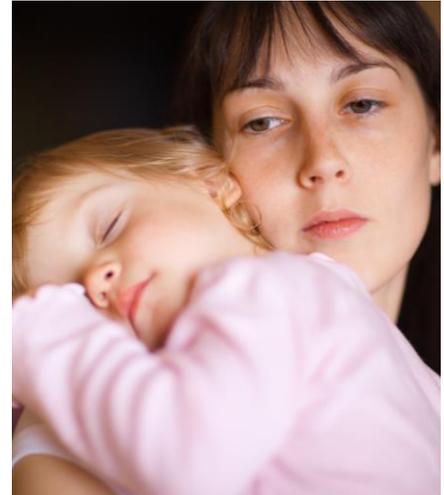




How the Law Plays a Role in the Lives of Young Parents



Overview

What's Covered

This brief takes a close look at how the following legal issues affect expectant and parenting youth:

- Custody
- Visitation/Parenting Time
- Child support

Who is this for?

This brief is intended for professionals serving youth who need legal support. It includes resource spotlights that provide youth-serving professionals with additional resources on these topics.

Disclaimer: While intended to help professionals understand common legal challenges young parents face, this document is not a substitute for legal advice from a lawyer. To help young parents needing legal advice, direct them to <http://www.lsc.gov/what-legal-aid/find-legal-aid>.

Having a child brings many new experiences and challenges into parents' lives. Adolescent and young adult parents, who themselves are going through a period of developmental growth, especially need support.

Complex legal issues may arise in the lives of expectant and parenting youth, both those who are under age 18 and those who are 18 and above. Participants in Pregnancy Assistance Fund (PAF) programs may express concerns about legal issues or may not be aware of the legal options available to them as parents.



Custody

What does custody mean and what are the different types?

Custody is the right of a parent to the care and responsibility of a child, and is available to both biological parents. These rights are divided into legal (decision-making) and physical (residential) custody. **Legal custody** is the right to make major decisions about a child, including where the child goes to school, what medical treatments the child receives, and what religious activities the child participates in. **Physical custody** (many states are moving away from this term in favor of “residential custody”) is the right to have the child live primarily with the parent. That parent makes daily decisions. Parents may structure custody arrangements to support the unique needs and circumstances of the child and the family. There are several different types of custody arrangements, which are not necessarily mutually exclusive (see the *Figure 1. Types of Custody Arrangements* graphic). While parents can informally work together to design custody arrangements based on their needs and desires and those of the family as a whole, if they cannot agree, a judge will decide what is in the best interest of the child.

How can children benefit from having both parents involved?

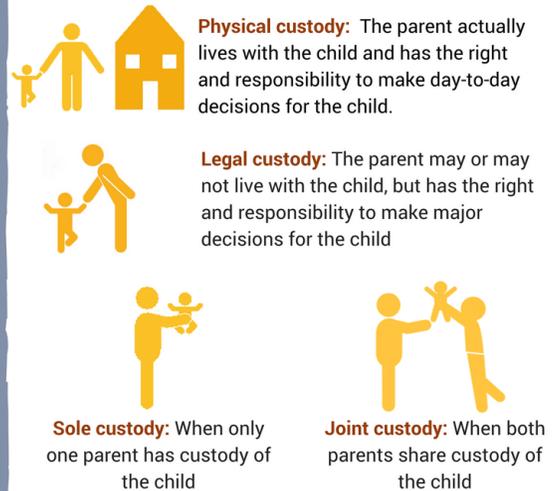
In most cases, a young child benefits from having two involved parents. Co-parenting can contribute positively to a child's development.¹ While custodial parents usually remain connected to their children, sometimes involvement of the non-custodial parents declines over time, especially if the parents are no longer romantically involved.² It is important to support and encourage young parents who want to become involved and to support their partners who want these non-custodial parents to be more involved.

When might a child not benefit from having both parents involved?

There are instances when co-parenting does not benefit a child, such as:

- Drug abuse
- Child abuse
- High-conflict relationships
- Domestic violence

Figure 1. Types of Custody Arrangements



Custody Arrangement Examples

Sally lives with both her parents and they make major decisions about her care together. This is an example of **joint physical & joint legal custody**.

Jimmy lives with his mom, but both his parents make major decisions about his care. This is an example of **sole physical custody & joint legal custody**.

Bobby lives with his dad and his dad makes all major decisions about his care. This is an example of **sole physical & sole legal custody**.

Source: American Bar Association. (2016). *Custody options*. Retrieved from http://www.americanbar.org/groups/public_education/resources/law_issues_for_consumers/custody_options.html

Violence between partners can be particularly relevant for young parents because teen pregnancy is linked with an increased likelihood of intimate partner violence.³ In many circumstances, parents with a history of domestic violence should not share joint physical or legal custody, since it may not be safe for the victim-parent to be in regular communication with the aggressor-parent. Because safety issues must be addressed and protection options exist, it is important for providers to refer victims of intimate partner violence for additional services. For PAF grantees, these should be based on their referral network. If a referral network has yet to be established, you can find guidance in the PAF Resource Center on the Building Collaborations page: http://www.hhs.gov/ash/oah/oah-initiatives/paf_rc/training/building-collaborations.html.

Screening!

At least a quarter and as much as 50-80 percent of adolescent mothers experience some form of relationship violence or abuse before, during, or after pregnancy.³ Screening is essential to getting them the help they need. Get help here:

<http://www.healthcaresaboutipv.org/tols/>

Providers should also inform victims that they have the right to seek a restraining order for themselves and their children. In such cases, a judge may limit the method of communication between the parents or the transfer of the child between the parents, or in cases of serious abuse, may order supervised visitation for the aggressor-parent.

How does paternity affect custody?

Paternity is a way to obtain legal recognition that a man is the father of a child. Paternity can be established when the child is born or until the child turns 18 years old.⁴ When a father who is not listed on the birth certificate wants to have custody, he will need to establish his paternity. Establishing paternity is one way to support non-custodial parents and promote their involvement with their child.⁵ States vary on the process. In some states the father can sign a formal document, an acknowledgement, that he is the father. Alternatively, some states may require DNA from both the child and the father so the court can make a determination of parentage. Establishing paternity opens the door for both a father's rights to custody, parenting time/visitation, and child support obligations.

What is the role of the court in custody determination?

If the young parents agree on custody, most courts will enforce the agreement if it is in the best interests of the child. If the parents cannot agree and a father wants joint custody, the court may order the parents to attend mediation to help them develop a parenting plan. If they still cannot agree, the judge will decide the custody arrangements that best serve the child's interests and protect the safety of all involved. Safety and stability are two important factors. With young parents, a child's grandparent (i.e., the parent of the

Resource spotlight!

For more information visit the American Bar Association's website for information on

Child Support and Custody
http://www.americanbar.org/groups/public_education/resources/law_issues_for_consumers/custody_options.html

Deciding Custody
http://www.americanbar.org/portals/public_resources/aba_home_front/information_center/family_law/children/custody/deciding_custody.html

parenting teen) may, in some states, have the right to custody or visitation so that the grandparent can be in charge of making decisions about the child. If there is conflict between the young parent and their parent(s), a separate lawyer may be needed to advise the young parent on custody and related legal issues, such as emancipation. Additionally, if there are concerns that a child is being abused or neglected, child protective services or the state's child welfare agency can intervene and also ask a court for custody of a child.

Do states differ in their custody criteria?

States and even localities will have different rules about if, when, and how a custody case can come to court, particularly in cases involving domestic violence. Learn more at:

<http://www.ncjfcj.org/our-work/state-laws>

Visitation/Parenting Time

What does visitation or parenting time mean?



A parent who does not live with his or her child usually has the right to parenting time, sometimes called **access** or **visitation** (though the term "visitation" is now being applied more to third parties, such as grandparents or step parents in some states), unless that parent poses a danger to the child or the child's other parent.

How do young parents negotiate parenting time or visitation rights?

Parenting time arrangements vary widely based on the needs of the child and parents. Visits can be daily, weekly, or monthly. They may take place in public or in the home of either parent. If the parties are unable to communicate, are involved in high conflict behaviors, or if there are concerns such as domestic violence or abuse, visits can be held at supervised visitation centers or supervised by social workers or others.

The details of a parenting plan can be developed through either formal or informal processes.

- **Informal arrangements:** The easiest way to develop a parenting plan is for the two parents to work out the details of what custody arrangement will work for their child and them without using the court. This works best when the parents have an amicable relationship and similar ideas about what parenting arrangements are appropriate. The parents simply work together to determine the times and locations for parenting time.
- **Formal arrangements:** When the young parents cannot create their own parenting plan or there are safety issues, a judge may order a parenting plan which specifically sets out where and when visits may occur. The plan may be extremely detailed. Having a legal document with specific times for each parent makes it easier to ensure that a parent gets time with their child and makes it easier to enforce the parenting plan if necessary.

Resource spotlight!

For more information on the importance of parents spending time with their children, visit:

<http://eclkc.ohs.acf.hhs.gov/hslc/tta-system/family/docs/parent-child-relationships.pdf>

As much as possible, these arrangements should be realistic, and youth-serving professionals and lawyers should help young parents hold to them. For some youth, issues such as curfews

or lack of transportation (e.g., if a parent/guardian is unwilling to drive a teen to their visits) might affect their ability to see their child. Attorneys of young parents and other youth-serving professionals should work with young parents to help them navigate these issues.

Remember, if a young father does not live with his child, then paternity must be established before the father can seek parenting time or visitation in court. In other words, there needs to be official documentation showing that he is the father before he can ask a court to require parenting time or visitation.



Child Support

What is child support?

Child support is money paid by the parent who *does not have physical custody* to the custodial parent to support the care of the child. When one parent is caring for the child, the other parent will likely be ordered to help pay for the costs associated with raising the child. In some joint custody cases, one parent may still be asked to pay child support to the other.

What else should young parents know about child support?

Issues around child support can be challenging. Each state has its own process for parents to request child support and for determining the amount of child support. All states have child support guidelines, which determine the amount of support, usually based on both parents' incomes. Each state's guidelines may have specific provisions that allow deviations from the presumed amount of support or modifications to the child support amount in certain cases.

Youth-serving professionals can help educate young parents on their legal rights and responsibilities and link them to resources within their community. Young parents may have questions about the following when dealing with child support.

- A parent may not be able to afford child support due to special circumstances
- A parent may not know how to pursue child support from the non-custodial parent
- A parent may not visit his/her child because he/she is unclear about his/her rights to visitation and how that relates to child support issues
- A parent may fear filing for child support because of issues of domestic violence
- A state agency can seek child support from a non-custodial parent if the custodial parent receives state funds, such as from TANF (Temporary Assistance to Needy Families)

There are no easy or uniform answers to these issues. States and local jurisdictions vary widely on child support policies and requirements. For more information on child support in your state, you can reach out to your local child support agencies: <http://www.acf.hhs.gov/programs/css/resource/state-and-tribal-child-support-agency-contacts>. Also make sure to work with your local family court or non-profit organizations to identify additional assistance and resources that will help young parents navigate the system.

Resource spotlight!

The Office of Child Support Enforcement (OCSE), within the U.S. Department of Health and Human Services, Administration for Children and Families, has produced this handbook, which answers frequently asked questions about child support:

http://www.acf.hhs.gov/sites/default/files/programs/css/child_support_handbook_with_toc.pdf.

Additional resources to assist with some of these challenging issues can be found on OCSE's site:

- General Information: <http://www.acf.hhs.gov/programs/css>
- "How do I Apply for Child Support Services?": http://www.acf.hhs.gov/sites/default/files/programs/css/how_do_i_apply_for_child_support_services.pdf
- Information on Child Support and Domestic Violence: <http://www.acf.hhs.gov/programs/css/resource/ocse-domestic-violence-awareness-month>

Putting It into Action

The issues described throughout this brief represent just some of the legal challenges that expectant and parenting youth may face. PAF grantees across the country serve populations facing these challenges. A key piece of supporting young parents is ensuring adequate partnerships with those involved in the family court, juvenile justice, and child welfare systems as well as local service providers. These partnerships can include:

- Local Attorney General's Office
- Local Legal Aid Society, also known as Legal Services, which represents low-income individuals in civil cases
- Local non-profit and/or faith-based organizations that can provide case management services
- Support a referral network to link young parents to legal resources

Resource spotlight!

To find legal aid in your state, visit:

<http://www.lsc.gov/what-legal-aid/find-legal-aid>

Key Terms Review

- **Custody:** a parent's right to the care and responsibility of a child, available to both biological parents
- **Legal custody:** the right to make major decisions about a child
- **Physical (residential) custody:** the right to have the child live primarily with the parent
- **Paternity:** a way to obtain legal recognition that a man is the father of a child
- **Access (visitation):** the right to parenting time of a parent or third-party (e.g., a grandparent or step parent) who does not live with the child
- **Informal arrangements:** custody and visitation plans made outside of the court
- **Formal arrangements:** custody and visitation plans made by a judge
- **Child support:** money paid by the parent who *does not have physical custody* to the custodial parent to support the care of the child

Resources

Locating Assistance

- Find Legal Aid (Legal Services Corporation) – <http://www.lsc.gov/what-legal-aid/find-legal-aid>
- Service Locator (HHS, Office of Adolescent Health) – <http://www.hhs.gov/ash/oah/resources-and-publications/researchers.html>

Child Custody and Visitation

- Deciding Factors in Awarding Child Custody (American Bar Association) – http://www.americanbar.org/groups/public_education/resources/law_issues_for_consumers/custody_options.html
- General Information about Deciding Custody (American Bar Association) – http://www.americanbar.org/portals/public_resources/aba_home_front/information_center/family_la_w/children/custody/deciding_custody.html
- General Information on Custody and Visitation (Legal Aid Society) – <https://www.legal-aid.org/en/las/kyr/custodyandvisitation.aspx>
- Summary of Child Custody State Laws (FindLaw) – <http://family.findlaw.com/child-custody/child-custody-summaries-of-state-laws.html>

Domestic Violence

- Injury Prevention & Control: Division of Violence Prevention (HHS, Centers for Disease Control and Prevention) – <http://www.cdc.gov/violenceprevention/index.html>
- Intimate Partner Violence Screening and Counseling Toolkit (Futures Without Violence) – <http://www.healthcaresaboutipv.org/tools/>
- National Health Resource Center on Domestic Violence (Futures Without Violence) – <https://www.futureswithoutviolence.org/health/national-health-resource-center-on-domestic-violence/>
- National Online Resource Center on Violence Against Women (National Resource Center on Domestic Violence) – <http://www.vawnet.org/>
- Office of Child Support Enforcement Domestic Violence Resources List (HHS, Administration for Children & Families) – <http://www.acf.hhs.gov/programs/css/resource/ocse-domestic-violence-awareness-month>
- Upcoming Trainings, Webinars, & Events (National Center on Domestic and Sexual Violence) – http://www.ncdsv.org/ncd_upcomingtrainings.html

Child Support

- Child Support Handbook (HHS, Administration for Children & Families) – http://www.acf.hhs.gov/sites/default/files/programs/css/child_support_handbook_with_toc.pdf
- Office of Child Support Enforcement (HHS, Administration for Children & Families) – <http://www.acf.hhs.gov/programs/css>
- “How Do I Apply for Child Support Services?” (HHS, Administration for Children & Families) – http://www.acf.hhs.gov/sites/default/files/programs/css/how_do_i_apply_for_child_support_services.pdf

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