

RHODE ISLAND

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HOW THE STATE CAN REMOVE CUSTODY

Statute: §§15-7-7(a)-(c); 40-11-12.2(e)¹

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 provide support, child's best interest, child in care 15 of 22 months (or less), felony assault of child or sibling, murder/manslaughter of sibling child, aggravated circumstances.

Exceptions: State may elect not to file petition if: (determined by court) 1) there is substantial probability that child shall be returned to the parent within next 3 months; 2) parent has maintained regular visitation and contact, there is a relationship beneficial to child and there is substantial probability that the child shall be returned within 3 months; 3) child is in care of a relative and relative is not willing to adopt child but is willing and capable of providing child with permanent environment; 4) state has documented in the case plan, which shall be presented to the court, a compelling reason for determining that TPR and adoption are not in child's best interest; 5) state has not provided to family the services deemed necessary for the safe return of child; (determined by agency) 1) child being cared for by a relative; 2) state has documented in case plan a compelling reason for determining that TPR would not serve the needs of the child; 3) the child's family has not been provided with necessary services 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. Gen.Laws 1956, § 15-23.1-302 (Proceeding by minor parent) thus sets forth that minor parent, or a guardian or other legal

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



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 emancipation ² 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 only. When the separation is over and the foster teen is ready to resume responsibility for childcare, 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

² <http://www.irplaw.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

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.

Temporary or short-term home care of a child provided for pay or on a voluntary basis by adults other than the parents (birth, foster, or adoptive parents).

APPLICABLE STATE LAW

In *In re Natalya C.* 946 A.2d 198 (R.I. 2008) the Supreme Court held that the mother's parental rights should not have been terminated because the DCYF did not prove that it made reasonable efforts to achieve reunification between mother and child before it filed the termination petition. *Id.* Natural parents have a fundamental liberty interest in the care, custody, and management of their child that does not evaporate if they are not model parents or have lost temporary custody of their child. *Id.* It was "wholly unreasonable" for DCYF not to include any mental-health treatment in mother's case plans, given that her mental illness was one of the primary barriers to her reunification with child. *Id.* See *In re Kenneth*, 439 A.2d 1366 (R.I. 1982) (In proceeding to terminate mother's parental rights, evidence that department for children and their families did nothing to effectuate reunification of mother with child or to encourage planning for child's future with mother and that mother's numerous attempts to see her child were prevented by department supported trial justice's finding that department failed to meet its statutory obligation to encourage relationship between child and his natural mother and trial justice's order for preliminary series of examinations and counseling between child and mother. Gen.Laws 1956, § 15-7-7). When a petition to terminate parental rights is based on parental unfitness to care for the child for an extended period of time or substantial probability that the child will not be able to return safely to the parents' care after removal for at least twelve months, the Department of Children, Youth and Families (DCYF) must prove by clear and convincing evidence that it made reasonable efforts to reunite the family, before a parent's rights can be terminated. (Per Flaherty, J., for an evenly divided court). Gen.Laws 1956, § 15-7-7(a)(2)(vii), (a)(3). *In re Manuel P.*, 889 A.2d 192 (R.I. 2006)

also argue that separating the ward from her child is clearly contrary to the ward's best interest

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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.

RESOURCES

Department of Children, Youth & Families

101 Friendship St. Providence, RI 02903
Phone: (401) 528-3502

Legal Resources

Rhode Island Legal Services Inc.

56 Pine St. 4th Floor Providence, RI 02903
Phone: (800) 662-5034
www.rils.org

Rhode Island Bar Association Lawyer Referral Service

115 Cedar St. Providence, RI 02903-1082
General Phone: (401) 421-7799
Fax: (401) 421-2703
Intake Phone: (401) 421-7758
Web Site: <http://www.ribar.com/public/needalawyer.asp>

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

Rhode Island Department of Children, Youth and Families

101 Friendship Street Providence, RI 02903

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

Phone: (401) 528-3764
Fax: (401) 528-3780

Rhode Island State of--Human Services Dept of, Family & Adult Social Services

(401) 235-6300 Woonsocket
(401) 849-6000 Newport

Warren Social Service

(401) 245-7387 514 Main St., Warren
YWCA of Greater RI
831-9922

Gender specific programming for girls to promote leadership, education in technology, and more.

Adolescent Self Sufficiency Programs

These programs from the R.I. Dept. Human Services provide support to pregnant and parenting teens on: health and parenting issues, preventing future pregnancies, finishing school, & exploring vocational options.

Blackstone Valley Community Action, Pawtucket

723-4520, ext 251

Comprehensive Community Action, Cranston

461-4640, ext 138

Urban League of R.I., Providence

351-5000, ext 147

South County Community Action, Peacedale

789-3016, ext 339

VNHS: Young Parents Program, Newport

849-2101

Mother-baby Residential Facilities

Problem Pregnancy of Providence

400 Atwells Ave. Providence, RI 02909

Phone: (401) 421-0820

Care Net-Rhode Island

245 Phenix Ave. Cranston, RI 02920

Phone: (401) 941-HELP (4357)

website: www.carenetri.org

email: CareNetRI@ids.net

Substance Abuse Health & Treatment Resources

Seabrook House Alcoholism Detox and Substance Abuse Drug Rehab Treatment Rehab

(800) 761-7575

We accept addiction treatment admissions 24 hours per day for rehabilitation services for alcoholism, alcohol withdrawal and drug withdrawal detoxification, so please call now if you are in need of immediate assistance or would like more information about detoxes, drug rehabs, heroin detox, family intervention, substance abuse treatment or residential addiction treatment in the New Jersey (NJ), Pennsylvania (PA), Delaware (DE), New York (NY), Massachusetts (MA), Connecticut (CT), Rhode Island (RI), Virginia (VA) and Maryland (MD) areas.

Department of Mental Health, Mental Retardation and Hospitals, Division of Substance Abuse

Cranston, RI 02920

Phone: (401) 462-4680

Primary responsibility for planning, coordinating and administering a comprehensive statewide system of substance abuse treatment and prevention activities.

Child Care and Development Fund (CCDF)

The primary Federal program specifically devoted to childcare 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.

Childcare Assistance

Parents As Teachers

Phone: (401) 245-3307

Provides practical and effective help for families with children from birth to three years of age. Through monthly home visits by certified parent educators trained in child development, parents are provided with: information on what to look for and expect as the child grows and develops, group meetings with other parents to gain new insights, share experiences and discuss topics of interest, periodic review of the child's development through standardized screenings, playgroups, story hours, and special events.

Meeting Street School

1000 Eddy St. Providence, RI 02905

Phone: (401) 438-9500

www.meetingstreet.org

For 55 years, Meeting Street has provided comprehensive educational, therapeutic, childcare and developmental services to children with disabilities and special needs. Considered a leader in special education, early intervention and rehabilitation services, Meeting Street is committed to working with individuals with all levels of abilities and special needs to support their efforts to achieve equality, dignity and independence, as reflected in their motto: Teaching skills, touching hearts, changing lives ... believing in the possibilities.

DHS Child-Care Assistance Program

Phone: (401) 462-5300

www.dhs.state.ri.us

Working families meeting income guidelines may be eligible for full or partial child-care subsidies to help pay child-care expenses. Call the DHS Info Line for income eligibility or application information.

Infant Development Center

111 Plain St., Providence, RI

Phone: (401) 453-7690, 1-888-88COLIC

Women & Infants' Infant Development Center provides clinical services, research and training in the psychological and social aspects of pediatrics, including the behavioral and emotional needs of infants and their families. The Infant Behavior, Crying and Sleep Clinic (IBCSC) specializes in infants with colic, sleep problems or other behavioral difficulties associated with normal infant parenting.

TANF (Temporary Aid to Needy Families) Funds

Rhode Island TANF is called FIP (Family Independence Program)
Rhode Island Department of Human Services
Louis Pasteur Bldg. 600 New London Avenue Cranston, RI 02920
Phone: (401) 462-2121
FAX: (401) 462-3677

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>