

MISSISSIPPI

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: §§43-21-603(c); 93-15-103¹

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, child judged in need of services/dependent, child's best interest, felony assault of child or sibling, murder/manslaughter of sibling child, deep-seated antipathy by child, voluntary relinquishment, 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.

Miss. Code Ann. § 93-25-29(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 also 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 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.

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>

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.

In order to sever a natural parent's parental rights, a two-prong test must be satisfied in which the petitioner must first establish by clear and convincing evidence that the objecting parent has either abandoned or deserted the child or is mentally or morally or otherwise unfit to rear or train the child (See *N.E. v. L.H.* 761 So.2d 956) (Miss. App. 2000); once the first prong has been satisfied, the court must consider the second prong, which is the best interest of the child. Thus in *M.L.B. v. S.L.J.* 806 So.2d 1023 (Miss. 2000) there was insufficient clear and convincing evidence to support termination of parental rights based upon alleged neglect, unreasonable absence, and failure to communicate. Also, under the manifest error/substantial credible evidence test, appellate court accords wide latitude and discretion to chancellors because of benefits present from having heard testimony and evidence while observing witnesses and their demeanor; however, of equal importance in appellate court's application of this standard is appellate court's duty to abide by the principle that, where it is apparent that trial court has misapprehended controlling rules of law or has acted pursuant to substantially erroneous view of the law, appellate court will proceed de novo and promptly reverse. See *N.E. v. L.H. supra*.

RESOURCES

Department of Human Services

750 North State Street, Jackson, MS 39202

601-359-4500; 800-345-6347

<http://www.mdhs.state.ms.us/>

Legal Services

North Mississippi Rural Legal Services Inc.

5 County Road 1014, Oxford, MS 38655

800-898-8731

www.nmrls.com

Mississippi Center for Legal Services

111 East Front Street P.O. Drawer 1728, Hattiesburg, MS 39403

601-545-2950

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

MISSISSIPPI 3
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.

Mississippi Volunteer Lawyers Project

PO Box 2168 Jackson, MS 39225-2168

General Phone: 601-960-9577

Fax: 601-355-8635

Intake Phone: 800-682-0047

Web Site: <http://www.mvlp.net>

Organization Email: mvlp@msbar.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.⁶

Transitional or Independent Living Program

Pearl Holloway, IL Coordinator

Mississippi Department of Human Resources

750 N. State St. Jackson, MS 39205

Phone: (601) 359-4982

Fax: (601) 359-2525

Email: pholloway@mdhs.state.ms.us

South East Mississippi Regional Education Cooperative - Teen Parent Program

923 Sawmill Road, Laurel, MS 39440

Phone: (601) 649-4142

Natchez Children's Home Services

Address: 806 North Union Street, POB 2028, Natchez, MS 39120

Phone: (601) 442-6858

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

Fax: (601) 442-7722
E-mail: info@ntzchs.org
Web Site: natchezchildrenshome.org

Children's Home Services

Founded in 1816 as the Female Charitable Society for orphans in the Mississippi Territory, today's Natchez Children's Home Services offers a Christian home to sibling groups and children who have been adjudicated abused, abandoned, neglected or in need of supervision by the state. The agency offers community based services to children and youth of all ages. Children participate in school, church and community activities while efforts are concurrently made to reunite children with biological family or provide foster and foster-to-adopt families.

Palmer Home for Children

Address: P. O. Box 746, Columbus, MS 39703
Phone: (662) 328-5704
Fax: (662) 328-5250
E-Mail: ewaldron@palmerhome.org
Website: www.palmerhome.org

The mission of Palmer Home for Children is to present the hope of Christ to children, who, through lack of an adequate family structure, are in need of a permanent, long-term Christ-centered home. To that end, Palmer Home, as it has since 1895, remains committed to privately-funded, non-governmental child care which keeps siblings together, mends emotional scars and restores for each child the full opportunity to reach his or her God-given potential.

Tupelo Children's Mansion

Tupelo, MS
Phone: (662)842-6982
www.tcmm.org

Substance Abuse Health & Treatment Resources

The Baddour Center

3297 Highway 51 South
P.O. Box 69 Senatobia, MS 38668
Phone: (662) 562-9666
Fax: (662) 562-6979

MISSISSIPPI 5

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.

Email: info@baddour.org
Connectional Unit: Mississippi Conference.

Childcare Assistance

Southeastern Network of Youth and Family Services

Phone: (239) 949-4414
senetwork.org

Methodist Children's Home

7578 Old Canton Road
PO Box 2589
Madison, MS 39130-2589
Toll free: 800-513-7363
Phone: (601) 853-5000
Fax: (601) 853-5010
Email: mchms@mchms.org

TANF (Temporary Aid to Needy Families) Funds

Division Director
Division of Economic Assistance
Mississippi Department of Human Services
P.O. Box 352
Jackson, MS 39205
Phone: (601) 359-4835
FAX: (601) 359-4871

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.

MISSISSIPPI 6
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.



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

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