

## WYOMING

### Topics:

How the State Can Remove Custody  
What the Law Says About Separating A Mother From Her Baby  
Resources

### HOW THE STATE CAN REMOVE CUSTODY

Statute: §§14-2-309<sup>1</sup>

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's best interest, child in care 15 of 22 months (or less), felony assault of child or sibling, murder/manslaughter of sibling child, identity or location of parent unknown, aggravated circumstances.

### 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. Wyoming Statutes § 20-4-152 (Proceeding 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 <sup>2</sup> 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 only. 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.

<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](#)

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.<sup>3</sup> 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.<sup>4</sup> 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.<sup>5</sup> 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.

Foster teen and counsel should look at multiple factors when attempting to have a termination order vacated or reversed. The requisite strict scrutiny in the application of parental-rights-termination statutes

<sup>3</sup> 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](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))

<sup>4</sup> 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.

<sup>5</sup> 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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**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.

would demand that before the state could terminate parental rights, it must show that less intrusive means of protecting the child, such as counseling the parent, had been attempted or are impractical. W.S.1977, § 14-2-301. See also TR v. Washakie County Dept. of Public Assistance and Social Services 736 P.2d 712 (Wyo. 1987 )(Fact that mother failed to provide maximum intellectual stimulation for her children did not alone satisfy requirement that the state demonstrate that her conduct endangered the children's health and safety, but such a factor could be considered along with other factors, such as the mother's persistent failure to furnish proper medical attention and supervision, which placed the children's health and safety in constant jeopardy, warranting termination.)

Termination proceedings are entirely separate and distinct from neglect proceedings, deriving their respective genesis from separate statutes and requiring different burdens of proof; in particular, a neglect action is not a mandatory prerequisite to termination of parental rights. In re MN, 78 P.3d 232 (Wyo. 2003) In MB v. Laramie County Dept. of Family Services in Interest of LB 933 P.2d 1126 (Wyo. 1997), DFS' failure to follow its own rules pertaining to case plans, placement plans, family reunification, and child protection required reversal of the earlier decision to terminate parental rights. See In Interest of JL, 761 P.2d 985 (Wyo. 1988) where notwithstanding the holding the court admonishes that "judicial caution in severing the family bonds is imperative, untoward delay of demonstrated inevitable is intolerable." In In re FM, 163 P.3d 844 (Wyo. 2007)(Even given mother's incarceration, the state did not persuasively present clear and convincing evidence during the TPR proceeding that Department of Family Services provided reasonable efforts to reunify the mother with her biological son; there were only two case plans in the record, no evidence was introduced as to any services provided by DFS to the mother with regards to finding housing, employment, or completing other tasks set out in the first case plan, and no evidence was presented as to what efforts, if any, DFS took to facilitate communication between mother and son after she returned to the state and was incarcerated. Wyo.Stat.Ann. § 14-2-309(a)(iii).

## RESOURCES

### **Department of Family Services**

2300 Capitol Ave., Hathaway Building, Cheyenne, WY 82002

Phone: (307) 777-7564

<http://dfsweb.state.wy.us/>

### **Wyoming Legal Services**

P.O. Box 1160, 1017 East Main Street, Lander, WY 82520

Phone: (800) 442-6170

[www.wyominglegalservices.org](http://www.wyominglegalservices.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 staff members. Ten Family Courts were supplied curriculum materials and are either implementing the program or are in the planning stages of implementation.<sup>6</sup>

### Transitional or Independent Living Programs

#### Wyoming Division of Social Services

Hathaway Building, 3rd Floor  
Cheyenne, WY 82002-0490  
Phone: (307) 777-6203  
Fax: (307) 777-3693

### Mother-baby Residential Facilities

#### Bethany Christian Services

3001 Henderson Dr., Ste. 1 Cheyenne, WY 82001  
Phone: (307) 635-2032 or (800) BETHANY

### Substance Abuse Health & Treatment Resources

#### Wyoming Chemical Abuse Research and Education

PO Box 3374 University Station Laramie, WY 82071-3374  
Phone: (307) 766-4119  
Contact: wyocare@uwo.edu

#### Personal Frontiers Inc.

Gillette, WY

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

Phone: (307) 686-1189

**Cornerstone**

Evanston, WY

Phone: (307) 789-0715

**Curran Seeley Foundation**

Jackson, WY

Phone: (307) 733-3908

**New Directions**

Casper, WY

Phone: (307) 237-6033

### **Childcare Assistance**

**Faith Initiatives of Wyoming**

Phone: 1-866-WYO-FAMS or 307-514-4450.

[www.wyofams.org](http://www.wyofams.org)

Home Office of Faith Initiatives of Wyoming:

Phone: (307) 514-4450

Email: [info@fiwy.org](mailto:info@fiwy.org)

**Wyoming Community Foundation**

313 S. 2nd Street Laramie, WY 82070

1-866-70-T-R-U-S-T

Phone: (307) 721-8300

Fax: (307) 721-8333

Email: [wcf@wycf.org](mailto:wcf@wycf.org)

**Wyoming Women's Foundation**

313 S. 2nd St. Laramie , WY 82070

Phone: 307.721.8300

Fax: 307.721.8333

Email: [info@WYWF.org](mailto:info@WYWF.org)

Website: [www.WYWF.org](http://www.WYWF.org)



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

Wyoming's TANF is supervised by the Dept of Family Services. 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.

#### **Wyoming Department of Family Services**

Hathaway Building  
2300 Capitol Avenue  
Cheyenne, WY 82002-0490  
Phone: (307) 777-6313  
Fax: (307) 777-6276

### **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>7</sup>

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