



HAWAII

Topics:

How the State Can Remove Custody
What the Law Says About Separating A Mother From Her Baby
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HOW THE STATE CAN REMOVE CUSTODY

Statute: §§571-61; 587-2¹

Grounds: Abandonment or extreme parental disinterest, abuse/neglect, mental illness or deficiency, abuse/neglect or loss of rights of another child, failure to maintain contact, failure to provide support, failure to establish paternity, felony assault of child or sibling, murder/manslaughter of sibling child, voluntary relinquishment, aggravated circumstances, presumed father not the natural or adopted father.

Exceptions: The state has documented a compelling reason why it would not be in the best interest of the child to file a motion, or the state has not provided to the family of the child, consistent with the time period in the service plan, such services as the department deems necessary for the safe return of the child to the family home.

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. HRS § 576B-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 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 emancipation² 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

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

² <http://www.jrplaw.org/Documents/Teens%20Aging%20Out%20of%20Foster%20Care%20in%20Oregon.pdf>

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 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. *

Minors and their babies are rarely placed in the same foster home. CWS may petition for foster custody of the baby when it is born (Mom cannot provide a “safe family home” or they may place baby with maternal grandparents while Mom remains in foster care. Parents are allowed to place the child in an alternative living environment, even if it means sending them to the mainland, etc. ³

APPLICABLE STATE LAW

The due process clause of the fourteenth amendment requires that a state support its allegations by at least clear and convincing evidence before it may involuntarily divest a parent of his parental rights. U.S.C.A. Const. Amend. 14; HRS § 571-61 et seq. *In re Doe*, 20 P.3d 616 (Haw. 2001) The heightened standard of proof of clear and convincing evidence is applied in termination of parental rights cases because the act of severing the parent-child relationship is cognizably absolute and irrevocable; termination is a drastic remedy and is of such weight and gravity that due process requires the state to justify termination of the parent-child relationship by proof more substantial than a preponderance of the evidence. U.S.C.A. Const. Amend. 14; HRS § 571-61 et seq. *In re Guardianship of Doe*, 101 P.3d 684 (Haw. App. 2004) The Child Protective Act (CPA) does not allow for the divestiture of parental rights absent clear and convincing evidence, adduced by the state, that the parent is unfit, or, in other words, both that the parent is unwilling or unable to provide his child with a safe family home at the time a permanent plan hearing is conducted and that the parent will not become willing or able to do so within a reasonable period of time. See H.R.S. § 587-73(a).

RESOURCES

CHILD WELFARE AGENCY: **Department of Human Services**

1390 Miller Street, Room 209 Honolulu, HI 96813

Phone: (808) 586-4882

<http://hawaii.gov/dhs/>

³ http://www.hmhb-hawaii.org/PDF/2005-9-1_legal_issues_ppt_murray.pdf



Legal Services

Legal Aid Society of Hawaii

924 Bethel Street Honolulu, HI 96813

Phone: (800) 499-4302

www.legalaidhawaii.org

Native Hawaiian Legal Corporation

1164 Bishop Street, Suite 1205 Honolulu, HI 96813

Phone: (808) 521-2302

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.⁴

Transitional or Independent Living Programs

Hawaii Youth Circles - youth are engaged in the process of goal-focused emancipation by having the option to convene a meeting with adults in the youth's life with whom they would like to share the youth circle. The youth comes up with emancipation or life goals and volunteers are solicited from the circle to help with specific tasks. The focus of the circles is "becoming an adult." Youth direct who is there, how the meeting begins, what food is served, and many of the transition goals. The circles reconvene a few times during the transition to independence to check on goal progress and alert participants as to needs or changes in the plan. Youth eligible include any youth aged 16 to 18 in foster care, youth receiving the DHS higher education payment between the ages of 18 and 21, and former foster youth and youth who

⁴ <http://www.abanet.org/abanet/child/statesum/allstate.cfm?y=2005>

emancipated from state custody between the ages of 16 and 24 as per a Victoria S & Bradley L. Geist Foundation Grant. EPIC runs the Youth Circles and can be reached at (808) 838-7752.

Hawaii Department of Human Services Social Services Division

810 Richards St., Ste. 400 Honolulu, HI 96813

Phone: (808) 586-5704

Fax: (808) 586-4806

PACT (Parents and Children Together)

1531 Linapuni St. Honolulu, HI 96819

Phone: (808) 842-1834

Hale Kipa Independent Living Program

Provides case management services and payment services for higher education payments. They can hook youth up with other service providers, housing opportunities, college opportunities, and high school equivalency programs.

Child and Family Service

Services for at-risk teenagers, abused children and spouses, juvenile sex offender treatment, adolescent day treatment program, therapeutic foster homes, and counseling.

808-681-3500 Oahu

808-877-6888 Maui

808-245-5914 Kauai

808-935-2188 Hilo

808-323-2664 Kona

808-567-6100 Molokai

Mother-baby Residential Facilities

House of Ruth

1190 Nuuanu Ave. Honolulu, HI 96817

Phone: (808) 524-0844

Kona Crisis Pregnancy Center

Mango Court Ste. 202 Kainaliu, HI 96745 or P.O. Box 1102

Phone: (808) 324-7400 or (808) 324-0100



Substance Abuse Health & Treatment Resources

Red Rock Canyon School

A state-licensed treatment facility for adolescents, ages twelve to eighteen, with behavioral and/or emotional problems who require a level of structure and treatment beyond that which is available in traditional outpatient clinics. We offer 24 hour nursing and behavioral management staffing to ensure that our clients have access to professional staffing throughout their stay. Contact them 24 hours a day at 800-635-4441. Licensed Psychiatrist, Clinical Psychologist, Eight Master's level therapists with a combined experience of 150 years, nursing staff of Registered Nurses, Emergency Medical Technicians to ensure safe and competent medical management. In this positive environment, youth are provided with opportunities to look beyond themselves as they act as positive role models for newer program residents and participate in community service projects. Participation in the enrichment, recreational and vocational training programs further complement their preparation for life challenges and their overall sense of happiness and well-being. Opportunities are offered for troubled youth to gain a greater understanding about themselves and knowledge about the world around them. The student living program offers a highly structured and supportive environment designed to foster acceptance and support in which the youth can practice their newly found skills.

C.O.L.T.

The Christian Outdoor Leadership Training program (C.O.L.T.) provides troubled teens with help in overcoming the conflicts they are struggling with in an atmosphere of outdoor adventure and a focus on character development. Today's teens face many difficult challenges. COLT is a Christian based program designed to help troubled teens overcome challenges ranging from drug and alcohol abuse, and behavioral problems as well. The COLT experience offers each teen a chance to change their behavior with adventurous and challenging activities led by our experienced, professional staff. COLT exists to provide families with options for immediately interrupting dangerous and destructive behaviors in teenagers. We use short term wilderness experiences combined with a long term residential environment when necessary to gain the benefits of each. Our counseling approach involves identifying the underlying causes of the teen's issues in the context of developing a trusting relationship. As teens recognize the underlying reasons for their conflicts they are able to learn new and successful ways of focusing on life challenges. E-mail - help@coltschools.org <help@coltschools.org> For questions or to begin the enrollment process, email or call 406-722-2658.

Childcare Assistance

Alu Like, Inc. (Native Hawaiian Child Care Assistance Project)

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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.

O'ahu . . . 535-1300

Child Care Connections (DHS)

Honolulu . . . 832-3800

Leeward . . . 692-7775

Windward . . . 233-3655

Hilo - 981-7286 . . . Kona - 327-4755

Kaua'i . . . 241-3679

Maui / Moloka'i / Lana'i . . . 243-5866

Head Start

(Information on free preschool programs for ages
3-under 5 yrs. of low income families)

Application Hotline (Oahu) . . . 847-1000

O'ahu . . . 847-2400

Hawai'i County . . . 961-2686

Kaua'i . . . 245-5914

Maui . . . 249-2988

Moloka'i . . . 553-3727/553-5472

Keiki o Ka Aina / H.I.P.P.Y. Hawaii (3-5 yrs.)

O'ahu . . . 845-3454

P.A.T.C.H. (Child care referrals)

www.patchhawaii.org

O'ahu . . . 839-1988

East Hawai'i - 961-3169 . . . West Hawai'i - 325-3864

Kaua'i . . . 246-0622

Maui . . . 242-9232

Lana'i and Moloka'i . . . 1-800-498-4145

Parent-Child Interaction Program

Kahuku, Punalu'u, Hau'ula (Na Kamalei), La'ie . . . 237-8500

Parent-Child Interactive Play Mornings

O'ahu (TIFFE) . . . 596-8433

Hilo (TIFFE) - 961-5166. . . Kona (TIFFE) - 323-3305

Kaua'i (TIFFE) . . . 632-2114

Maui (TIFFE) - 280-3431 . . . Lana'i (TIFFE) - 565-9010

IN PEACE - Keiki Steps

O'ahu . . . 620-9043

Big Island . . . 640-0881

Preschool Open Doors (DHS) (Preschool subsidies)

O'ahu . . . 587-5254

Neighbor Islands . . . 1-800-746-5620

Tiny Tots Program (Dept. of Parks and Rec., ages 3-5 yrs.)

Hawai'i Kai to McCully . . . 973-7250

Makiki to Aiea . . . 522-7070

Pearl City to Wai'anae and Wahiawa . . . 675-7130

Wai'alua to Waimanalo . . . 233-7300

YMCA (Parent-child activity classes and child care)

O'ahu . . . 541-5261

YWCA (Parent-child activity classes / child care / preschool)

O'ahu . . . 538-7061

Hilo . . . 935-7141

TANF (Temporary Aid to Needy Families) Funds

Hawaii Department of Human Services

PO Box 339 Honolulu, HI 96809-0339

Phone: (808) 586-5230

FAX: (808) 586-5229

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.

DocumentLink: 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

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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).

TANF/AFS (Adult and Family Services) or other

The minor mother cannot get welfare independently from her parents (new law), unless she is a foster child.⁵

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.⁶

⁵ http://www.hmhb-hawaii.org/PDF/2005-9-1_legal_issues_ppt_murray.pdf

⁶ <http://www.spdp.org/reprexpl.htm#mla>