



Helping Pregnant and Parenting Teens Find Adequate Housing¹

In 2002, the Office of Juvenile Justice and Delinquency Prevention in the U.S. Department of Justice estimated that there are 1,682,900 homeless and runaway youth under eighteen years of age in the United States. Of this number, anywhere from 6 to 22% are pregnant.² This means that there could potentially be almost 400,000 homeless and pregnant young women in this country.

Understanding the resources available and law applicable to young parents to assist them in finding adequate housing is one way to help address the problem of homelessness among adolescent parents in the United States today.

The American Bar Association Center on Children and the Law and Healthy Teen Network collaborated to develop an overview of housing-related legal and policy issues with which advocates for young families should be familiar. This is merely a guide to some of the legal and policies avenues that are available for pregnant parenting teens seeking housing supports. It is not exhaustive and should not be construed as legal advice.

1. How can a pregnant or parenting teen obtain assistance with finding and paying for housing?

Section 8

The U.S. Housing Act of 1937 contains provisions allowing low-income households to receive financial assistance to afford decent, safe, and sanitary housing in the private market.³ Under the Housing Act's Section 8 Rental Voucher Program, the government gives vouchers to qualifying households; a household that gets a voucher pays the landlord 30 percent of its household income towards an amount set by the local public housing authority (PHA) for the dwelling, which is usually 80-100% of the rent, and then the PHA pays the landlord the rest.⁴ Once a household receives a Section 8 voucher, it is responsible for finding a landlord that will accept the voucher, but it will not have to worry about most of the cost of the rent for that residence.

The U.S. Department of Housing and Urban Development (HUD) is the federal agency in charge of the Section 8 voucher program, but vouchers are administered at the local level by PHAs. For a list of PHAs and their contact information, see HUD's website, at <http://www.hud.gov/offices/pih/pha/contacts/>.

The process for obtaining a Section 8 voucher includes the following steps:

- First, the head of household completes an application with the local PHA, which includes questions about household income. The applicant will need the social security number of all household members; an estimate of the income and

expenses that the applicant expects to have in the next twelve months; the names and addresses of employers; financial information like bank account statements, pay stubs, utility bills, and tax returns; and birth certificates for all children in the household to successfully complete the application.

- Then, the PHA determines whether the household is eligible based on a number of factors including income and family size. Additionally, the applicant must have legal immigration status in the United States and cannot owe any money to the PHA. The PHA will also do a criminal background check, but in the case of minor applicants, the PHA is not supposed to take any criminal record into consideration.
- If the household qualifies under the income requirement, it is then put on a list with other applicants, or placed into a lottery, and it must wait to see if it is chosen to receive aid.
- After receiving the voucher, the family must locate a home that is at or below the local fair market rent and passed the PHA's housing quality inspection.⁵

Local PHAs have discretion in determining who is eligible to receive a Section 8 voucher. However, in general, the household's income may not exceed 50% of the median income for the county or metropolitan area in which the family chooses to live. By law, PHAs are required to provide 75% of their vouchers to applicants whose incomes do not exceed 30% of the area median income, so a majority of the vouchers will go to the households that are most in need.

Along with the income requirement, most PHAs do not allow unemancipated minors to receive Section 8 vouchers, even though this is not a HUD requirement. Thus, in order for pregnant and parenting teens to receive vouchers, they must become legally emancipated through methods recognized in their state (see sections 3 and 4 for a general discussion of emancipation). Unfortunately, in states that do not recognize emancipation, the PHAs usually require that the head of the household be at least eighteen without any provision for emancipated minors.⁶

Even if a teen household qualifies for a Section 8 voucher, they are not guaranteed to successfully receive assistance and find housing through the program. The waiting lists for assistance can be very long. In addition, it can be difficult to find a rental property that meets the Section 8 physical requirements, is affordable, and is run by a landlord who is willing to rent to a Section 8 tenant. This problem is exacerbated when the tenant is a teen because landlords are reluctant to rent to minors, even if the minor is emancipated. One solution to this problem is for the minor to remind the landlord that he or she is emancipated, and thus is able to enter into binding contract. Unfortunately the Federal Fair Housing Act does not prohibit housing discrimination based on age.⁷ However, many local and state laws do prohibit against discrimination based on age (if the minor is emancipated); thus, claims can be brought under these local laws if landlords refuse to rent to emancipated minors.⁸

Family Unification Program

In addition to the regular Section 8 voucher, many young parents may also be eligible to receive a housing voucher through the Family Unification Program (FUP), which is set aside under the Section 8 voucher program.⁹ In order to be eligible for a FUP voucher, a household must be referred to the PHA by a local public child welfare agency. FUP vouchers are for

families for whom the lack of adequate housing is a primary factor in the separation, or threat of imminent separation, of children from their families. If a young parent is at risk of losing his or her child to foster care because of inadequate housing, this parent may be eligible for FUP. Additionally, FUP covers, for a period not to exceed 18 months, youths between the ages of 18 and 21 who have aged out of foster care, whether they have a child of their own or not.¹⁰ For a list of local PHAs that can assist young parents obtain a voucher, visit the HUD website, at <http://www.hud.gov/offices/pih/pha/contacts/>.

Homeless Prevention and Rapid Re-Housing Program

The American Recovery and Reinvestment Act of 2009 granted funds to the U.S. Department of Housing and Urban Development for various projects; this includes \$1.5 billion distributed to the states for the Homeless Prevention and Rapid Re-Housing Program (HPRP).¹¹ The HPRP provides short- (3 months) and medium-term (not to exceed 18 months) rental assistance, housing relocation, and stabilization services for families and individuals during the economic crisis.¹² These funds are aimed at families that would be homeless or at risk of homelessness without this money. For more information about HPRP, visit the HUD Homeless Resource Exchange website, <http://www.hudhre.info/hprp/>, or see National Center for Housing & Child Welfare, *More Than \$2 Billion Available to Ease the Housing Struggles of Child Welfare Families and Youth: NCHCW Urges Child Welfare Professionals to Take a Seat at the Stimulus Table*, May 2009, <http://www.nchcw.org/files/housing/ARRA/ARRA.pdf>.

2. Are there any programs that provide housing to pregnant or parenting teens?

For young parents who are currently homeless or lack adequate housing options, there are various programs, both through local governments and private organizations, that can provide housing and other services.

Maternity Group Homes

The most widespread option for homeless young mothers or families is maternity group homes, also known as Second Chance Homes. Maternity group homes are adult-supervised, supporting group homes or apartment clusters for adolescent parents and their children who cannot live at home because of abuse, neglect, or other extenuating circumstances.¹³ Some of these homes only allow for adolescent mothers and their children, while other ones allow for any custodial parent, including adolescent fathers. These homes offer support to help young families become self-sufficient and reduce the risk of repeat pregnancies; they also provide parenting and life skills classes and services to ensure a smooth transition to independent living. In addition, maternity group homes provide access to services such as child care, health care, transportation, counseling, education, job training, and employment assistance.

The federal Runaway and Homeless Youth Program is a federal program that gives grants to existing or proposed community-based runaway and homeless youth projects for temporary shelters for runaway and homeless youth, and this includes maternity group homes.¹⁴ Under the Reconnecting Homeless Youth Act of 2008¹⁵, which amended the Runaway and Homeless Youth Act, the Family and Youth Services Bureau (FYSB) of the U.S. Department of Health and Human Services funds the Maternity Group Home Program, which supports homeless

pregnant and/or parenting youths between the ages of 16 and 22 and their children for up to 21 months.¹⁶ Many states have their own laws implementing the grants provided by the federal program, and these laws allow the state governments to give grant money to private organizations to form maternity group homes.¹⁷

Young parents can be referred to maternity group homes through welfare agencies, homeless shelters, foster care programs, or by community organizations, schools, clinics, or hospitals. To find out if there is a maternity group home in your state, visit <http://ncfy.acf.hhs.gov/locate/index.htm>, or call the National Runaway Switchboard at 1-800-RUNAWAY.

Temporary Assistance for Needy Families

Under the federal Temporary Assistance for Needy Families (TANF) program, in order to qualify for welfare assistance, young parents usually must be living with a parent or guardian. However, for young parents who have applied for TANF aid who have no parents, legal guardian, or other appropriate adult relative that allow the young parents to live with them, or in a case where a state agency has determined that it is not in the youth's best interest to live with his or her parent or legal guardian or the youth has been subjected to serious physical or emotional harm or sexual abuse in the home, the state must provide or assist the child in locating a Second Chance Home, maternity home, or other appropriate adult-supervised living arrangement.¹⁸ (The level of assistance the state is able to provide may be limited by their resources and caseloads, however.) The young parent must then stay at the home until he or she turns 18 to continue to receive public benefits.

The American Recovery and Reinvestment Act of 2009 also made up to \$5 billion available to states for the TANF Emergency Contingency Fund.¹⁹ This Fund can be used to reimburse states for up to 80 percent of increased spending for providing non-recurrent, short-term payments, such as four months of rental assistance, the security deposit, the first month's rent, and utility assistance for homeless families.²⁰

Transitional Housing

Many states have laws establishing transitional housing for adolescents. These transitional housing programs range from emergency short-term housing that includes shelter and at least one meal a day to more comprehensive programs that provide rental assistance, career training, and educational assessment and referrals to educational programs. Some examples of these laws include:

- The Illinois Children and Family Services Act, which allows for the state Department of Children and Family Services to license "youth transitional housing programs," which are shelters for partially emancipated youths 16-17 years of age.²¹
- The Minnesota Runaway and Homeless Youth Act, which provides an emergency shelter program and transitional living programs for children under 21 who lack a "fixed, regular, and adequate nighttime residence."²²
- The Maine Child and Family Services and Child Protection Act, which allows the government to contract with organizations and agencies to provide emergency shelter and transitional living programs.²³

Extended Support for Foster Youth

Federal and state laws also provide assistance with housing and other necessities to young people who have “aged out” of foster care, i.e., people who have reached the age of majority in their state, which is usually 18 years old.

One example of such a program is the federal John H. Chafee Foster Care Independence Program (CFCIP), which provides help with housing, as well as financial, counseling, employment, and education support and services.²⁴ The CFCIP gives money to states to provide room and board services to people between the ages of 18 and 21 years of age who were previously in foster care. This room and board assistance usually includes rent deposits, as well as help with expenses for food, utilities, and other household start-up purchases.²⁵ The funding given under the CFCIP goes to state departments, who are in charge of determining eligibility for housing assistance; for a list of state child welfare departments, visit http://www.childwelfare.gov/pubs/reslist/rl_dsp_website.cfm?rs_ID=16&rate_chno=AZ-0004E.

Another example is the federal Fostering Connections to Success Act and Increasing Adoptions Act (Fostering Connections Act), passed in 2008, which allows states to obtain federal funds for support of youth in foster care once they have reached age 18.²⁶ Because of this funding, states will be able to extend many services to young adults between the ages of 18 and 22. Many states have already passed legislation or are in the process of passing legislation taking advantage of this federal funding to extend support beyond age 18.²⁷

Young parents who are homeless or whose family home is no longer a safe or healthy option may also be involved with child protective services. For more information on advocating for these youth, see Healthy Teen Network & ABA Center on Children and the Law, *Advocacy for Pregnant and Parenting Teens in Foster Care*, <http://www.healthyteennetwork.org/vertical/Sites/%7BB4D0CC76-CF78-4784-BA7C-5D0436F6040C%7D/uploads/%7BC876BB1F-D845-4B45-81E6-EEBCD8970BB4%7D.PDF>.

3. Can minors enter into valid leases for housing?

Children under eighteen years of age generally cannot form valid contracts, including leases to rent housing.²⁸ Leases signed by minors under eighteen are not valid in most circumstances, so the youth are allowed to back out of the lease’s obligations at any time, usually without penalty. Because of this rule, landlords tend to be very reluctant to rent housing to minors because of the risk that the young person will break the lease.

However, there is an exception to this rule for “necessaries.” A “necessary” is a basic provision that a youth would not be able to live without, like food or clothing. Courts have held that if a minor makes a contract for a necessary, the contract is valid and can be enforced. Courts in most states have held that housing can be a necessary, but only if the minor’s parents or guardian are not willing or able to provide housing for the minor.²⁹ Courts will make a case-by-case analysis of the necessity of housing for minors to determine whether or not it will be considered a necessary; if the youth is homeless or runs away to escape abuse, courts will most likely take that into account in deciding whether a lease is binding. Some states have laws saying that housing is a necessary if the minor is “homeless” or a “victim of domestic violence,”

as defined in state statute, unless the youth is under the supervision of the children's division or the jurisdiction of the juvenile court.³⁰

In addition, a minor can gain the legal ability to enter into binding contracts by becoming emancipated from his or her parent or legal guardian. Emancipation gives minors many legal rights and responsibilities of adults, including, in most cases, the right to enter into binding lease agreements.

4. What is emancipation and how can a youth become emancipated?

Emancipation is a process by which a minor can become legally independent from his or her parents and gain many of the rights and responsibilities of adults. Emancipation is only recognized in thirty-one states, and the rights of emancipated youth vary.³¹ In most states, an emancipated youth has many of the rights of an adult, including the ability to enter into a valid, binding contract.³² However, emancipation does not give young people all of the rights of an adult; for example, emancipated youth still cannot legally drink alcohol or vote until they have reached the required age.

In states that recognize the right of emancipation, there are only a few ways that a minor can become emancipated. A minor is *not* emancipated simply by running away from home or having a child, although many states do allow the minor to consent to all her own medical treatment (often except for abortion) in the event of pregnancy or childbirth.³³ The generally accepted ways that a young person can become emancipated under state law are by:

- Entering into a valid marriage³⁴
- Joining the United States armed forces on active duty
- Filing a petition of emancipation with a local court.³⁵

If a youth files a petition with a court to legally emancipate himself or herself, most courts will require that the youth establish that he or she:

- Be of a minimum age, ranging from 14 to 17;
- Have a source of income independent from his or her parents or guardian; or
- Demonstrate that he or she is capable of supporting himself or herself and competently managing his or her financial affairs.

Nine of the thirty-one states that allow for emancipation require parental consent, but of those nine, four allow for the consent requirement to be waived in specific situations, such as when consent is difficult to obtain or the parents have mistreated the youth.³⁶ Most states that recognize emancipation have free legal services that are offered to young people to assist them, either by giving advice or providing legal representation to minors looking to become emancipated.

When people refer to the concept of emancipation, they are usually referring to the judicial emancipation that is described above. However, in many states there are certain services and benefits that can be received by a minor without judicial emancipation. When a youth believes they need to be judicially emancipated to access certain services or benefits, it is a good idea to consult with state law and regulation to see if there are any areas, such as public benefit receipt or school enrollment and decision making, where conditions for access are provided

to minors in situations short of judicial emancipation. For example, some states provide an administrative definition of emancipation in their public benefits regulations that may allow a minor who is living apart from his or her parents, but unable to support themselves, eligible for certain public benefits without being judicially emancipated. When this is the case, the administrative determination of emancipation is only for the purposes of benefit receipt and does not extend to any other area.³⁷

5. What can I do to better help pregnant and parenting teens find housing?

Determine who the local public housing authority contacts are in your area to help teens complete the procedures necessary to receive Section 8 housing vouchers. For a list of local PHAs and their contact information, visit:

- U.S. Department of Housing & Urban Development, PHA Contact Information, <http://www.hud.gov/offices/pih/pha/contacts/>.
- National Center for Housing & Child Welfare, FUP Funding, <http://www.nchcw.org/fup/sites.aspx> (to see what PHAs have received federal funding for the Family Unification Program).

Learn about maternity group homes and find ones in your area. For more information about maternity group homes, see:

- U.S. Department of Housing & Urban Development, About Second Chance Homes, <http://www.nls.gov/offices/pih/other/sch/about.cfm>.
- To find out if there is a maternity group home in your state, visit <http://ncfy.acf.hhs.gov/locate/index.htm>, or call the National Runaway Switchboard at 1-800-RUNAWAY.

Find out what your state's emancipation laws are to better understand the rules and procedures for helping a teen become emancipated. Lists of state emancipation laws can be found at:

- Juvenile Justice Center, Emancipation in the United States, <http://www.jlc.org/factsheets/emancipationus/>.
- Cornell University Law School, Legal Information Institute, Emancipation of Minors – Laws, http://topics.law.cornell.edu/wex/table_emancipation.
- National Law Center on Homelessness & Poverty, *Alone Without a Home: A State-by-State Review of Laws Affecting Unaccompanied Youth*, <http://www.nlchp.org/content/pubs/Alone%20Without%20A%20Home1.pdf>.

(Endnotes)

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2. National Coalition for the Homeless, Fact Sheet #13 (<http://www.nationalhomeless.org/factsheets/youth.html>).
3. U.S. Housing Act of 1937, 42 U.S.C. § 1437f.
4. 42 U.S.C. § 1437f(o); 24 C.F.R. § 982; U.S. Dept. of Housing & Urban Development website on the Housing Choice Voucher Program (http://portal.hud.gov/portal/page/portal/HUD/topics/housing_choice_voucher_program_section_8).
5. HUD Section 8 Factsheet (http://www.hud.gov/offices/pih/programs/hcv/about/fact_sheet.cfm)
6. See, e.g., Delaware State Housing Authority Voucher Eligibility, http://www.destatehousing.com/services/rt_s8hcv.shtml (click on DSHA Public Housing/Section 8 Application to see age eligibility rules).
7. 42 U.S.C. § 3604. It is only illegal to refuse to rent to someone based on race, color, religion, sex, familial status, or national origin. See also American Bar Association Commission on Homelessness & Poverty, *Runaway and Homeless Youth and the Law: Model State Statutes*, pp. 103-04.
8. See, e.g., N.Y.C. Admin. Code §§ 8-107(5)(a)(1) & (5)(g); Vermont Stat. § 4503(a)(1); Cal. Govt. Code § 12955; Mass. Gen. Ann. § 354-A:10.
9. 42 U.S.C. § 1437f(x).
10. *Id.*
11. Public Law 111-5 tit. XII.
12. National Center for Housing & Child Welfare, *More Than \$2 Billion Available to Ease the Housing Struggles of Child Welfare Families and Youth: NCHCW Urges Child Welfare Professionals to Take a Seat at the Stimulus Table*, May 2009 (<http://www.nchcw.org/files/housing/ARRA/ARRA.pdf>).
13. U.S. Dept. of Housing & Urban Development, *About Second Chance Homes* (<http://www.nls.gov/offices/pih/other/sch/about.cfm>).
14. 42 U.S.C. §§ 5701 et seq.
15. Public Law 110-378.
16. U.S. Dept. of Health & Human Services, Family & Youth Services Bureau, *Maternity Group Homes for Pregnant and Parenting Youth* (<http://www.acf.hhs.gov/programs/fysb/content/youthdivision/programs/mghfactsheet.htm>).
17. See, e.g., Wisc. Stat. § 48.647; Md. Code, Hum. Servs. § 5-316(e)(1)(i)(2); Iowa Code § 239B.4(5); for a list of the sources of funding for Second Chance Homes, see HUD's website (<http://www.hud.gov/offices/pih/other/sch/resources.cfm>).
18. 42 U.S.C. § 608(a)(5)(B).
19. Public Law 111-5 § 2101.
20. National Alliance to End Homelessness, *TANF Emergency Contingency Fund* (<http://www.endhomelessness.org/content/general/detail/2200>).
21. 20 I.L.C.S. § 505/4b.
22. Minn. Stat. § 265K.45.
23. 22 M.R.S. § 4099-E.
24. 42 U.S.C. § 677(a)(5).
25. Nat'l Foster Care Coalition, *Frequently Asked Questions III: About the Chafee Foster Care Independence Program and the Chafee Educational and Training Voucher Program* 40 (2005) (http://www.nrcys.ou.edu/ycd/programs/pdfs/chafee_faq3.pdf); see also U.S. Dept. of Health & Hum. Servs., Admin. For Children & Families, The John H. Chafee Foster Care Independence Program: Program Description (http://www.acf.hhs.gov/programs/cb/programs_fund/state_tribal/jh_chafee.htm).
26. Public Law 110-351.
27. See, e.g., Alaska Senate Bill 105; California Assembly Bill No. 12; Illinois House Bill 4054; see also ABA Bar Youth Empowerment Project, *Extending Support for Foster Youth Beyond Age 18: State Bills Introduced in the Wake of the Fostering Connections Act* (http://new.abanet.org/child/Public-Documents/fca_state_bills_chart_4_3_09.pdf).
28. Williston on Contracts (4th ed.) § 9:1.
29. See *Rodriguez v. Reading Housing Authority*, 8 F.3d 961, 963 (3d Cir. 1993); *Young v. Weaver*, 883 So.2d 234 (Ala. Civ. App. 2003); *Webster St. Partnership, Ltd. v. Sheridan*, 368 N.W.2d 439 (Neb. 1985).
30. American Bar Association Commission on Homelessness & Poverty, *Runaway and Homeless Youth and the Law: Model State Statutes*, pp. 106-07; see, e.g., Mo. Rev. Stat. § 431.056.
31. For a complete list of state emancipation laws, see the Juvenile Law Center's website on emancipation in the United States (<http://www.jlc.org/factsheets/emancipationus/>) or Cornell University Law School's Legal Information Institute website on state laws concerning emancipation (http://topics.law.cornell.edu/wex/table_emancipation).
32. See, e.g., Vir. Code § 16.1-334; Kansas Stat. § 38-108.
33. See, e.g., M.C.L. § 333.9132(1) ("If a minor consents to the provision of prenatal and pregnancy related health care or to the provision of health care for a child of the minor by a health facility or agency . . . the consent shall be valid and binding as if the minor had achieved the age of majority."); Tenn. Code § 63-6-223; N.M. Stat. § 24-1-13.1.
34. The specific rules concerning the ability of a minor to become emancipated through marriage vary, so check your specific state's laws on the matter.
35. See, e.g., Cal. Fam. Code §§ 7002, 7120-22; Vir. Code §§ 16.1-331-33; Kansas Stat. §§ 38-108-09.
36. National Law Center on Homelessness & Poverty, *Alone Without a Home: A State-by-State Review of Laws Affecting Unaccompanied Youth*, p. 63 (available at www.nlchp.org/content/pubs/Alone%20Without%20A%20Home1.pdf).
37. In Pennsylvania, a minor is eligible for certain cash assistance benefits if they can show they meet the following definition: "A minor who is aged 16 or over, who has left the parental household and has established himself as a separate entity free to act upon his own responsibility, and who is capable of acting independently of parental control. If the minor again lives with his parents he will no longer be considered emancipated unless he remains independent of his parents' control." 55 Pa. Code § 145.62(i).