

## TEXAS

### Topics:

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What the Law Says About Separating A Mother From Her Baby  
Applicable State Law  
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## HOW THE STATE CAN REMOVE CUSTODY

Statute: §§161.001; 161.003(a)

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's best interest, felony assault of child or sibling, murder/manslaughter of sibling child, refusal to submit to court order, failure to provide education, voluntary relinquishment, drug or alcohol addicted newborn.

## WHAT THE LAW SAYS ABOUT SEPARATING A MOTHER FROM HER BABY

It appears that in Texas legal custody rests with the foster teen-minor parent-natural parent herself and may be terminated upon birth or subsequently, or transferred to the TDPRS if there is a showing under the proper circumstances. It also 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. V.T.C.A., Family Code § 159.302 (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 emancipation <sup>1</sup> 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.

<sup>1</sup> <http://www.jrplaw.org/Documents/Teens%20Aging%20Out%20of%20Foster%20Care%20in%20Oregon.pdf>





## APPLICABLE STATE LAW

*In re A.C.* Not Reported in S.W.3d, 2008 WL 1744333 (Tex.App.-Amarillo 2008)(parental rights termination) Evidence that a teen in foster care cannot provide a stable, safe, secure environment supports the finding it is in the child's best interest to end the foster teen's parental rights. *Matter of A.D.* Not Reported in S.W.2d, 1998 WL 418040 Tex.App.-Hous. (1 Dist.),1998. Texas Department of Protective and Regulatory Services (TDPRS) became appellant's temporary managing conservator at the age of 13. The appellant was several months pregnant and gave birth to A.D. at which time TDPRS became the temporary managing conservator of A.D. Shortly after the birth, TDPRS placed the infant A.D. in a foster home, where she has lived since. When A.D. was five years old and the appellant was 18, TDPRS filed a suit to terminate the appellant's parental rights as well as the rights of the baby's father. The court found that it was in the best interest of the infant to terminate and appointed TDPRS the infant's sole managing conservator. *Hendricks v. Curry* 389 S.W.2d 181 Tex.Civ.App. 1965 (independent adoption by minor natural mother w/o benefit of state intervention) Mother was free to grant her consent to the adoption and was made aware of the 6-month legal waiting period for adoptions. Mother was not a foster teen however this case broadly advocates in favor of state intervention wherever possible when transferring custodial rights to a minor parent's child. *In re M.D.L.E.* Not Reported in S.W.3d, 2007 WL 685562 (Tex.App.-Beaumont 2007) Minor was in Dept. custody since 1995. At age sixteen, after being placed in her grandmother's custody, the minor became pregnant and again returned to the Dept's care. The Department took custody of the child the day she was born and later filed an "Original Petition for Protection of a Child, for Conservatorship and for Termination in Suit Affecting the Parent-Child Relationship." In its petition, the Dept alleged the foster teen committed one or more of the following acts or omissions, viz: 1. knowingly placed or knowingly allowed the child to remain in conditions or surroundings which endanger the physical or emotional well-being of the child; 2. engaged in conduct or knowingly placed the child with persons who engaged in conduct which endangers the physical or emotional well-being of the child.

## RESOURCES

### Department of Family and Protective Services

701 W. 51<sup>st</sup> Street Austin, TX 78751

512-438-4800

<http://www.dfps.state.tx.us/>

### Legal Services

#### **Legal Aid of NorthWest Texas**

400 N. Beach Street 2nd Floor Fort Worth, TX 76111

(800) 955-3959

[www.lanwt.org](http://www.lanwt.org)

Texas RioGrande Legal Aid

300 South Texas Boulevard Weslaco, TX 78596

(800) 369-0574

[www.trla.org](http://www.trla.org)

#### **Lone Star Legal Aid**

414 East Pillar Street P.O. Box 631070 Nacogdoches, TX 75963-1070

(800) 354-1889

[www.lonestarlegal.org](http://www.lonestarlegal.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.<sup>5</sup>

#### **Catholic Family Service, Inc.**

102 Ave J Lubbock, TX 79401-1438

General Phone: 806-765-8475

Fax: 806-765-8630

Intake Phone: 806-741-0409

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<sup>5</sup> <http://www.abanet.org/abanet/child/statesum/allstate.cfm?y=2005>

### **Transitional or Independent Living Program**

Transitioning Youth Services

701 West 51st Street MC W-157 Austin, TX 78751

Phone: (512) 438-2350

Fax: (512) 438-3782

[www.tdprs.state.tx.us/Child\\_Protection/Preparation\\_For\\_Adult\\_Living/](http://www.tdprs.state.tx.us/Child_Protection/Preparation_For_Adult_Living/)

### **DePelchin Children's Center (A member of the Crittenton Family of Agencies)**

4950 Memorial Drive Houston, TX 77007

Phone: (713) 582-7129

### **Texas Department of Family and Protective Services**

PAL Program Specialist

701 West 51st Street MC W-157 Austin, TX 78751

Phone: (512) 438-5442

Fax: (512) 438-3782

[www.tdprs.state.tx.us/Child\\_Protection/Preparation\\_For\\_Adult\\_Living/](http://www.tdprs.state.tx.us/Child_Protection/Preparation_For_Adult_Living/)

### **Mother-baby Residential Facilities**

#### **Homes of St. Mark**

1302 Marshall Houston, TX 77006

Phone: (800) 543-2229

Phone: (713) 522-2800

### **Substance Abuse Health & Treatment Resources**

<http://www.dshs.state.tx.us/sa/txpartnership/print.shtm>

#### **Southwest Key Program, Inc.**

Austin, TX

Founded in 1987, the Southwest Key Program's mission is to advocate for children worldwide and to impact children, youth, and families by empowering them to succeed. Southwest Key was established with the objective of developing community-based treatment programs for troubled youth as an alternative to institutionalization. It strongly believes that kids belong at home with their families and that

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troubled youth are most effectively treated in their own communities with the participation of family members and school personnel with an emphasis on family and community involvement and development in the therapeutic process. Southwest Key's reputation centers on the design and implementation of innovative community-based treatment programs for federal, state, and local agencies. Currently, Southwest Key operates programs in California, Arizona, New Mexico, Texas, Wisconsin, Georgia, New York City, and Puerto Rico, employing more than 1,000 staff and impacting the lives of over 5,000 individuals every day.

### **Tejano Center for Community Concerns**

Houston, TX  
P.O. Box 270 Abilene, TX 79604  
Phone: (915) 677-2205  
Toll Free Hot-Line 800-592-4725  
attention@christianhomes.com  
<http://www.christianhomes.com/who/who.html>

Founded in 1992, the TCCC is dedicated to improving opportunities for Hispanics through the provision of educational, social, housing, and economic development initiatives. TCCC operates youth violence prevention programs, ABC/ESL classes, drug abuse and AIDS prevention programs, gang intervention and prevention programs, and the Raul Yzaguirre Charter School for Success. TCCC is also developing a foster care group home and shelter, organizing resident and homeowner groups, and beginning a homeownership program for low-income families within the Denver Harbor and Port Houston neighborhoods of Houston.

### **Childcare Assistance**

#### **Henderson County, Texas Help Center**

Offers counseling, day care, teen pregnancy programs, parenting education, child advocacy center, infant and newborn services, student assistance programs, and after school programs.

#### **Bryan's House**

A nonprofit organization based in Dallas, Texas that offers medically-managed child care, adolescent programs and family support services to children, teens and their families affected by HIV/AIDS.

#### **Pharr-San Juan-Alamo Independent School District - Teen Age Parent Program**

Pharr, TX 78577  
Phone: (956) 702-5806 or 5809

**TEXAS 6**  
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### **Seton Home**

1115 Mission Road San Antonio, TX 78210

Phone: (210) 533-3504

Licensed by the state of Texas, Seton Home is a group home for pregnant teenagers and teenage mothers, aged 12-20. The facility consists of two cottages, each of which houses eight mothers and their babies. Approximately 35 mothers go through the program each year.

Each cottage is staffed by one house mother or independent living skills instructor. In addition, Seton Home has a social service director, volunteer coordinator, and an executive director. Volunteers perform such tasks as office work, yard work, and mother's day out activities.

### **The Texas Network of Youth Services (TNOYS)**

Organization of 60 nonprofit youth service agencies and private individuals who share the common goal of creating better options and improving available services for youth and families in crisis.

### **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.

[http://www.acf.hhs.gov/programs/ccb/ccdf/ccdf06\\_07desc.doc](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.

### **TANF/AFS (Adult and Family Services) or other**

Temporary Assistance for Needy Families (TANF)

Formerly: Aid to Families with Dependent Children (AFDC)

<http://www.hhsc.state.tx.us/programs/TexasWorks/TANF.html>

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.

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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.<sup>6</sup>

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<sup>6</sup> <http://www.spdp.org/reprexpl.htm#mla>