NARAL Pro-Choice Maryland Fund presents

The Rights of Pregnant Youth in Maryland

On Zoom | Wednesday, June 24th | 12 - 1:30 pm
Overview

LEGAL RIGHTS  SAFETY  EDUCATION
Legal Rights

- Consent to Health
- Parenting
- Adoption
- Abortion
- Emancipation
Questions and Situations Regarding Health Care

**Situation 1:** Hannah thinks she is pregnant but does not want her parents to know. Hannah wants to purchase a pregnancy test.

**Question:** Can Hannah take a pregnancy test without her parents’ permission?

**Situation 2:** Rosa wants to be tested for HIV/AIDS. She is afraid to go to her family doctor because she has heard that her parents have to give consent to the test.

**Question:** Do Rosa’s parents need to consent to her HIV/AIDS test?
A Minor’s Right to Consent to Health Care

- A minor does not need parental consent (permission) to get a pregnancy test, birth control, medical exams, prenatal care, or STI testing and treatment. **Md. Code Ann., Health-Gen. II § 20-102(c)(4)-(5).**

- A minor does not need their parents to consent to an HIV/AIDS test and potential treatment. She can go to a clinic or local health center and have it done on her own. She can bring a friend for support if she would like, but her parents do not need to consent to or know about the test. A minor can do this at any point. **Md. Code Ann., Health-Gen. II § 20-102(c)(9).**
Regardless of whether they are living separately from their parent or legal guardian a minor of any age may give permission for medical, hospital, or surgical treatment for anything related to her pregnancy. Likewise, a teenager of any age may give permission for the testing for and treatment of a sexually transmitted disease, including HIV and AIDS. *Md. Code Ann., Health-Gen. II § 20-102(c)(4)- (5),(9).*
Questions and Situations Regarding Parenting

**Situation 1:** Mary is seven months pregnant and is looking forward to becoming a parent. However, she is worried that she will not be able to afford the expenses involved with raising a child.

**Question:** Are there any government assistance programs that can help Mary?
Many state programs can help a minor with the support of a child:

1.) Medical services from Medicaid

2.) Maryland Children’s Health Program (SCHIP)

3.) Supplemental Nutrition Assistance Program (SNAP) or Food stamps

4.) Financial assistance from Temporary Assistance for Needy Families (TANF)

5.) Food vouchers and nutrition information through Women, Infants, and Children (WIC)
Situation: Rebecca just told her mother that she is pregnant. Her mother is very upset and does not agree with Rebecca’s decision to continue the pregnancy. Her mother has made an appointment for Rebecca to have an abortion.

Question: Does Rebecca have to have an abortion if her mother wants her to?
Parents cannot force a minor to have an abortion. The decision to have an abortion is the minor’s to make. Even if her mother takes her to the clinic, the doctor will not perform the abortion unless the minor gives her consent. As the patient, the minor is the only one who can consent to the procedure. *In re Smith, 16 Md.App. 209 (1972).*

A minor that is a parent raising a child may get child support from the child’s other parent, if the other parent is also a minor the minor that is the parent raising the child can get child support from the other minor’s parents. *Md. Code Ann., Fam. Law § 5-203 (c).* Parents who are minors can apply for child support through the Maryland Department of Human Resources Child Support Enforcement Administration. A request for child support can also start the process of finding out the identity of the father, if it is uncertain, by getting a court order to run a paternity test. *Md. Code Ann., Fam. Law § 5-1021.*
It is also important to know that Maryland has a “Safe Haven” law. This law allows a parent to leave a baby under 10 days old in a hospital and not return for the baby without fear of being charged with a crime. **Md. Code Ann., Cts. & Jud. Proc. § 5-641(a)(1).**

After the baby is born, the minor has parental rights to her own child, but she is not emancipated from her parents. This means that the teen’s parents are still responsible for the financial support, housing, food, clothing, education, and health of that teen parent.
Questions and Situations Regarding Adoption

- **Situation**: Felicia is pregnant, and her parents are threatening to kick her out of the house if she does not choose adoption.

- **Question**: Can Felicia’s parents force her to give the baby up for adoption?
Adoption

- A pregnant minor’s parents cannot force her to place her baby for adoption. The choice is entirely up to the minor. Further, the minor's parents are responsible for providing her with a home, whether or not the minor keeps her baby, until the minor turns 18 years old.

- Adoption is a process in which a mother chooses to give her parental rights to someone else after she gives birth to a baby. Only the pregnant minor can decide to place the child for adoption. She cannot be forced by anyone, including her parents, to place the child for adoption. *Md. Code Ann., Fam. Law § 5-338.*
There are various kinds of adoption. “Open adoption” allows the birth parents and adoptive parents to have information about one another and to come to an agreement to contact one another during the child’s life. In a “closed adoption,” the birth parents and adoptive parents are given little to no information about one another before the adoption, and they agree not to contact one another after the date that the adoption is finalized. A minor has the option of reviewing various families and deciding which one is right for the child and for her future plans. *Md. Code Ann., Fam. Law § 5-338(a)(2)(B)(ii).*
Questions and Situations Regarding Abortion

**Situation 1:** Rita is 16 years old and four weeks pregnant. She would like to have an abortion, but her parents would not give their permission.

**Question:** Can Rita still get an abortion?

**Situation 2:** Yolanda is 17 years old and six weeks pregnant. She would like to have an abortion, but the clinic is requiring her to notify at least one of her parents.

**Question:** Is Yolanda required to notify one of her parents before she can get an abortion?
Teenagers under 18 years of age are allowed by law to consent to an abortion on their own.

Clinics must notify at least one of a minor’s parents or legal guardians before performing an abortion because of the Maryland Parental Notification for Abortion Law. However, the law does not require that a parent or legal guardian give permission (consent) for the abortion. Md. Code Ann., Health–Gen. § 20-103 (a).
Situation: Maria is 16 years old and five weeks pregnant. She would like to have an abortion, but she cannot tell her parents because she lives in an abusive household.

Question: Is there any way that Maria can have the abortion without telling her parents?
Exceptions to parental notification. The medical professional providing the abortion care does not have to notify a minor’s parent or legal guardian if, in their judgement:

1) The pregnant teen is mature and capable of giving her informed consent to the procedure,
2) Notification would not be in the minor’s best interest,
3) Notification may lead to physical or emotional abuse of the minor,
4) The minor does not live with her parent(s) or legal guardian(s),
5) A reasonable effort to give notice has been unsuccessful.

*Md. Code Ann., Health–Gen. § 20-103 (c)(i)-(iii).*
Questions and Situations Regarding Emancipation

- **Situation 1**: Diana is 17 years old and has just given birth to a baby girl.

  **Question**: Is Diana now emancipated from her parents?

- **Situation 2**: Lana is 17 and wants to be legally independent of her parents.

  **Question**: Can Lana become legally independent?
A minor is not emancipation by the act of giving birth. However, a pregnant minor is “emancipated with respect to matters concerning the pregnancy.” *In re Smith, 16 Md.App. 209 (1972)*. This means that a pregnant minor has the right to control their own decisions regarding their pregnancy. This includes decisions about pre-natal care and abortion. *Md. Code Ann., Health-Gen. II § 20-102(c)(4)-(5).*

Maryland *does not* have an emancipation statute.

However, a minor can be given *some* of the rights of an adult by

1) getting married;

2) serving in the military: or

3) having a judge grant the minor the rights to become emancipated. Again, a minor is not automatically emancipated by having a baby.
Emancipation through Marriage

- Marriage will only grant a minor partial emancipation. It does not change the minor’s status concerning their right to vote, drink, sign a contract or to take other actions where the law limits minors.

- However, a guardian can petition the court to end their legal guardianship if they can show proof that the minor is in a valid marriage. *Md. Rule 10-209*

- A minor can apply for a marriage license at a Maryland county circuit court clerk's office if:
  
  ▶ Either with consent of a parent and legal guardian; or with certificate issued by a medical professional that confirms that they have examined a 16 or 17 year-old that is pregnant or has given birth. *Md. Code Ann., Fam. Law §2-301.*

  ▶ If she is 15, she must both the consent of a parent or legal guardian AND the medical professional certification about pregnancy, as an individual under 15 may not marry. *Md. Code Ann., Fam. Law §2-301(c).*
Emancipation through Joining the Military

Emancipation by entering the military only applies to a minor that is seventeen-years old because the minimum age to join the military is 17 years old. *10 U.S. Code § 505 (a).*

However, a minor must have the written consent of a parent(s) or guardian if they are under the age of 18. *10 U.S. Code § 505 (a).*

In Maryland, there is no statute declaring that a member of the military is emancipated, however, the Court of Appeals of Maryland notes that, “Whether the entering of a dependent child into the military service constitutes an emancipation falls under the general principle that whether emancipation has occurred in a given case is a factual question.” *Bradford v. Futrell, 225 Md. 512, 520, 171 A.2d 493, 497 (1961).* Thus, whether a minor is emancipated through joining the military can depend on the facts of each specific situation.
Emancipation through the court

- The court may be more likely to emancipate a teen if:
  1. She has been abandoned by her parent(s)
  2. She has been mistreated by her parent(s)
  3. Her parent is willing to give up their rights and obligation to their daughter
  4. The teen is self-sufficient (living on her own and earning income to afford all living expenses for her new family).

- Once a minor has been emancipated, she is responsible for her own care and well-being. She must have a place to live, maintain a job or other source of monthly income, and obtain health care and insurance. The minor is also responsible for any debt or payment for property damage. An emancipated minor may no longer be considered a juvenile in criminal courts.

- There is no set policy in the state of Maryland for the emancipation of a pregnant minor. Parents or social workers can petition the court for emancipation.

https://www.peoples-law.org/emancipation-minor
Questions Regarding Legal Rights of Pregnant Youth?
Safety

PROTECTIVE ORDER

EMERGENCY SHELTER

RUNAWAY LAWS

STATUTORY RAPE AND CHILD ABUSE
In Maryland, a minor can obtain an order of protection from either the District Court or Circuit Court of their county.

A protective order is a court order from a judge that makes one person stay away from another if they are found abusive.
What counts as abuse, for a protective order?

- An act that causes serious bodily harm (e.g., kicking, punching, choking/strangling, shoving, shooting, hitting with an object, stabbing, or biting);
- An act that places a person in fear of imminent serious bodily harm (including threats of harm);
- Assault;
- Rape or sexual assault (including attempts);
- False imprisonment;
- revenge porn under § 3-809 of the Criminal Law Article.
- Mental injury to a minor child; or
- Stalking.

Md. Code Ann., Fam. Law § 4-501 (a)
A protective order is a court order from a judge that makes one person stay away from another if they

1) have had a sexual relationship within the last year,
2) have lived in the same home for 90 days or more in the past year,
3) are related to the respondent, or has a child in common with the respondent.


The order mandates that someone who is accused of abuse of another person must stay away from that person’s home, school, or place of work, and prevents the abuser from contacting the abused.
Who can file the Protective Order?

- A minor, with the support of an adult on their behalf, can ask for a protective order (CC-DC-DV-001) against their partner, parent(s), or a household member who is abusing them. The supporting adult must either be related to the minor or reside in the same home as the minor. **Md. Code Ann., Fam. Law § 4-501(o)(2)(ii)(3)-(4).**

- In addition to a supporting adult, the following persons may also seek relief from abuse on behalf of a minor:
  - the State's Attorney for the county where the child lives, or, if different, where the abuse is alleged to have taken place
  - the department of social services that has jurisdiction in the county where the child lives, or, if different, where the abuse is alleged to have taken place;

Different types of protective orders

- **Interim:** These are filed for when the court is closed. The minor goes to the court commissioner with an adult filing on their behalf and makes their case as to why they should be protected from the person who committed the abuse. *Md. Code Ann., Fam. Law § 4-504.1.*

- **Temporary:** The minor must tell their story in court and make a case as to why they should be protected from the person who committed the abuse. They must prove, using enough credible evidence, that an act of abuse has been committed. This order lasts for one week. *Md. Code Ann., Fam. Law § 4-505.* When the temporary protective order is granted, the judge will also set a date for a hearing when the final protective order can be issued, no later than a week after. *Md. Code Ann., Fam. Law § 4-506 (b)(1).*
Final: This order lasts for one year, if granted. The standard is “preponderance of the evidence,” which means that the judge needs to believe one side slightly more than the other. This is lower than the criminal standard of “beyond a reasonable doubt.” At the final hearing, both parties are able to provide testimony and witnesses. Each side is also able to cross-examine the witnesses for the other side. The minor may testify if the judge permits it. Often, courts will not allow anyone under the age of 16 onto the witness stand. At the end of the trial period, the judge will decide whether or not a final order should be granted. Md. Code Ann., Fam. Law § 4-506.
A minor may apply to the court to have their order extended with the help of an adult and the judge may grant this after the abuser is given notice and after a hearing in front of a judge. The hearing must take place within 30 days after the minor files their motion.

If the hearing is scheduled after the original expiration date of the final protective order, the order will be extended until the hearing.

Initially a judge can extend the protective order (without any new incidents of abuse) for 6 months beyond the time it is supposed to end if the minor can show “good cause” why it should be extended.

Extending your Protective order up to 2 years

For good cause shown sequent to a hearing, a judge may extend the term of a protective order for a period not to exceed 2 years from the date the extension is granted if:

1. during the term of the protective order, the judge finds by a preponderance of the evidence that the respondent named in the protective order has committed a subsequent act of abuse against a person eligible for relief named in the protective order; or

2. the respondent named in the protective order consents to the extension of the protective order.

An individual can petition for a **new permanent protective order with no end date** if:

- they had an interim, temporary, or final protective order against the abuser; and

- the abuser was **convicted and sentenced to serve at least five years in prison** (and actually served at least 12 months of that sentence) for:
  - the abuse against you that was the basis for getting that prior interim, temporary, or final protective order; or
  - committing a new act of abuse against you while you had that prior interim, temporary, or final protective order.

*Md. Code Ann., Fam. Law § 4-506(k)(1), (k)(3)*
As of July 1, 2020, an unaccompanied minor in need of shelter of any age will be able to consent to shelter and supportive services.

As soon as possible and within 72 hours the shelter must contact the minor’s parents or legal guardians.

However an exception to the parent notification requirement occurs if the service provider suspects any abuse or neglect of the unaccompanied minor. The shelter must then instead of the parents immediately notify the appropriate authorities of the suspected abuse or neglect in accordance with § 5–704 of the family law article.

For more information, visit this link about Maryland HB0206.
Runaway Laws

- At any time, a minor may decide to live with another adult relative or friend with the permission of the parent or legal guardian. However, the parent or legal guardian would still be responsible for providing financial support to the minor.

- If her parents do not give their permission, the adult relative or friend could be charged with kidnapping, interference with child custody, and/or harboring a runaway. Md. Code Ann., Crim. Law § 11-305. Md. Code Ann., Fam. Law § 9-304.
Runaway Laws Cont...

- The parents of minor children are entitled to the long-settled presumption that a parent’s decision regarding the custody or visitation of his or her child with third parties is in the child’s best interest. This presumption is premised on the notion that the affection of a parent for a child is as strong and potent as any that springs from human relations and leads to desire and efforts to care properly for and raise the child, which are greater than another would be likely to display.

In the United States, the “age of consent” is the minimum age limit at which an individual is considered legally old enough to consent to participation in sexual activity.

The Maryland Age of Consent is generally recognized as 16 years old. Walker v. State, 768 A.2d 631, 635 (Md. 2001).
Under Maryland law, individuals aged 15 or younger in are not legally able to consent to sexual activity with an adult, and such activity may result in prosecution for what is called statutory rape. **Md. Code Ann., Crim. Law § 3-304.**

Maryland’s statutory rape law is violated when a person has consensual intercourse or a sexual act with an individual under the age of 14 and the person performing the act is at least 4 years older than the victim/minor. Charges can vary based on the age differences between the victim and the offender. Thus a 13-year-old can consent to intercourse with a 16-year-old; but that same 13-year-old cannot consent to intercourse with a 17-year-old. **Md. Code Ann., Crim. Law §§ 3-304- 3-315.**
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Chart taken from [https://www.peoples-law.org/age-consent](https://www.peoples-law.org/age-consent)
Statutory Rape and Child Abuse cont.

- Any teen under the age of 14 that has consensual sexual contact in a relationship with a person who is 4 years older than them can be considered a victim of sexual assault and statutory rape because of age. This relationship would be considered abusive and would have to be reported to authorities and investigated. If law enforcement finds no reason to prosecute the incident as abuse, the case can be dropped. *Md. Code Ann.*, Crim. Law §§ 3-301 - 3-315.

- Crimes and penalties will be harsher if the victim did not consent, if the victim was physically or mentally handicapped, or other specific cases (Also subject to *Md. Crim Law Code Ann* §§ 3-303, §3-307(a)(3),(4),(5)).
Questions Regarding Safety?
Pregnant Students’ Rights in School

- In the Classroom and School Work
- Physical Education and Athletic Program
- Alternative Education Programs
- General Equivalency Diploma (GED)
- National Honors Society
Situation: Sarah is eight weeks pregnant and attends public school. She has not been feeling well and is having a tough time concentrating in class. She is afraid to tell anyone because she has heard that she will be forced to leave school.

Question: Can Sarah’s public school make her leave because she is pregnant?
A pregnant minor has the same rights as every other student. Under federal law, she may attend her regular classes and fully participate in school activities. 34 C.F.R. § 106.40(b)(1).

All young people in Maryland have the right to a public-school education and most are required by law to go to school from age 5 through 18. Md. Code Ann., Educ. § 7–301.
Situation: Jenny is pregnant and is worried about missing school if she goes into labor before the school year ends. Further, she is worried about missing additional classes once her child is born if her child gets sick or need to go to the doctor.

Question: Can Jenny’s school or teachers hold Jenny’s absence due to her labor against her or deny her the ability to make up the work she has missed so that she has to drop out of school or repeat her classes?
School districts are required to provide pregnant students with home-based instruction during the pregnancy and recovery period, if medically necessary. 34 C.F.R. § 106.40(b).

Pregnant and parenting minors are allowed at least 10 excused absences after giving birth. Further, once born, absences regarding medical appointments for the child or legal appointments related to adoption, custody and visitation will also be excused. Students are allowed to make up the work from all these absences. Md. Code Ann., Educ. § 7-301.1(a).
Questions and Situations Regarding School continued...

**Situation:** Ebony attends St. Christopher's Catholic School. She is four weeks pregnant and afraid that the school will make her leave.

**Question:** Can her private school make Ebony leave because she is pregnant?
Some private schools do receive public funding. Under federal law, if the school receives any federal funds, it cannot make a student leave because she is pregnant or parenting. \textit{34 C.F.R. § 106.12(a)}.

If there is no public funding in which state or federal anti-discrimination laws would apply, a pregnant student may be asked to leave her private school if pregnancy is a violation of enrollment or student code of conduct regulations.

Discrimination of a pregnant or parenting student is considered sex discrimination under Title IX.
Questions and Situations Regarding School Sports...

**Situation:** Leah loves to play basketball for her school team. She recently found out that she is pregnant.

**Question:** Can Leah be kicked off the school’s basketball team because she is pregnant?

**Situation:** Janet loves P.E. She found out she is pregnant, and her gym teacher told her she cannot be a part of the class unless she brings him a note from her doctor saying it's okay.

**Question:** Does Janet need to get the doctor's note in order to continue going to P.E?
A student cannot be removed from a team or gym class for being pregnant or a parent, or for having an abortion. 34 C.F.R. § 106.40(b)(1).

A student has the right to be a part of physical education (gym class) or school sports teams. 34 C.F.R. § 106.40(b)(1).

A student may sit out from activities if her doctor decides she should not be active because of a medical condition. 34 C.F.R. § 106.40(b)(2). If the student is healthy and able, they have a right to be a part of all school activities i.e. varsity soccer, intramural basketball, and a dance team. 34 C.F.R. § 106.40(b)(1).
Situation: Ana is 16 years old and four months pregnant. Her school principal has asked her to attend an alternative school in her district. Ana is concerned because she knows the alternative schools do not offer the AP classes she needs for college.

Question: Does Ana have to attend an alternative school because she is pregnant?
A pregnant teen may not be forced to attend an alternative education program. The decision to leave school and attend an alternative program is entirely up to the pregnant student. A student also may not be forced to enroll in a special program. 34 C.F.R. § 106.40(b)(3).

If the pregnant or parenting student chooses to go to an alternative school or join a special program, the education must be the same quality as the education at her previous school. 34 C.F.R. § 106.40(b)(3).
Questions and Situations Regarding School Cont...

**Situation:** Tena is 17 years old and seven months pregnant. Her guidance counselor is worried that having a baby and going to school will be too much for Tena to handle and wants her to get her GED instead.

**Question:** Does Tena have to leave her school and get her GED instead?
A pregnant student has the legal right to stay at her school, no matter what reasons are given by her guidance counselor or any other school employee for her to leave. *34 C.F.R. § 106.40(b)(1).*

Schools cannot pressure pregnant or parenting students into attending alternative programs. The decision to leave the public school of origin and attend an alternative program based upon pregnancy or parenting status is entirely up to the student. *34 C.F.R. § 106.40(b)(3).*
**Situation:** Cassandra is two months pregnant and wants to get an abortion. She is afraid that she will be kicked out of her chapter of the National Honor Society if she gets the abortion.

**Question:** Can Cassandra be kicked out of the National Honor Society for having an abortion?
The National Honor Society cannot ask a minor to leave if she is pregnant. 34 C.F.R. § 106.40(b)(1).

The National Honor Society cannot ask a minor to leave if she has an abortion. They cannot kick her out for any reasons regarding her reproductive choices. 34 C.F.R. § 106.40(b)(1).
Questions Regarding Pregnant Students’ Rights in School?
Thank you!

Those who registered for this webinar will receive a follow up message with links to the PowerPoint and our online guide on our website.