.doc

TANF (Temporary Aid to Needy Families) Funds

Utah's TANF is known as the FEP (Family Employment Program)

Assistant Director, Service Delivery Support

Utah Department of Workforce Services

140 E. 300 South

Salt Lake City, UT 84111

Phone: (801) 526-4370

FAX: (801) 526-9239

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

As of October of 1999, at least seven states (Arkansas, California, Delaware, North Dakota, Ohio, Utah, and Vermont) were providing some type of monetary bonus as an incentive for teen parents to attend

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

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school, progress to the next grade, and/or graduate. This is to satisfy TANF's new school/training requirement for minor parents. The other requirement is the living arrangement requirement.