

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

An Act To Protect Victims of Sexual Assault

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 19-A MRSA §1658, as enacted by PL 1997, c. 363, §1, is repealed and the following enacted in its place:

§ 1658. Termination of parental rights and responsibilities in cases involving sexual assault

The parental rights and responsibilities with respect to a specific child conceived as a result of an act of sexual assault by the parent of that child must be terminated in accordance with this section.

1. Petitioner. The petition for termination may be filed by the other parent or, if the other parent is a minor, the parent or guardian of the other parent.

2. Petition. The petitioner may file a petition with the District Court that requests the termination of the parental rights and responsibilities of the parent and alleges:

A. That the parent was convicted of a crime involving sexual assault, as defined in Title 17-A, section 253, 254 or 556, or a comparable crime in another jurisdiction, that resulted in the conception of the child; or

B. That the child was conceived as a result of an act of sexual assault, as defined in Title 17-A, section 253, 254 or 556, or a comparable crime in another jurisdiction.

3. Termination. Except as provided in subsection 4, if the petitioner proves the allegation in subsection 2, paragraph A by a preponderance of the evidence or the allegation in subsection 2, paragraph B by clear and convincing evidence, the court shall terminate the parental rights and responsibilities of the parent.

4. Exception. The court is not required to terminate the parental rights and responsibilities of a parent convicted of gross sexual assault under Title 17-A, section 253, subsection 1, paragraph B that resulted in the conception of the child if:

A. The parent or guardian of the other parent filed the petition;

B. The other parent informs the court that the sexual act was consensual; and

C. The other parent opposes the termination of the parental rights and responsibilities of the parent convicted of the gross sexual assault.

Sec. 2. 22 MRSA §4055, sub-§1-B is enacted to read:

1-B. Presumption. The court shall presume that the parent is unwilling or unable to protect the child from jeopardy and these circumstances are unlikely to change within a time that is reasonably calculated to meet the child's needs if the court determines by clear and convincing evidence that the child was conceived as a result of an act by the parent of sexual assault or a comparable crime in another jurisdiction. For purposes of this subsection, "sexual assault" has the same meaning as in Title 17-A, section 253, 254 or 556. A guilty plea or conviction for sexual assault is considered clear and convincing evidence for purposes of this subsection.

SUMMARY

Current law allows a court to terminate the parental rights and responsibilities of a parent who was convicted of a crime involving sexual intercourse when the child for whom the parental rights and responsibilities are being terminated was conceived as a result of that crime. This bill expands that law by requiring a court to terminate the parental rights and responsibilities of a parent if it can be shown by clear and convincing evidence that the child was conceived as a result of an act of sexual assault by that parent.

This bill also establishes a presumption that a parent is unwilling or unable to protect a child from jeopardy if the child was conceived as a result of an act of sexual assault by the parent.