

1 HB5
2 202436-1
3 By Representative Givan
4 RFD: Judiciary
5 First Read: 04-FEB-20
6 PFD: 07/23/2019

SYNOPSIS: Existing law provides that a juvenile court may terminate parental rights of a parent who has been convicted of certain sex crimes.

This bill would require a juvenile court to find that a person is unable to properly care for a child and to discharge his or her responsibilities to and for the child, and to terminate the parental rights of that person, in any case where the juvenile court finds from clear and convincing evidence that the person committed rape, incest, sodomy, sexual torture, or sexual abuse against another person and that rape, incest, sodomy, sexual torture, or sexual abuse resulted in the conception of the child.

A BILL
TO BE ENTITLED
AN ACT

1 To amend Section 12-15-319, Code of Alabama 1975, as
2 amended by Act 2019-512, 2019 Regular Session; to require a
3 juvenile court to terminate the parental rights of a person,
4 in any case where the juvenile court finds from clear and
5 convincing evidence that the person committed rape, incest,
6 sodomy, sexual torture, or sexual abuse against another person
7 and the commission of that act resulted in the conception of a
8 child.

9 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

10 Section 1. Section 12-15-319, Code of Alabama 1975,
11 as amended by Act 2019-512, 2019 Regular Session, is amended
12 to read as follows:

13 "§12-15-319.

14 "(a) If the juvenile court finds from clear and
15 convincing evidence, competent, material, and relevant in
16 nature, that the parents of a child are unable or unwilling to
17 discharge their responsibilities to and for the child, or that
18 the conduct or condition of the parents renders them unable to
19 properly care for the child and that the conduct or condition
20 is unlikely to change in the foreseeable future, it may
21 terminate the parental rights of the parents. In determining
22 whether or not the parents are unable or unwilling to
23 discharge their responsibilities to and for the child and to
24 terminate the parental rights, the juvenile court shall
25 consider the following factors including, but not limited to,
26 the following:

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

5 "(2) Emotional illness, mental illness, or mental
6 deficiency of the parent, or excessive use of alcohol or
7 controlled substances, of a duration or nature as to render
8 the parent unable to care for needs of the child.

9 "(3) That the parent has tortured, abused, cruelly
10 beaten, or otherwise maltreated the child, or attempted to
11 torture, abuse, cruelly beat, or otherwise maltreat the child,
12 or the child is in clear and present danger of being thus
13 tortured, abused, cruelly beaten, or otherwise maltreated as
14 evidenced by the treatment of a sibling.

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

16 "(5) Commission by the parents of any of the
17 following:

18 "a. Murder or manslaughter of another child of that
19 parent.

20 "b. Aiding, abetting, attempting, conspiring, or
21 soliciting to commit murder or manslaughter of another child
22 of that parent.

23 "c. A felony assault or abuse which results in
24 serious bodily injury to the surviving child or another child
25 of that parent. The term serious bodily injury shall mean
26 bodily injury which involves substantial risk of death,
27 extreme physical pain, protracted and obvious disfigurement,

1 or protracted loss or impairment of the function of a bodily
2 member, organ, or mental faculty.

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

7 "(7) That reasonable efforts by the Department of
8 Human Resources or licensed public or private child care
9 agencies leading toward the rehabilitation of the parents have
10 failed.

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

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

16 "(10) Failure by the parents to maintain regular
17 visits with the child in accordance with a plan devised by the
18 Department of Human Resources, or any public or licensed
19 private child care agency, and agreed to by the parent.

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

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

1 "(b) (1) If a parent has been convicted of rape in
2 the first degree pursuant to Section 13A-6-61, sodomy in the
3 first degree pursuant to Section 13A-6-63, or incest pursuant
4 to Section 13A-13-3, the juvenile court shall make a finding
5 that the parent is unable to properly care for a child and to
6 discharge his or her responsibilities to and for a child, and
7 shall terminate the parental rights of the parent.

8 "(2) If the juvenile court finds from clear and
9 convincing evidence, competent, material, and relevant in
10 nature, that a person committed rape, incest, sodomy, sexual
11 torture, or sexual abuse against another person and that rape,
12 incest, sodomy, sexual torture, or sexual abuse resulted in
13 the conception of a child, the juvenile court shall make a
14 finding that the person who committed the rape, incest,
15 sodomy, sexual torture, or sexual abuse is unable to properly
16 care for the child and to discharge his or her
17 responsibilities to and for the child, and shall terminate the
18 person's parental rights.

19 "(c) A rebuttable presumption that the parents are
20 unable or unwilling to act as parents exists in any case where
21 the parents have abandoned a child and this abandonment
22 continues for a period of four months next preceding the
23 filing of the petition. Nothing in this subsection is intended
24 to prevent the filing of a petition in an abandonment case
25 prior to the end of the four-month period."

1 Section 2. This act shall become effective
2 immediately following its passage and approval by the
3 Governor, or its otherwise becoming law.