

1 HB38  
2 188855-1  
3 By Representative Williams (JD)  
4 RFD: Judiciary  
5 First Read: 09-JAN-18  
6 PFD: 11/28/2017

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8 SYNOPSIS: This bill would provide for termination of  
9 the parental rights of any person who commits the  
10 crime of rape in the first degree if the rape  
11 results in the conception of the child.

12  
13 A BILL  
14 TO BE ENTITLED  
15 AN ACT

16  
17 To amend Section 12-15-319 of the Code of Alabama  
18 1975, to provide for termination of parental rights of a  
19 person who commits the crime of rape in the first degree if  
20 the rape results in the conception of the child.

21 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

22 Section 1. Section 12-15-319 of the Code of Alabama  
23 1975, is amended to read as follows:

24 "§12-15-319.

25 "(a) If the juvenile court finds from clear and  
26 convincing evidence, competent, material, and relevant in  
27 nature, that the parents of a child are unable or unwilling to

1 discharge their responsibilities to and for the child, or that  
2 the conduct or condition of the parents renders them unable to  
3 properly care for the child and that the conduct or condition  
4 is unlikely to change in the foreseeable future, it may  
5 terminate the parental rights of the parents. In determining  
6 whether or not the parents are unable or unwilling to  
7 discharge their responsibilities to and for the child and to  
8 terminate the parental rights, the juvenile court shall  
9 consider the following factors including, but not limited to,  
10 the following:

11 "(1) That the parents have abandoned the child,  
12 provided that in these cases, proof shall not be required of  
13 reasonable efforts to prevent removal or reunite the child  
14 with the parents.

15 "(2) Emotional illness, mental illness, or mental  
16 deficiency of the parent, or excessive use of alcohol or  
17 controlled substances, of a duration or nature as to render  
18 the parent unable to care for needs of the child.

19 "(3) That the parent has tortured, abused, cruelly  
20 beaten, or otherwise maltreated the child, or attempted to  
21 torture, abuse, cruelly beat, or otherwise maltreat the child,  
22 or the child is in clear and present danger of being thus  
23 tortured, abused, cruelly beaten, or otherwise maltreated as  
24 evidenced by the treatment of a sibling.

25 "(4) Conviction of and imprisonment for a felony.

26 "(5) Commission by the parents of any of the  
27 following:

1            "a. Murder or manslaughter of another child of that  
2 parent.

3            "b. Aiding, abetting, attempting, conspiring, or  
4 soliciting to commit murder or manslaughter of another child  
5 of that parent.

6            "c. A felony assault or abuse which results in  
7 serious bodily injury to the surviving child or another child  
8 of that parent. The term serious bodily injury shall mean  
9 bodily injury which involves substantial risk of death,  
10 extreme physical pain, protracted and obvious disfigurement,  
11 or protracted loss or impairment of the function of a bodily  
12 member, organ, or mental faculty.

13            "(6) Unexplained serious physical injury to the  
14 child under those circumstances as would indicate that the  
15 injuries resulted from the intentional conduct or willful  
16 neglect of the parent.

17            "(7) That reasonable efforts by the Department of  
18 Human Resources or licensed public or private child care  
19 agencies leading toward the rehabilitation of the parents have  
20 failed.

21            "(8) That parental rights to a sibling of the child  
22 have been involuntarily terminated.

23            "(9) Failure by the parents to provide for the  
24 material needs of the child or to pay a reasonable portion of  
25 support of the child, where the parent is able to do so.

26            "(10) Failure by the parents to maintain regular  
27 visits with the child in accordance with a plan devised by the

1 Department of Human Resources, or any public or licensed  
2 private child care agency, and agreed to by the parent.

3 "(11) Failure by the parents to maintain consistent  
4 contact or communication with the child.

5 "(12) Lack of effort by the parent to adjust his or  
6 her circumstances to meet the needs of the child in accordance  
7 with agreements reached, including agreements reached with  
8 local departments of human resources or licensed child-placing  
9 agencies, in an administrative review or a judicial review.

10 "(13) A conviction for rape in the first degree  
11 pursuant to Section 13A-6-61, committed by any person if the  
12 rape results in the conception of the child.

13 "(b) A rebuttable presumption that the parents are  
14 unable or unwilling to act as parents exists in any case where  
15 the parents have abandoned a child and this abandonment  
16 continues for a period of four months next preceding the  
17 filing of the petition. Nothing in this subsection is intended  
18 to prevent the filing of a petition in an abandonment case  
19 prior to the end of the four-month period."

20 Section 2. This act shall become effective on the  
21 first day of the third month following its passage and  
22 approval by the Governor, or its otherwise becoming law.