

MODEL LEGISLATION TO TERMINATE PARENTAL RIGHTS OF RAPIST:

Synopsis:

Termination of parent-child relationship. Allows a parent who is the victim of an act of rape from which a child was conceived to file a petition to terminate the child's parent-child relationship with the alleged perpetrator. Requires a court to terminate the parent-child relationship if the court finds: (1) by clear and convincing evidence that the alleged perpetrator committed an act of rape against the parent who has filed the petition to terminate the parent-child relationship and that the child was conceived as a result of the act of rape; and (2) terminating the parent-child relationship would be in the best interest of the child.

“Act of rape”, for purposes of __ means an act described under: __; or __.

Sec. 1. A court, in a proceeding under _____, _____, or _____, may appoint a guardian ad litem, a court appointed special advocate, or both, for a child at any time.

Chapter __. Termination of Parent-Child Relationship of an Individual Who Committed an Act of Rape

Sec. 1. Proceedings under this chapter are governed by the procedures prescribed by: _____ through _____, and _____ through _____; but are distinct from proceedings under _____ and _____.

Sec. 2. The probate court has concurrent original jurisdiction with the juvenile court in proceedings on a petition to terminate the parent-child relationship under this chapter.

Sec. 3. If a child was conceived as a result of an act of rape, the parent who is the victim of the act of rape may file a petition with the juvenile or probate court to terminate the child's parent-child relationship with the alleged perpetrator of the act of rape.

Sec. 4. The verified petition filed under section 3 of this chapter must:

(1) be entitled “In the Matter of the Termination of the Parent-Child Relationship of _____, a child, and _____, the parent”; and

(2) allege:

(A) that the alleged perpetrator committed an act of rape against the parent who has filed the petition to terminate the parent-child relationship;

(B) that the child was conceived as a result of the act of rape described under clause (A); and

(C) that termination of the parent-child relationship of the alleged perpetrator with the child is in the best interests of the child.

Sec. 5. A showing by clear and convincing evidence that:

(1) the alleged perpetrator committed an act of rape against a parent described in section 4(2)(A) of this chapter; and (2) the child was conceived as a result of the act of rape; is prima facie evidence that there is a reasonable probability that continuation of the parent-child relationship with the alleged perpetrator is not in the best interests of the child.

Sec. 6. (a) The court shall terminate the parent-child relationship if the court finds:

(1) by clear and convincing evidence, that the allegations in a petition described in section 4(2)(A) and 4(2)(B)

of this chapter are true; and

(2) that termination of the parent-child relationship is in the best interests of the child.

(b) If the court does not find:

(1) by clear and convincing evidence, that the allegations in a petition described in section 4(2)(A) and 4(2)(B)

of this chapter are true; and

(2) that termination of the parent-child relationship is in the best interests of the child; the court shall dismiss the petition.

Sec. 7. The court may appoint:

(1) a guardian ad litem;

(2) a court appointed special advocate; or

(3) both a guardian ad litem and a court appointed special advocate;

for a child in a proceeding under this chapter as provided under _____.