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Verdict

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[Joanna L. Grossman](#)

Everything I Need to Know About Family Law I Learned From *Teen Mom*: Part One in a Two-Part Series of Columns

This is Part One in a two-part series of columns on the intersection of family law issues and the reality show “Teen Mom.” Part Two will appear tomorrow, December 13, here on Justia’s Verdict.



Teen Mom, a reality show on MTV that tracks the trials and travails of young women who became pregnant as teenagers, provokes lots of opinions. Much of the discussion I hear about the show is about whether, by turning teen moms into reality television stars, the show might be glamorizing, and thus encouraging, teen pregnancy. It seems to me, however, that people who believe this must not ever have seen a single episode of the show. The episodes are very much like car wrecks—you can’t help but look, but you sure wouldn’t want to trade places with the driver.

In my Family Law classes, *Teen Mom* provokes not just mere rubbernecking, but also serious legal questions. The show has come up repeatedly this past semester in both my law school and my undergraduate family law courses. As I’ve gotten older (sigh), my pop culture references more and more often fall on deaf ears. A mention of *Melrose Place* evokes blank stares (as well it probably should). The students have never heard of or seen the Oscar-winning custody movie *Kramer v. Kramer*, starring Dustin Hoffman and Meryl Streep. Lee Marvin, an actor who starred in many Hollywood movies and in a hugely important case about cohabitation law, is a complete unknown to them, as is Dick Van Dyke, the actor whom Marvin’s girlfriend cohabited for the next 30 years. Even William Hurt, who starred in his own personal family law drama about a common-law marriage, which he was alleged to have contracted while filming *The Big Chill*, is too dated a reference.

But *Teen Mom* seems to bridge our generational and cultural divide. I’ve seen every episode, as have many of my students. (One male student admitted to having seen many episodes, but only because his girlfriend forced him to.) It would have never occurred to me to use *Teen Mom* storylines as a teaching tool in a family law class, as opposed to a sex education class, but the questions just kept coming.

The legal questions provoked by this show are many and varied, including, to name just a few: Can Child Protective Services refuse to allow Gary and Amber to be near each other when their child, Leah, is home?

Can Ryan get custody of Bentley if Maci either relocates to another city several hours away, moves in with her boyfriend, or both?

After Jenelle relinquishes custody of her son to her mother, Barbara, can Barbara refuse to allow Jenelle to see him?

Do Tyler and Caitlyn have any recourse if the couple who adopted their daughter resists post-adoption contact?

Is Farrah's deceased boyfriend the legal father of her child for Social Security purposes?

Can Farrah's deceased boyfriend's mother and stepfather succeed in their question for visitation with baby Sophia over Farrah's objection?

Fortunately, family law provides the answers to all these questions. In this two-part series of columns, I will examine the law that seems to most affect the teen moms, which addresses their conflicts with the children's fathers, to whom most of them are not married; their conflicts with their own parents; and their conflicts with the government, which has the power to intervene into a family when doing so is necessary to protect children or, in the case of domestic violence, adults.

16 and Pregnant: A Legal Dead Zone

Some of *Teen Mom*'s viewers were already familiar with its characters before the show began. Before there was *Teen Mom*, there was *16 and Pregnant*, an earlier reality show that followed young women from early on in a teen pregnancy until a few weeks after childbirth. There was lots of drama in these episodes—which spanned three TV seasons, and followed three different groups of pregnant teens. Most of the girls were surprised by the challenges of staying in school while pregnant; many of them dropped out. Many dealt with relationship problems with the teen dads, and many experienced severe disappointments about the fathers' lack of willingness to make financial sacrifices in order to provide for the baby, as well as the fathers' lack of interest in actual parenting during the frenzied and stressful days following childbirth. Many faced pressure from parents and extended family members to have abortions or not to have abortions; to place their babies for adoption or not place their babies for adoption; to continue living at home or to move out; and to break up with the teen dads or to stay together.

Every episode—each of which tracked the pregnancy and childbirth of one teenage girl—seemed to end the same way, with an exhausted and overwhelmed new mother, frustrated over the loss of her own childhood, and more alone than she expected to be. (And for those viewers who might still be tempted to become pregnant teens themselves, Dr. Drew reminds the audience that “teenage pregnancy is 100% preventable” and directs everyone's attention to a website, itsyoursexlife.com, which contains complete information on how to prevent it.)

But through all this drama, relatively few legal issues suggested themselves. Why?

The Reasons Why Legal Conflicts Were More or Less Absent From *16 and Pregnant*

One answer to that question is that a pregnant woman—even if she is a teenager—has most, if not all, of the decisionmaking power while she is pregnant. It is up to her to decide whether to carry the child to term. Most states require that minors get parental consent before having an abortion, but by constitutional mandate, they also provide for a judicial bypass that allows a girl to seek court approval for an abortion—and to do so without even notifying her parents of her plans. And the biological father—again, pursuant to a constitutional mandate—has no legal say at all in her choice whether to terminate or continue a pregnancy.

A biological father might, however, have the right to be notified of, and if he so chose, to refuse consent to, an adoption plan, but not necessarily. Married men often enjoy a presumption of paternity for any children born to their wives. But unwed fathers have no such automatic in. Instead, to be recognized as a legal father—and to enjoy the rights that come with that status—a putative father must establish himself as the biological father and act on the opportunity to grasp fatherhood. Teenage dads may fail to do one or both of these things. Thus, for many of these unwed teen mothers, the decision whether to make an adoption plan for the child is largely in their

own hands, legally as well as practically speaking.

And with no child yet in existence, the state's *parens patriae* role—in which the state acts as superparent—is not yet terribly relevant. The state has the right to restrict access to abortion, but only after a certain point in pregnancy. And while there have been cases in which the state has intervened to protect a fetus from dangers created by maternal behavior like alcohol or drug abuse, those cases are both rare and controversial. Until there is a living child to protect, the child protective services arm of state government is generally not looking over the parent's shoulder.

Thus, while the girls in *16 and Pregnant* found themselves in situations rife with interpersonal conflict, they faced little in the way of legal conflict. Teen pregnancy, like most pregnancy, is an experience with medical, emotional, financial, and social components, but not one that creates much business for lawyers. Disappointed parents have little recourse other than to choose whether or not to support their sons and daughters through this experience. And disappointed pregnant girls have little recourse when their boyfriends act badly during the pregnancy—for instance, when the teen dads spend money saved for a crib on a new Xbox or a car stereo system, or when they miss a child's birth because they were out all night partying.

Teen Mom: A Preview of Some of the Legal Conflicts It Depicts

Whereas *16 and Pregnant* raises few legal conflicts, *Teen Mom* is rife with them. I'll discuss here why that is, and then follow up in tomorrow's column with a detailed analysis of the legal conflicts that teenage mothers, like the ones on *Teen Mom*, might face.

Teen Mom, follows a smaller subset of the group of girls who were previously on *16 and Pregnant* through the first, and sometimes second, year of parenting (in *Teen Mom 2*). Teen parenting, it turns out, is more complicated than teen pregnancy. The mother becomes responsible for a child and subject to the state's standards for minimal parenting competence. And parties other than the mother begin to have cognizable rights.

Those parties, of course, include the child's father (if and when he is established as such). They also include family members who have been given custodial rights or may seek them; and the state, which has the power to both protect children from bad parenting and to protect adults and children from domestic violence.

Moreover, the level of conflict on all fronts, on *Teen Mom*, is higher than it was for most of the girls during pregnancy. The baby exacerbates financial strain; the demands of parenting create obstacles to the pursuit of educational or work opportunities; stress, sleep deprivation, and lack of money and free time complicate the relationship between the teen mom and the teen dad; and the teen mom's new obligations blur the boundaries for her with respect to her own parents, since she is parenting and being parented at the same time.

In Part Two of this series, which will run on Tuesday, December 13, 2011, I will consider the answers that family law might provide to specific questions raised in *Teen Mom*.



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