

## FLORIDA

### Topics:

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### HOW THE STATE CAN REMOVE CUSTODY

Statute: §29.806<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, 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 conduct, voluntary relinquishment, identity or location of parent(s) unknown.

Exceptions: State may elect not to file petition if: 1) child being cared for by relative who chooses not to adopt; 2) court determines that filing not in best interest of child; 3) state has not provided services deemed necessary for safe return 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 she has the right to bring legal proceedings on her newborn's behalf. F.S.A. § 88.3021 (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 ensure that teen parents are not forced to sign a voluntary placement agreement. The agreement can have dire consequences for a young mother in care who wishes to keep her baby after emancipation <sup>2</sup>

<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](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 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.

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

<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



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 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 state and services that have the foster teen sign a voluntary agreement to hand over custody for a limited time. 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.

### APPLICABLE STATE LAW

The “best interest” of the child test becomes important once a statutory ground for termination of parental rights is established. *In re J.B.* 923 So.2d 1201 (Fla.App. 2 Dist. 2006) When the Department of Children and Family Services (DCFS) files petition for termination before the time agreed upon in a child welfare case plan for performance, and the petition is based on the same facts as are covered in the welfare case plan, then the petitioner must allege and prove by clear and convincing evidence that the parent has materially breached the provisions of the case plan. F.S.A. § 39.802(8). *C.C. v. Department of Children and Family Services* 812 So.2d 520 (Fla.App. 1 Dist. 2002). Representatives serving as teen mom’s counsel should familiarize themselves with:

F.S.A. § 39.802 (Petition for termination of parental rights; filing; elements)

All proceedings seeking an adjudication to terminate parental rights pursuant to this chapter must be initiated by the filing of an original petition by the department, the guardian ad litem, or any other person who has knowledge of the facts alleged or is informed of them and believes that they are true.

The form of the petition is governed by the Florida Rules of Juvenile Procedure. The petition must be in writing and signed by the petitioner or, if the department is the petitioner, by an employee of the department, under oath stating the petitioner's good faith in filing the petition.

When a petition for termination of parental rights has been filed, the clerk of the court shall set the case before the court for an advisory hearing.

A petition for termination of parental rights filed under this chapter must contain facts supporting the following allegations:

That at least one of the grounds listed in s. 39.806 has been met.

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That the parents of the child were informed of their right to counsel at all hearings that they attended and that a dispositional order adjudicating the child dependent was entered in any prior dependency proceeding relied upon in offering a parent a case plan as described in s. 39.806.

That the manifest best interests of the child, in accordance with s. 39.810, would be served by the granting of the petition.

When a petition for termination of parental rights is filed under s. 39.806(1), a separate petition for dependency need not be filed and the department need not offer the parents a case plan with a goal of reunification, but may instead file with the court a case plan with a goal of termination of parental rights to allow continuation of services until the termination is granted or until further orders of the court are issued.

The fact that a child has been previously adjudicated dependent as alleged in a petition for termination of parental rights may be proved by the introduction of a certified copy of the order of adjudication or the order of disposition of dependency.

The fact that the parent of a child was informed of the right to counsel in any prior dependency proceeding as alleged in a petition for termination of parental rights may be proved by the introduction of a certified copy of the order of adjudication or the order of disposition of dependency containing a finding of fact that the parent was so advised.

If the department has entered into a case plan with a parent with the goal of reunification, and a petition for termination of parental rights based on the same facts as are covered in the case plan is filed prior to the time agreed upon in the case plan for the performance of the case plan, then the petitioner must allege and prove by clear and convincing evidence that the parent has materially breached the provisions of the case plan.

## RESOURCES

CHILD WELFARE AGENCY: **Department of Children & Families**  
1317 Winewood Blvd. Building 1, Room 202 Tallahassee, FL 32399  
Phone: (850) 487-1111  
[http://www.state.fl.us/cf\\_web/](http://www.state.fl.us/cf_web/)

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### **Community Legal Services of Mid-Florida, Inc.**

128-A Orange Avenue Daytona Beach, FL 32114-4310

Phone: (904) 255-6573

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

### **Florida Rural Legal Services**

3210 Cleveland Ave. P.O. Box 219 Fort Meyers, FL 33902

Phone: (239) 334-4554

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

### **Legal Services of Greater Miami Inc.**

3000 Biscayne Boulevard Suite 500 Miami, FL 33137-4129

Phone: (305) 576-0080

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

### **Legal Services of North Florida Inc.**

2119 Delta Boulevard Tallahassee, FL 32303-4209

Phone: (850) 385-9007

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

### **Bay Area Legal Services, Inc.**

Riverbrook Center, 2nd Floor 829 W. Martin Luther King Jr. Tampa, FL 33603

Phone: (813) 232-1343

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

### **Three Rivers Legal Services Inc.**

901 NW 8th Avenue, Suite D5 Gainesville, FL 32601

Phone: (352) 372-0519

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

### **Coast to Coast Legal Aid of South Florida, Inc.**

491 North State Road 7 Plantation, FL 33317

Phone: (954) 736-2400

### **Three Rivers Legal Services, Inc. Volunteer Attorney Program**

901 N. W. 8th Ave Suite D-5 Gainesville, FL 32601

Phone: (352) 372-0519

Fax: (352) 375-1631

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Intake Phone: (800) 372-0936  
Web Site: <http://www.trls.org>

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.<sup>6</sup>

### **Transitional or Independent Living Program**

#### **Our Mother's Home**

Southwest Florida, Inc.  
Phone: 239.267.4663  
Fax: 239.267.4575  
[info@ourmothershome.com](mailto:info@ourmothershome.com)

#### **His House Children's Home**

Opa-Locka, Florida  
Phone: (305) 430-0085  
Web Site: [www.hhch.org](http://www.hhch.org)

Established to provide residential care for abused, neglected, drug-exposed children and children whose families are in severe crisis. Our goal is to restore the physical and emotional well being of children by providing a loving, stable and nurturing environment. His House provides residential treatment, foster care, adoption, and case management services.

#### **The Florida UM Children's Home**

51 Main Street Enterprise, FL 32725  
Phone: (386) 668-4774  
Fax: (386) 668-4486

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

Capacity: 90 on-campus; 15 off-campus; group homes; independent living; wilderness therapy; foster care-therapeutic homes; own home services; residential care/treatment; foster care; adoption; family therapy; day care. Connectional Unit: Florida Conference.

### **Mother-baby Residential Facilities**

#### **The DayBreak Maternity Home**

Housing in a safe, Christian environment is provided for women who have nowhere to live during their pregnancy. DayBreak exists to address the social, physical, emotional and spiritual needs of young, single pregnant women who have chosen life for their babies. Encouragement and support is offered throughout their pregnancy and beyond. DayBreak offers a structured program for each young woman living at the home designed to equip her to make healthy life choices for herself and her baby. Assistance and support is offered in many areas such as: Establishment of life goals, preparing for baby and motherhood, budgeting, individual counseling by a licensed biblical counselor, GED and job training assistance.

#### **Pregnancy Resource Center**

1119 South Flagler Drive West Palm Beach, FL 33401

Phone: (561) 650-7474

info@palmbeachoptions.com

24 Hour Hotline: 800.395.HELP

For more information about DayBreak or to inquire about applying for the program, call and speak with any staff member at (561) 650-7474 or email us at info@palmbeachoptions.com.

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

#### **Children's Home Society of Florida**

Corporate Headquarters

1485 S. Semoran Blvd., Suite 1448 Winter Park, FL 32792

Phone: (321) 397-3000

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

More than 10 locations in the state of Florida.

#### **PSI Family Services**

3890 Dunn Avenue, West Suite 1104 Jacksonville, Florida 32218

Phone: (904) 723-6049

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Fax: (904) 723-5904  
psiflorida@psifamilyservices.com

### **Crosswinds Youth Services**

Co-sponsors with Barnes & Noble Bookstore and the Citrus Council of Girl Scouts of a series of Girl Power! Workshops for more than 150 girls. The workshops are held once a month for 5 months, covering topics such as exercise and nutrition; alcohol, tobacco, and illicit drug prevention; stress reduction; self-exploration; and goal setting. Crosswinds is based in Merritt Island, FL.

### **Community Youth Development**

4409 Sawyer Rd. Sarasota, FL 34233

Phone: (941) 922-5126 | (941) 922-8099 (fax)

CYD's Sarasota County Youth Development Organization - Provides opportunities for youth in Sarasota County, Florida to participate in positive, drug- and alcohol- free activities.

### **Southeastern Network of Youth and Family Services**

A private, non-profit membership organization of youth service agencies in the states of Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee.

Phone: (239) 949-4414

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

### **United Methodist Children's Home**

Group homes, transitional living, foster care support, residential and therapeutic services

Administrative Offices

Ministry Headquarters

Mailing Address: P.O. Box 830 Selma, AL 36702-0830

1712 Broad Street Selma, AL 36701

Phone: (334) 875-7283 / (800) 239-3575

Public Relations & Development Office

1507 Alex Dr., Suite 105 Birmingham, AL 35210

Phone: (205) 951-1978 / (877) 729-8624

Fax: (205) 951-1935

E-mail: [info@umch.net](mailto:info@umch.net)



### Childcare Assistance

#### [The Florida UM Children's Home](#)

51 Main Street Enterprise, FL 32725

Phone: (386) 668-4774

Fax: (386) 668-4486

#### **Manasota Solve, Inc.**

1509-8th Ave. West Bradenton, FL 34205

Phone: (941) 748-0094

#### **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](mailto:childcare@aap.org) or:

12878 La Costa Ct Jacksonville, FL 32225-5721

Phone: (904) 360-7070

[http://www.acf.hhs.gov/programs/ccb/ccdf/ccdf06\\_07desc.doc](http://www.acf.hhs.gov/programs/ccb/ccdf/ccdf06_07desc.doc)The Child Care and Development Fund (CCDF) is 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. Funds may also be used to serve children in protective services. In addition, a portion of CCDF funds must be used to enhance childcare quality and availability.

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

Florida's TANF is known as the *Welfare Transition Program*

Florida's TANF Director

Program Administrator of Cash Assistance & Food Stamps

Florida Department of Children & Families

1317 Winewood Boulevard Building 3, Room 406G Tallahassee, FL 32399-0700

Phone: (850) 414-5643

FAX: (850) 410-0322

To receive TANF benefits, states were required to submit plans detailing their efforts to reduce out-of-wedlock births, especially among teenagers. In order to be eligible for TANF benefits, unmarried minor parents are required to remain in high school or its equivalent as well as to live in an adult-supervised setting. One provision in the law allows for the creation of second-chance homes for teen parents and

their children, a type of home that already existed in some states. These homes require that all residents either enroll in school or participate in a job-training program. They also provide parenting and life skills classes as well as counseling and support services.<sup>7</sup>

Document Link: [http://www.clasp.org/publications/faq\\_tanf\\_repro\\_health.pdf](http://www.clasp.org/publications/faq_tanf_repro_health.pdf).

Provides answers to frequently asked questions about how to use TANF funds for pregnancy prevention and teen parent services. The paper addresses the purposes for which TANF can be used, what TANF cannot pay for, the population that can be served, and numerous other TANF issues that pertain to teen parents. (Levin-Epstein, J. (1999) Frequently Asked Questions: Tapping TANF for Reproductive Health or Teen Parent Initiatives. Center for Law and Social Policy).

For eligibility guidelines go to <http://www.spdp.org/compstates/flrepro.pdf>

### **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.

For eligibility go to <http://www.spdp.org/compstates/flrepro.pdf>

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>

For eligibility go to <http://www.spdp.org/compstates/flrepro.pdf>

<sup>7</sup> <http://www.libraryindex.com/pages/914>

[/Comparing-New-TANF-with-Old-AFDC-TEEN-MOTHERS-WELFARE.html](#)

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