

OKLAHOMA

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HOW THE STATE CAN REMOVE CUSTODY

Statute: tit. 10 §7006-1.1¹

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, failure to provide support, 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, voluntary relinquishment, location of parent(s) unknown, conception result of rape.

Exceptions: State may elect not to file petition if: 1) at option of agency or by order of court, child is properly cared for by relative; 2) agency has documented in case plan a compelling reason why TPR is not in child's best interest; 3) agency has not provided services 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 that she has the right to bring legal proceedings on her newborn's behalf. 43 Okl.St. Ann. § 601-302 (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 help to 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 Some foster teen moms 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

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>



only. 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 arguably 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 infant, failure to place the mother and child together will compromise the state's ability to receive federal reimbursement for the infant's care.

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

RESOURCES

Department of Human Services

Sequoyah Memorial Office Building, 2400 N. Lincoln Blvd., Oklahoma 73105
405-521-3646
<http://www.okdhs.org/>

Legal Services

Oklahoma Indian Legal Services Inc.

4200 Perimeter Center Drive, Suite 222 Oklahoma City, OK 73112
800-658-1497
www.oilsonline.org

Legal Aid Services of Oklahoma

2901 North Classen Boulevard Suite 110 Oklahoma City, OK 73106
800-421-1641
www.legalaidok.org

Legal Aid Services Of Oklahoma, Inc.

2901 North Classen Boulevard Suite 110 Oklahoma City, OK 73105-4900
General Phone: 405-557-0020
Fax: 405-524-1257
Intake Phone: 405-557-0020
Counties Served: Statewide

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

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

Transitional or Independent Living Programs

Oklahoma Department of Human Services

P. O. Box 25352
Oklahoma City, OK 73125
Phone: (405) 521-4364
Fax: (405) 521-4373

Emerson Teen Parent Program

710 North Dewey Avenue, Oklahoma City, OK 73102
Phone: (405) 236-8172

Oklahoma City Public Schools - Emerson Teen Parent Program Clinic

2601 South Tulsa, Oklahoma City, OK 73108
Phone: (405) 236-8172

National Resource Center for Youth Services

Tulsa, Oklahoma

The University of Oklahoma OUTREACH National Resource Center for Youth Services

Schusterman Center

4502 E. 41st St., Bldg. 4W
Tulsa, OK 74135-2512
Phone: (918) 660-3700
Fax: (918) 660-3737
<http://www.nrcys.ou.edu/>

People Inc.

205 South J.T. Stites, Sallisaw, OK 74955_
Phone: (918) 775-7787
Fax: (918) 775-0328

Mother-baby Residential Facilities

Crisis Pregnancy Outreach

11604 E. 58th St. Tulsa, OK 74146

Phone: (918) 252-9897

Fax: (918) 254-1875

Life Alternatives Family Services

2651 E. 21st, Ste. 407 Tulsa, OK 74114

Phone: (800) TLC-LOVE

Substance Abuse Health & Treatment Resources

Youth & Family Resource Center, Inc.

326 West Eleventh Street Shawnee, Oklahoma 74801

Phone: (405) 275-3340

Fax: (405) 275-3343

info@hopehouseonline.org

www.hopehouseonline.org

Alcohol and Drug Programs Department of Mental Health and Substance Abuse Services

1200 North East 13th PO Box 53277 Capitol Station Oklahoma City OK 73152-3277

Southwest Regional Center for the Application of Prevention Technologies

Southwest Prevention Center

University of Oklahoma

555 Constitution Street, Suite 132 Norman, OK 73072

Phone: (800) 853-2572

Phone: (405) 325-1454

<http://www.swcapt.org>

molowther@ou.edu

Childcare Assistance

Sooner Start

Phone: (918)458-6577 or OASIS toll free number (800)426-2747

Oklahoma's Early Intervention Program for Infants and Toddlers. Services Provided: Diagnostic and Evaluation Services, Case Management, Family Training, Counseling, Home Visits, Certain Health Services, Nursing Services, Nutrition Services, Occupational, Physical, Speech-Language Therapy.

Youth & Family Resource Center, Inc.

326 West Eleventh Street Shawnee, Oklahoma 74801

Phone: (405) 275-3340

Fax: (405) 275-3343

info@hopehouseonline.org

URL: <http://www.hopehouseonline.org/>

Kid's Ink Preschool & Day Care

200 South JT Stites Sallisaw, OK 74955

Phone: (918) 775-3001

They are 2 Star rated, Department of Human Services, Keetoowah and Cherokee Nation Licensed.

TANF (Temporary Aid to Needy Families) Funds

Family Support Division

Oklahoma Department of Human Services

PO Box 25352 Oklahoma City, OK 73125

Phone: (405) 521-4415

FAX: (405) 521-4158

<http://www.spdp.org/compstates/oklahoma.htm> (statewide eligibility requirements)

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.

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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>