

OREGON

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HOW THE STATE CAN REMOVE CUSTODY

Statute: §§419B.500; 419B.502; 419B.504; 419B.506; 419B.508

Grounds: Abandonment or extreme parental disinterest, abuse/neglect, mental illness or deficiency, alcohol or drug induced incapacity, failure of reasonable efforts, sexual abuse, abuse/neglect or loss of rights of another child, failure to maintain contact, failure to provide support, child's best interest, felony assault of child or sibling, murder/manslaughter of sibling child, single or recurrent incident of extreme conduct toward the child, criminal conduct of parent, identity or location of parent(s) unknown, exposure to methamphetamines.

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. O.R.S. § 110.345 (Proceeding 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 attempt 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 emancipation¹ 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 have the foster teen sign a voluntary agreement to hand over custody for a limited time 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.

¹ <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.

APPLICABLE STATE LAW

Some teen moms are able to retain counsel and have a termination order vacated. The standard of proof is by clear and convincing evidence. *State ex rel. Dept. of Human Services v. Lee*, 96 P.3d 823 (Or.App. 2004) Clear and convincing evidence did not show that mother's parental rights should be terminated for her unfitness; home where mother and children stayed was adequate and mother was eligible for subsidized housing and had taken steps to obtain it, mother was eligible for government assistance and was expected to begin job program, although mother was often late for or missed appointments she demonstrated parenting and housekeeping skills, experts believed behavioral therapy might be helpful for mother's diagnosed personality disorder, and there was no evidence of abuse or neglect. West's Or.Rev. Stat. Ann. §§ 419B.500, 419B.504. Courts apply a two-part test for determining whether to terminate parental rights on the ground of unfitness: first, state must prove by clear and convincing evidence that parent is presently unfit by reason of conduct or condition seriously detrimental to child and that integration of child into parent's home is improbable within a reasonable time, and if so, second question is whether termination is in child's best interest. West's Or.Rev. Stat. Ann. §§ 419B.500, 419B.504. The Department of Human Services (DHS) petitioned to terminate mother's parental rights to two of her children on ground that mother was unfit. The Circuit Court denied petitions. DHS appealed. The Court of Appeals held that clear and convincing evidence did not show that mother was unfit. The unfitness standard was applied in *State ex rel. State Office for Services to Children and Families v. Stillman*, 1 P.3d 500 (Or.App. 2000) where the court points out that the statute authorizing termination of parental rights based on parental unfitness requires trial court to determine whether that parent is presently unfit by reason of conduct or condition that is seriously detrimental to the child, and whether that conduct or condition makes it improbable that the child can be integrated into the parent's home within a reasonable time; if the parent is presently unfit and integration is not probable within a reasonable time, the final question is whether termination is in the child's best interests. ORS 419B.504. State Office of Services to Children and Families (SCF) petitioned to terminate the father's parental rights. The Circuit Court granted the petition. The father appealed. The Court of Appeals held that neither the father's incarceration nor the possibility of the father's relapse into drug abuse provided clear and convincing evidence that the father was presently unfit to parent children. *Matter of Wyatt* 34 Or.App. 793 (Or.App. 1978). Mother appealed from order of the Circuit Court, Multnomah County, Harlow F. Lenon, J., terminating her parental rights in her daughter. The Court of Appeals, Gillette, J., held that evidence that mother had an "antisocial personality" and was more likely than the average person to be abusive to her child some day could not serve as basis for terminating parental rights.

RESOURCES

Dept of Health & Human Services

500 Summer St. NE E62 Salem, OR 97301-1067

503-945-5651

<http://www.oregon.gov/DHS/children/fostercare/>

Legal Aid Services of Oregon

921 SW Washington, Suite 570, Portland, OR 97205

503-224-4094

www.lasoregon.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 Living or Independent Living Programs

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

http://www.oregon.gov/DHS/children/contact_us.shtml

DHS offers four programs for helping youth achieve independence. They are the *Independent Living Program (ILP)*, the *Independent Living Subsidy Program (ILSP)*, the *Chafee Housing Program* and the *Education and Training Voucher Program (ETV)*.

http://www.oregon.gov/DHS/children/fostercare/ind_living/ilp.shtml#services

The ILP provides training and classes to prepare youth to live independently.

The ILSP & Chafee Housing programs can provide funds to assist youths with room and board expenses, if they qualify.

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

The ETV can provide funds to assist youth with post-secondary education or training. Services may vary depending on the resources available in your local area. Education and Training Voucher Program (ETV) checklist: Is the youth between the ages of 14 and 20? Currently in foster care or was in foster care for at least 180 days after the age of 14? For more information about Independent Living Programs contact:

Independent Living Programs

500 Summer Street NE, E76
Salem, OR 97301-1017
503-945-6619

DHS - Independent Living Program, E76

ILP Fiscal Coordinator
500 Summer Street NE
Salem, OR 97301-1069
Phone: (503) 945-5688
Fax: (503) 945-6969 http://www.oregon.gov/DHS/children/fostercare/ind_living/ilp.shtml

Rural Health Outreach (Gold Beach, Oregon)

Health promotion and disease prevention
Youth Networking and collaboration

The project was established to ensure local health care coverage for residents of remote North Curry County. The project's overriding mission was to stabilize the local clinic while providing health promotion and prevention opportunities in the core areas of heart, breathing, cancer, and diabetes. Project partners included Curry General Hospital, North Curry Family Center, Curry Family Medical Clinic, Curry County Health Department, and Port Orford Community Ambulance Services. Services offered: The grant funded a variety of services to the community, which were predominantly prevention oriented. These included women and men's health screenings, diabetes screenings and education, a Youth Health Fair, school health screenings, blood pressure screenings, home visits to families with newborns, equipment for health care providers, subsidies for physician salaries, several "Walk On!" health promotion events, dances, and hikes.

Mother-baby Residential Facilities

Birthright of Bend

950 SE 3rd Bend, OR 97702
(800) 550-4900
(541) 382-5505

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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.

Corvallis Pregnancy Care Center

867 NW 23rd St. Corvallis, OR 97330
Phone: (541) 757-9645

White Shield Center (A member of the Crittenton Family of Agencies)

2640 NW Alexandra Ave. Portland, OR 97210
Phone: (503) 239-1248

Substance Abuse Health & Treatment Resources

Oregon Partnership

6443 SW Beaverton-Hillsdale Hwy Suite 200 Portland, OR 97221
503-244-5211
www.orpartnership.org
The Oregon affiliate of National Family Partnership

Oregon Prevention Resource Center

555 24th Place, NE Salem, OR 97310
503-378-8000

Best Care Treatment Services

461 NE Greenwood Street Suite A Bend, OR 97701

Childcare Assistance

Here are the liaisons between the National American Academy of Pediatrics and all State Early Education and Child Care activities are listed below. For more information contact childcare@aap.org or:

FAAP

1675 SW Marlow Ave, Suite 204 Portland, OR 97225-5102
Phone: 503-672-7857

The primary Federal program specifically devoted to child care 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.
http://www.acf.hhs.gov/programs/ccb/ccdf/ccdf06_07desc.doc



TANF (Temporary Aid to Needy Families) Funds

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 full explanation of benefits under Oregon's TANF, go to the DHS's Family Services Manual online:
http://www.dhs.state.or.us/policy/selfsufficiency/em_firstpage.htm

TANF/AFS (Adult and Family Services) or other

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

According to the Oregon Office of Rural Health there are 58 acute care hospitals in the state with 29 of these being identified as rural hospitals. Twenty-five of the rural hospitals are designated as Critical Access Hospitals. Also, there are 44 Rural Health Clinics in Oregon, and 21 Federally Qualified Health Centers provide services at 131 sites in the state.
http://www.acf.hhs.gov/programs/ccb/ccdf/ccdf06_07desc.doc

According to the Center for Law and Social Policy, Early Head Start programs can facilitate relationships in the medical community and help provide information to teen parents about the medical needs of their children with disabilities. Teen parents of children with disabilities are likely to experience the health care

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



system more acutely than other parents—they may be in more situations requiring parental decision making, and they may face specific issues around consent that adult parents do not encounter. The legal ambiguity resulting from a teen’s age can be difficult. While teens may legally be empowered to make medical, educational, and mental health decisions (related to disability) for their children, they may not legally be able to do so for themselves. The same legal ambiguity can affect the teen’s lack of knowledge about a child’s disabilities in general. Teens’ lack of knowledge is sometimes due to the fact that they are not the primary caregivers, at least not for the purposes of medical attention

The publication: http://www.clasp.org/publications/faq_tanf_repro_health.pdf provides some 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).