

CONNECTICUT

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HOW THE STATE CAN REMOVE CUSTODY

Statute: §§17a-111a; 17a-111b(a); 17a-112(i)-(k)¹

Grounds: Abandonment or extreme parental disinterest, abuse/neglect, failure of reasonable efforts, sexual abuse, abuse/neglect or loss of rights of another child, failure to maintain contact, child's best interest, child in care 15 of 22 months (or less), felony assault of child or sibling, murder/manslaughter of sibling child, failure to achieve personal rehabilitation, aggravated circumstances, conception result of sexual abuse, voluntary relinquishment.

Exceptions: State may elect not to file petition if: 1) child in care of relative; 2) compelling reason that filing is not in child's best interest; 3) parent has not been offered services in permanency plan or services where available.

WHAT THE LAW SAYS ABOUT SEPARATING A MOTHER FROM HER BABY

Custody is the care, control, and maintenance of a child which can be legally awarded by the court to an agency (in abuse and neglect cases) or to parents (in divorce, separation, or adoption proceedings) Child welfare departments retain legal custody and control of major decisions for a child in foster care; foster parents do not have legal custody of the children they care for. A person or an agency to whom legal custody of the child has been transferred by a Court, but not including a person who has merely physical custody of the child. Foster parents are not the legal custodians of the foster child. Either the agency or the parent is the legal custodian. The three levels of custody are guardianship, legal custody, and physical custody. A foster parent is delegated only physical custody of a child. Legal custody is either retained by the parents or transferred by the Court to the County Department of Human Services. In most

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



foster care cases, the parents retain guardianship.² Legal custody is similar to guardianship, but is usually granted by a different court that has different procedures. Probate courts usually grant guardianships; family courts grant legal custody. Also, the status of "guardian" often facilitates access to more services and rights than legal custodian.³ Guardianship includes legal custody, unless legal custody is reserved or transferred by the Court. Temporary legal custody of a child as granted by a court to the Department of Human Services does not necessarily involve placement in a foster home, although it often does.⁴

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<http://query.nytimes.com/gst/fullpage.html?res=9E0CE5DC133EF930A15751C1A964958260&sec=&spoon=&pagewanted=all>

(Connecticut teen regained custody after walking away from birth).

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.⁵ 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.⁶ 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 breastfeeding 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.

² <http://www.co.rock.wi.us/Dept/HumanSvcs/documents/Foster%20Care%20Handbook.pdf>

³ <http://www.nacac.org/adoptalk/kinship.html>

⁴ <http://www.nacac.org/adoptalk/kinship.html>

⁵ "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)

⁶ 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.

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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.⁷ 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

The standard of review on appeal from a termination of parental rights is whether the challenged findings are clearly erroneous. C.G.S.A. § 17a-112 In re Jordan R. 107 Conn. App. 12, 944 A.2d 402 (Conn. App. 2008)

The court In re Tnajai W. Not Reported in A.2d, 2004 WL 3105973 (Conn.Super.2004) (teen parent, now 21) states that termination of parental rights proceeds in two stages: adjudication and disposition. In the adjudicatory phase, the court must determine whether the proof provides clear and convincing evidence that any one of the grounds pleaded exists to terminate parental rights as of the date of the filing of the petition or last amendment. In re Joshua Z., 26 Conn. App. 58, 63, 597 A.2d 842 (1991), cert. denied 221 Conn. 901 (1992). If at least one pleaded ground to terminate is found, the court must then consider whether the facts, as of the last day of trial, establish, by clear and convincing evidence, that termination is in the child's best interest. Procedurally, the evidence as to both issues is heard at the same trial without first determining if the state has proven a statutory ground for adjudication before consideration of the dispositional question. State v. Anonymous, 179 Conn. 155 (1979) In re Juvenile Appeal (84-BC),

⁷ 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 interests.

194 Conn. 252, 258 1984); In re Nicolina T., 9 Conn. App. 598, 602 cert. denied 203 Conn. 804, 525 A.2d 519 (1987); In re CT Page 6777 Emmanuel M., 43 Conn. Sup. 108, 113, cert. denied 231 Conn. 915, 648 A.2d 151 (1994); In re Tabitha P., 39 Conn. App. 353, 360 (1995).

RESOURCES

CHILD WELFARE AGENCY: **Dept of Children and Families**

505 Hudson St. Hartford, CT 06106

Phone: (866) 637-4737

<http://www.ct.gov/dcf/site/default.asp>

Statewide Legal Services of Connecticut Inc.

425 Main St. 4th Floor Middletown, CT 06457

Phone: (800) 453-3320

www.slsct.org

Transitional or Independent Living Program

Independent Living Program

Connecticut Department of Children & Families

505 Hudson St. Hartford, CT 06106

Phone: (860) 550-6331

Fax: (860) 566-8022

SWETP

Youth in SWETP programs focus primarily on the developmental issues associated with the acquisition of independent living skills, including but not limited to; interpersonal awareness; community awareness and engagement; maximization of 1) education, 2) vocational and pre-employment job placement and 3) community integration skills.

CHAP

Is a semi-supervised, subsidized, housing component for youth ready for less supervision and more independence. The goal of this program is to increase competence, self-reliance and self-sufficiency as youth transition into the most least restricted out of home placement within the agency, independent community housing.

Post High School Education Program (Policy 40-20-20)

The Department shall provide financial assistance and educational support to youth committed through



their eighteenth (18th) birthday and who demonstrate an interest in pursuing post-secondary education and or vocational training.

Mother-baby Residential Facilities

St. Agnes Home Inc.

104 Mayflower Street West Hartford, CT 06110

Phone: (860) 521-7516

Fax: (860) 521-6160

info@stagneshome.org

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

Birthright of Greater Hartford, Inc.

914 Main St., Rm. 216 East Hartford, CT 06108

(860) 290-8800 or (800) 550-4900

Substance Abuse Health & Treatment Resources

The Connecticut Clearinghouse

Provides young girls with the information they need to make healthy, informed decisions. The Clearinghouse, which is the state's resource center for information about alcohol, tobacco, and illicit drugs, provides outreach and support services. The Clearinghouse uses Girl Power! materials to promote positive messages and teach girls healthy alternatives to using alcohol, tobacco, or illicit drugs. Offices located in Plainville, CT.

Childcare Assistance

AAP Chapter Child Care Contact

There is a Chapter Child Care Contact in each Chapter (State). This Chapter Contact is a liaison between the National AAP and State Early Education and Child Care activities. For more information contact childcare@aap.org or:

CCCC Partner

Yale University School of Nursing

100 Church Street South, P.O. Box 9740 New Haven, CT 06536-0740

Phone: 203-737-2548

Fax: 203-785-6455

TANF (Temporary Aid to Needy Families) Funds

Jobs First - Connecticut's Welfare Reform Program

Connecticut's TANF Director
Division of Family Assistance
Connecticut Department of Social Services
25 Sigourney Street Hartford, CT 06106-5033
Phone: (860) 424-5008
FAX: (860) 424-5129

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.

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.

<http://www.hud.gov/offices/pih/other/sch/about.cfm>

State legislatures can allocate TANF block grant funds for Second Chance Homes. Like TANF, state maintenance-of-effort (MOE) funds and the Social Services Block Grant (SSBG) are flexible, and largely under states' discretion in terms of how they are spent. States and communities may also explore other sources of funding from HHS and HUD (see the attached chart). Additional state and private sources of funding are available to fill in funding gaps, help providers acquire or rehabilitate Second Chance Homes, and develop specialized Second Chance Homes for teen parents who are homeless or in foster care.

See also http://www.ct.gov/dcf/lib/dcf/foster_care/pdf/fostercare_rfifinal.pdf for the details of 2008 Therapeutic Foster Care Redesign.