



Rights of Teen Parents in the Juvenile Justice System

A Fact Sheet Prepared by the Youth Law Center

Youth who come in contact with the juvenile justice system may also be parents. This fact sheet addresses what rights youth have as parents within the juvenile justice system.

What happens at arrest?

At the time of arrest, a minor parent should try to arrange for the care of his/her child if the child will be left without care and supervision while the minor is detained (e.g. the child is with you at arrest, in day care or with a babysitter).

Once booked, and within 3 hours of being arrested, a teen is entitled to make three local telephone calls.¹ These calls can be to an attorney, relative, or other person.² If the teen is a custodial parent with responsibility for a child, he or she should be given two additional telephone calls to a relative or other person for the purpose of arranging for the care of the child.³ Regardless of who is contacted, the teen should identify a responsible adult, make sure that person will know where to locate the child, and give permission for that person to take charge of the child.

If the teen parent is unable to arrange for the child's care with these initial phone calls, she can request that the attorney assigned to her get a court order permitting the teen to make emergency phone calls to find and arrange care for her child.

What arrangements should a teen make to care for a child if the teen is arrested?

A parent has the right to place his/her child in the care and supervision of another responsible adult. If the minor child was not with the teen at the time of arrest, in addition to locating someone to care for the child, the teen should notify the child's school, day care center or other caregiver that:

- a) The teen will not be able to pick up the child; and
- b) That a responsible adult will be picking up the child and has permission to do so;
or
- c) Who may be called to pick up the child.

¹ Cal. Penal Code § 851.5.

² *Id.*

³ Cal. Penal Code § 851.5(c).

What if there is no one to pick up or care for the teen's minor child?

It is likely that the child will be taken into custody by the county's Child Protective Services (CPS) agency.⁴

Once placed with CPS, the teen should act as quickly as possible to:

1. Identify a responsible adult, preferably a relative, who can care for his/her child
2. Have the identified adult call CPS immediately; and
3. Tell the identified adult to bring any proof that exists about their relationship (birth certificate, signed letter from teen, or passport) or permission to take charge of the child.

CPS may release the teen's child to the child's other parent, a guardian, or a responsible adult **relative** who poses no risk or danger to the child.⁵

If CPS does not release the teen's child to the other parent, relative, or responsible caregiver within 48 hours, CPS will file papers in court (a "petition") to make the child a dependent of the court.⁶ In the meantime, the child remains placed in foster care.

What if the teen finds an adult to care for the child after CPS files a dependency petition?

CPS can still release the child to the identified responsible adult and dismiss the petition or continue with the juvenile court dependency process. If CPS continues with the dependency, it will initiate a detailed formal assessment of the relative or other adult who comes forward to care for the child. This assessment includes a criminal background check, caregiver evaluation, and a visit to the home to ensure the environment is safe.⁷

What are a teen's rights as a parent if their child is under the jurisdiction of the dependency court?

If a dependency petition is filed by CPS, a teen parent, like any other parent in dependency court, has a number of rights throughout the dependency proceedings. Parents have a right to:

- a) Be notified of any action initiated;
- b) Have a lawyer represent them throughout the court process;
- c) Be present and participate in all court proceedings; and

⁴ Cal. Welf. & Inst. Code §§ 300(g), 306.

⁵ Cal. Welf. & Inst. Code § 309(a).

⁶ Cal. Welf. & Inst. Code § 313(a).

⁷ Cal. Welf. & Inst. Code § 309(d).

- d) Receive, in almost all cases, reunification services, including visitation with the child.⁸

See Youth Law Center fact sheet “Overview of the Dependency System” for a fuller explanation of the parent’s rights.

What rights do teen parents have when they are detained in a juvenile facility?

Teen parents detained in a juvenile facility have a right to contact with their child whether or not the child is a dependent of the juvenile court. Youth detained in a juvenile hall, camp, or ranch facility have a right to visits with their children “at reasonable times, subject only to the necessary limitations necessary to maintain order and security.”⁹ The regulation guidelines provide that any limitation on visitation may not preclude visitation by children of minors in custody.¹⁰ The regulations governing the state’s Department of Juvenile Justice (DJJ) facilities (formerly the “Youth Authority”) do not specifically address a ward’s visitation with his or her child but require each institution to maintain a visiting program that allows wards visitation with their parents and others.¹¹ Juvenile facilities may have special programs such as “Teen Parents” that may also include parent child visitation.

A teen also has a right to correspond with his or her child by mail and by phone. A detention facility cannot place limits on sending or receiving of mail.¹² In addition, each juvenile facility must provide minors access to a telephone¹³. While there is more discretion in what limits a facility can place on phone access, the detention facility cannot prohibit phone access entirely.¹⁴ Detained teens should be able to use their mail and phone privileges to contact their child’s caregiver, social workers and other service providers to arrange visitation and other services for their child.

The teen also has the right to take advantage of any classes, groups or programs that the facility offers. Detention facilities are required to provide “programs designed to promote social awareness ... and may include ... parenting skills....”¹⁵

What about child support?

The duty to provide financial support for a child is as applicable to teen parents as it is to adult parents. Until parental rights are terminated or a child reaches adult age, a

⁸ Cal. Welf. & Inst. Code § 361.5. The court is not required to order reunification services in certain cases, including cases where the parent has severely abused the child or child’s sibling, is severely mentally ill, or where the parent has caused the death of another child.

⁹ 15 Cal. Code Regs. § 1374.

¹⁰ 15 Cal. Code Regs. § 1374 guideline.

¹¹ 15 Cal. Code Regs. § 4696.

¹² 15 Cal. Code Regs. § 1375 (local juvenile)

¹³ 15 Cal. Code Regs. § 1376 (local juvenile)

¹⁴ See 15 Cal. Code Regs. § 1377

¹⁵ 15 Cal. Code Regs. § 1378.

parent is obligated to pay child support for a child not in their care.¹⁶ This obligation is not suspended while a teen is in the juvenile justice system or while a teen's child is in the foster care system. Just like adults who are incarcerated, a teen is still liable for paying child support if there is already an agreement of child support, a court order of support, or the child is under the jurisdiction of the dependency court. There is no obligation, in the absence of an agreement, for a teen parent to compensate a relative or other person who voluntarily agrees to support the child.¹⁷

Resources:

Legal Services for Prisoners with Children, *Incarcerated Parents Manual* (2004).

<http://www.prisonerswithchildren.org/pubs.htm>

California Department of Corrections and Rehabilitation, *Proud Parenting Program*

[http://www.cdcr.ca.gov/Divisions_Boards/CSA/PPP/Grants/PPP/Proud Parenting Program.html](http://www.cdcr.ca.gov/Divisions_Boards/CSA/PPP/Grants/PPP/Proud_Parenting_Program.html)

¹⁶ Cal. Fam. Code §§ 3900 – 3901.

¹⁷ Cal. Fam. Code § 3951.