



NEW JERSEY

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HOW THE STATE CAN REMOVE CUSTODY

Statute: §§30:4C-15; 30:4C-15.1(a),(b); 9:2-19; 30:4C-11.2¹

Grounds: Abandonment or extreme parental disinterest, abuse/neglect, mental illness or deficiency, felony conviction/incarceration, failure of reasonable efforts, abuse/neglect or loss of rights of another child, failure to maintain contact, 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, identity or location of parents unknown, aggravated circumstances, parent dead, failure to discharge responsibilities.

Exceptions: The Division of Youth and Family Services shall not be required to file a petition seeking TPR if: 1) the child is being cared for by a relative and a permanent plan for the child can be achieved without TPR; 2) the division has documented in the case plan, which shall be available for court review, a compelling reason for determining that filing the petition would not be in the best interest of child; or 3) the division is required to provide reasonable efforts to reunify the family but the division has not provided to the family of the child, consistent with time period in case plan, such services as the division deems necessary for the safe return of the child to his 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 that she has the right to bring legal proceedings on her newborn's behalf. N.J.S.A. 2A:4-30.78 (Proceedings on behalf of minor parent's child) 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 help 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

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

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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.

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.³ 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.⁴ 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.⁵ Finally, in negotiating with state or local bureaucrats, advocates should point out that as long as the parenting ward retains legal custody of the

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

³ “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)

⁴ 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.

⁵ 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

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

In a termination of parental rights proceeding, the Division of Youth and Family Services (DYFS) bears the burden of proving each of the four criteria for termination by clear and convincing evidence. N.J.S.A. 30:4C-15.1(a). The considerations involved in determinations of parental fitness in parental rights termination case are extremely fact sensitive and require particularized evidence that address the specific circumstance in the given case. In *State, Div. of Youth and Family Services v. R.L.*, 906 A.2d 463 (N.J.Super.App. 2006) the evidence was not sufficient to support termination since except for the bonding evaluation of one psychologist, the record indicated that child had a good relationship with the parent throughout child's life and during foster care the psychologist's contrary bonding evaluation consisted of mere observation in a controlled environment for slightly over one hour and during the six-month period that the parent was sole custodian of the child, the child received proper care. N.J.S.A. 30:4C-15.1(a)(1, 2, 4). See *In Matter of Guardianship of J.C.*, 608 A.2d 1312 (N.J. 1992)(Record did not support termination of mother's parental rights as in best interest of children, as neither expert considered specific relationships that natural mother had with children, and remand was required for additional evidence as to whether children had bonded with their foster parents and if so whether breaking such bonds would cause children serious or psychological or emotional harm. N.J.S.A. 30:4C-15(c), 30:4C-20. See also *New Jersey Div. Of Youth And Family Services v. G.L.* 191 N.J. 596 (N.J. 2007). The court issuing the termination order should have made careful factual findings as to all four prongs of the relevant test (1) The child's safety, health or development has been or will continue to be endangered by the parental relationship; (2) The parent is unwilling or unable to eliminate the harm facing the child or is unable or unwilling to provide a safe and stable home for the child and the delay of permanent placement will add to the harm ...; (3) The division has made reasonable efforts to provide services to help the parent correct the circumstances which led to the child's placement outside the home and the court has considered alternatives to termination of parental rights; and (4) Termination of parental rights will not do more harm than good. For an example of custody issues where a minor parent gives birth while in foster care, see also *Division of Youth and Family Services v. S.H.* Not Reported in A.2d, 2006 WL 2355093 (N.J.Super.A.D. 2006).

RESOURCES

Department of Children and Families

222 South Warren St. PO Box 729, 3rd Floor Trenton, NJ 08625

609-984-4500

<http://www.state.nj.us/dcf/contact/>

Legal Services

Legal Services of Northwest Jersey

34 West Main Street, Suite 301 Somerville, NJ 08876-2218

(908) 475-2010

South Jersey Legal Services

745 Market Street Camden, NJ 08102-1117

(856) 964-2010

Northeast New Jersey Legal Services Corporation

574 Summit Avenue Jersey City, NJ 07306-2797

(201) 792-6363

Essex-Newark Legal Services Project, Inc.

5 Commerce Street, 2nd Floor Newark, NJ 07102

(973) 624-4500

Ocean-Monmouth Legal Services

25 Broad Street, Suite 13 Freehold, NJ 07728

(732) 341-2727

Central Jersey Legal Services

317 George Street, Ste. 201 New Brunswick, NJ 08901-2006

(732) 249-7600

Legal Services Of New Jersey

100 Metroplex Drive 402 Edison, NJ 08818-1357

General Phone: 732-572-9100

Fax: 732-572-0066

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Intake Phone: 888 576-5529
Counties Served: Statewide
Web Site: <http://www.lsnj.org>
Organization Email: legalhelp@lsnj.org

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 Programs

Family Service Teenage Programs

77 Woolane Rd. Mt. Valley, NJ 08060
Phone: (609) 518-2477

New Jersey Division of Youth and Family Services

Placement Services
50 East State Street, CN 717 Trenton, NJ 08625-0717
Phone: (609) 292-0887
Fax: (609) 984-8199

NJ Work First Housing Assistance Program

This program provides rent subsidies to families for three years after leaving TANF and offers services to enable low-income families to purchase a home by providing counseling to potential homeowners and mortgages with no down payments. Since 1998 the program has provided secure housing for 350 families transitioning from welfare to work.

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

Mother-baby Residential Facilities

Good Counsel

303 Madison Ave. Hoboken, NJ 07030
Phone: 201.798.9059
Fax: 201.795.0809

Pregnancy Aid Center

4 E. Somerset St. Raritan, NJ 08869
Phone: (908) 526-8121

Substance Abuse Health & Treatment Resources

Prevention First (New Jersey)

1806 Highway 35 Oakhurst, NJ 07755
Phone: 732-663-1800 x15
www.preventionfirst.net

Runnemedede PTA

15 Ferndale Drive Runnemedede, NJ 08078
Phone: 856-939-0148

Seabrook House

133 Polk Lane PO Box 5055 Seabrook, NJ 08302
Phone: 856.455.7575
Help Line 1.800.761.7575
www.seabrookhouse.org
For general information about programs and services:
info@seabrookhouse.org
Main Fax 856.453.1022

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:

FAAP (District 3)
23 Heritage Way Belle Meade, NJ 08502-5822
Phone: 732-776-2385
Fax: 732-776-3161

Children's Aid and Family Services, Inc.

200 Robin Road Paramus, NJ 07652
info@cafsnj.org
Phone: 201.261.2800
Fax: 201.634.3672

Children's Services

240 Frisch Court Paramus, NJ 07652
Phone: 201.226.0300
Fax: 201.262.9262

Turrell Child Care & Early Learning Center

200 Robin Road Paramus, NJ 07652
Phone: 201.261.5970
Fax 201.261.6019

Children and Community Service

148 Prospect Street Ridgewood, NJ 07450
Phone: 201.445.7015
Fax: 201.652.4034

TANF (Temporary Aid to Needy Families) Funds

New Jersey's TANF is called WFNJ (Work First New Jersey)
Director
Division of Family Development
New Jersey Department of Human Services
PO Box 716
Trenton, NJ 08625-0716

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Phone: (609) 588-2401
FAX: (609) 588-4404

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.

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>