

## CHILD CUSTODY/ VISITATION LAWS APPLICABLE TO REGISTERED PERSONS

Derek W. Logue of OnceFallen.com

Created 1 December 2019

**PURPOSE OF REPORT:** This list covers state statutes pertaining to parental rights or the right to reside with minors for registered persons. Parental rights generally mean custody and/or visitation rights. This report also covers state statutes covering the right of registered persons to live in households with minors or have unsupervised visits with children.

**LIMITATIONS:** This report does not fully discuss the laws pertaining to custody rights involving a child where that child was abused by the registrant, nor does this report take into account the prohibition on living with children rules of probation/ parole/ supervised release, noting also not all rules for supervision are written in state statutes.

**ABBREVIATIONS:** For the sake of simplicity, the abbreviation “SOR” (Sex Offense Registry) is used when referring to any state registry, whether private or public. Also, RP (“Registered Person”) is used as an abbreviation for any person forced to register on the SOR.

According to a 2019 report by the National Conference of State Legislatures:

- Termination of Parental Rights: 30 states allow for the termination of parental rights of perpetrators of sexual assault who conceive a child as a result.
- Restriction of Parental Rights: 20 states allow for some form of restriction on the parental rights of perpetrators of sexual assault. (Source: Meghan McCann. “Parental Rights and Sexual Assault.” National Conference of State Legislatures. 21 June 2019. Accessed 24 November 2019 at <http://www.ncsl.org/research/human-services/parental-rights-and-sexual-assault.aspx>)

The intent of this report is to provide a basic overview of the current state statutes covering registered persons who are either dating someone with children or are fighting for parental custody of their children.

## COMMON THEMES IN CHILD CUSTODY LAWS

Virtually all states prevent the registered person parental rights if the child was conceived through an act of rape while still being obligated to pay child support or offer inheritance; this includes consensual sex if the person is at or below a certain age. While few states explicitly ban even some subgroups of Registered Persons (RPs) from having parental rights or living in any household with minors, some states can use the registrant’s status as evidence against the parent in a custody dispute. Some states consider the status of being listed on the SOR to be an automatic danger to children, making dating a registrant risky in those states even if you don’t allow the registrant to spend time with your children unsupervised. In states where the assumption of risk is automatically made, there is usually an opportunity to prove the registrant is not dangerous, though the burden of proof typically falls on the registrant to disprove the notion of dangerousness. However, virtually all states have a general provision that allows the courts discretion in accepting any argument that assumes risk, meaning that just because there is no explicit statement that

registered persons are assumed to be a risk in the states does not mean that registry status will not be used in child custody cases.

## STATE LAWS SUMMARY

**ALABAMA** (Ala. Code, Secs. 12-15-312, 12-16-319, 15-20A-11): AL's laws are complex and rather confusing, with diminished rights for people convicted of specific charges. AL passed HB 48 (2019), known as "Jessi's Law," (Amended by Act 2019-512, § 2, eff. 9/1/2019) which amended Ala. Code § 12-15-312, 12-15-319 to bar anyone convicted of 1st Degree rape, 1st Degree Sodomy, or Incest from obtaining parental custody of their children, regardless of whether the crime involved their children. In addition, any felony can be considered as grounds for termination of parental rights. AL also prohibits RPs who are adults from living with anyone under age 18 or allowing minors to have overnight visits unless that registrant is the parent, grandparent, stepparent, sibling, or stepsibling of the minor. However, this exception does not apply if the case involved anyone under age 12, if it involved anyone under age 18 if the minor victim lived in the residence with the offender, if the minor was a relative, if there was force involved, or if there is an attempted or completed termination of parental rights in the courts.

**ALASKA** (A.S., Secs. 25.23.180; 47.10.086): AK only terminates parental rights of an RP when the child is conceived through rape. However, the state is not required to make reasonable efforts to reunite the child with a family member who abused the child or is listed on the SOR.

**ARIZONA** (Ariz. Rev. Stat. 25-403.5; 25-416): RPs must prove they are not a danger to the child before they can be awarded parental rights; if you are a parent dating a registrant or allowing an RP to live with you or visit, you must let the other parent know about the RP's status; a registrant has no parental rights if the child is conceived through rape.

**ARKANSAS** (AR Code, Secs. 9-13-101; 9-10-121; 9-13-105): RPs are resumed dangerous to children; the burden of proof falls on the RP to prove he is not a danger to children before custody can be granted or be allowed to live in a household with children present. Children born through rape are entitled to inheritance money and child support while the RP has no legal visitation/ custodial rights.

**CALIFORNIA** (Cal. Fam. Code, Secs. 3030; 3030.5; Cal. Welf. and Inst. Code, Section 355.1): RPs with offenses involving minors cannot be awarded parental rights; court can override this rule but must prove a written statement listing the reasons for the exception. It is assumed allowing an RP with a minor victim around your children is "prima facie evidence" the child is at risk of abuse or neglect. Parents of children conceived by rape have no parental rights but can be compelled to pay child support.

**COLORADO** (See Colo. Rev. Stat. 14-10-129; 19-5-105.5; 19-5-105.7) : A sex offense conviction can be used as the basis for terminating parental rights, and the RP has the burden of proof for showing the RP is not a danger to the child. The court can order an RP to take a psychological evaluation at the RP's expense. The parent of a child conceived through rape can petition the court to terminate the rights of the offender, but termination of rights does not terminate child support obligations.

CONNECTICUT (Conn. Gen. Stat. 17a-111b): The court can move to terminate the rights of a RP if the child was conceived by rape.

DELAWARE (Del. Code Tit. 13, Secs. 722A, 724A, 725A, 726A, 728, 728A): All RPs are assumed dangerous and cannot have custody, unsupervised visits, or reside with a child. This restriction can be waived by the court if there are no subsequent convictions for sex/ violent crimes, completed a treatment program, and determined to be in the child's best interests. This exception does not apply if there is a court order prohibiting these exemptions, the minor is the victim, or was a child conceived by rape.

DISTRICT OF COLUMBIA (DC Code Sec. 16-914): RPs whose children were conceived by rape have no parental rights but can be compelled to pay child support.

FLORIDA (Fla. Stat. Secs. 39.806): Parental rights can be terminated under the following conditions: children conceived through rape, incarceration of certain sex crimes, sexual abuse of a child, or classification as a "sexual predator," and there is no obligation of child welfare services to engage in any activity related to family reunification.

GEORGIA (Ga. Code, Secs. 15-11-2, 19-7-2, 19-8-10): Considers child conceived by rape or when the mother is below age 10 as "aggravated circumstances" in determining termination of parental rights; children born of rape are entitled to inheritance.

HAWAII (Haw. Rev. Stat, Sec. 571-46; 571-61; 587A-4): RP has no parental right to child conceived by rape but can be ordered to pay child support; Registry status is considered an "aggravated circumstance" when deciding parental rights in court.

IDAHO (Idaho Code, Sec. 16-2005): It is assumed that terminating the parental rights of an RP when the child was conceived by rape or the RP committed an offense against the child is in the child's best interests but can be challenged.

INDIANA (Ind. Code Sec. 31-35-3-4, 31-35-3.5-1 to 31-35-3.5-12): Parental rights can be terminated if the victim is a child of the RP or was conceived by rape.

ILLINOIS (720 ILCS 5/12-21.6-5; 750 ILCS 46/622): RPs classified as a "Child SO" (i.e., an offense against anyone under age 18) cannot live in a household with minors unless the minor is a child or stepchild; parental rights are terminated if the child was conceived by rape but can be compelled to pay child support.

IOWA (Iowa Code, Secs. 232.68; 232.116; 598.41; 600A.8; 726.6): Parental rights can be terminated if that parent is a RP with a minor victim, the parent was convicted of a sex crime requiring 5+ years in prison, if the RP is divorced from or never married to the other parent of the child, or if the child was conceived by rape. A parent's registry status can be considered during child custody inquiries. Furthermore, it is considered child abuse and a parent can be arrested for child endangerment for allowing a RP unsupervised time with the child unless the parent is a RP or married to the RP. Exposing the child to obscene material is also considered child abuse.

KANSAS (KS Stat. Secs. 23-3203; 38-2269): A RP's status can be considered in custody rights hearings, regardless of whether or not the offense involved the child in question, or any child. It is also assumed that an RC is unfit to care for a child if the child is a victim or conceived by rape by the RC, or the RC has been convicted of trafficking offenses.

KENTUCKY (Ky. Stat., Sec. 403.322; 405.028): RPs are denied parental rights for children conceived through rape but may be compelled to pay child support. The mother has the right to waive denial of visitation and collection of child support.

LOUISIANA (La. Civ. Code 137; La., Child Code Secs. 1004; 1015; 1015.1): RPs have no custody rights when a child is conceived by rape or if the RP abused the child, but the child maintains inheritance rights; the RP may be compelled to pay court costs and child/ victim support for these cases.

MAINE (Me. Stat. 19-A-1653; 19-A-1658; 22-4055): Courts can consider the registry status of the parent or anyone living in the household of the parent in parental rights cases; rights of RPs are denied when a child was conceived by rape unless the victim objects and can show the activity was consensual. It is presumed an RP is a danger to a child if that child is a prior victim of the RP.

MARYLAND (Md. Fam. Law Code 5-1402): No parental rights for RP if child was conceived by rape but may be compelled to pay child support.

MASSACHUSETTS (Mass. Gen. Laws Ann. ch. 209C, Sec. 3): RPs have no parental rights for a child conceived by rape, but visitation rights may be granted if the child is old enough and agrees to visitation.

MICHIGAN (Mich. Comp. Laws, Secs. 712A.13a' 712A.18f; 712A.19a; 722.25; 722.1445): Courts are not required (but may) make reasonable efforts to reunite a child with a parent who is an RP, and can impose visitation restrictions. RPs have no parental rights if the child was conceived by rape.

MISSISSIPPI (Miss. Code, Secs. 93-15-119; 97-5-42): RPs have no parental rights if the child was conceived by rape. If the child is a victim of the RP, the RP may win some parental rights back only after treatment for both RP and victim is completed, and the courts determine the RP poses no danger to the child.

MISSOURI (Mo. Rev. Stat, Sec. 211.038; 211.447): RPs have no parental rights if the child was conceived by rape or if the RP abused a child under the RP's care. If the RP is a child and a sibling of the victim or a child living in the same household at the time of the offense, the prohibition on living in close proximity of the victim does not apply.

MONTANA (Mont. Code Ann. 2019, Secs. 40-6-1001; 41-3-609; 45-5-503): RPs have no parental rights if child was conceived by rape, but may be compelled to pay child support and offer inheritance.

NEBRASKA (Neb. Rev. Stat., Secs. 43-292; 43-292.02; 43-2933): RPs are assumed threats and custody can only be won if there is a determination that the registrant is not a danger to the child. In custody

matters, allowing a RP unsupervised time with your children is considered “prima facie evidence” for determining risk. No parental rights are granted if the child was conceived by rape.

NEVADA (NRS 125C.210; 128.105; 432B.393): No parental rights if the child is conceived by rape. No reasonable reunification efforts by child services will be made to a RP.

NEW HAMPSHIRE (NH Rev. Stat. Ann., Sec. 170-C:5-a) No parental rights if the child was conceived by rape.

NEW JERSEY (NJS 9:2-4.1) RPs convicted of NJS 2C:14-2 (Sexual Assault), NJS 2C:14-3 (Criminal Sexual Contact) or 2C:14-4 (Lewdness) can only be awarded custody or visitation if proven by clear and convincing evidence it is in the child’s best interest to stay with the RP. (This also covers child conceived by rape). The courts can keep child’s location confidential and victim is not required to go to court in person.

NEW MEXICO (NM Stat., Sec. 32A-5-19) Consent for relinquishing parental rights is not required if the child was conceived by rape.

NEW YORK (N.Y. Dom. Rel. 240; NY Fam. Ct. Act 651): Registry records are used in family court to determine if it is appropriate to place a child in the home. It is assumed it is not in the best interests of the child to be placed in the home of an RP if the child was conceived by rape but can be challenged.

NORTH CAROLINA (NC Gen Stat., Secs. 7B-1111; 14-27.21; 14-27.22; 14-27.23; 50-13.1): The court may terminate parental rights if the child is conceived by rape.

NORTH DAKOTA (N.D. Cent. Code, Secs. 27-20-17; 27-20-44) Parental rights can be terminated if the child was conceived by rape or if probable cause exists that the RP committed an offense against the child and presents a danger to the child.

OHIO (ORC 3109.04; 3109.042; 3109.501 to 3109.507): No parental rights if the child was conceived by rape; Ohio notes that mothers can also be convicted of rape and extends this prohibition to females convicted of rape. Sex offense convictions are considered in child custody hearings if the child was the victim.

OKLAHOMA (Okla. Stat., Secs. 10A-1-4-705; 10A-1-4-904; 30-2-117; 43-112.2; 43-112.5; 43-150.8; 10-7505-6.3): PRs have no parental rights if the child was conceived by rape or if the child is the victim; Households with an RP residing cannot foster or adopt; parental guardianship affidavits contain provisions barring leaving children alone with RPs; It is assumed allowing child to live in the household of an RP or convicted of failing to report abuse is not in the best interests of the child; children cannot be placed in households where RPs reside without a court order.

OREGON (2017 ORS Secs. 107.137; 419B.510): No parental rights if child was conceived by rape but may be compelled to pay child support; past pattern of sexual abuse is considered during custody hearings.

PENNSYLVANIA (Pa. C.S.A.; 23-2511; 23-4321; 23-5329): Court considers many offenses during custody hearings; No parental rights if child was conceived by rape but may be compelled to pay child support; parental rights of RPs could be terminated based on inclusion on registry, including for out-of-state offenses.

RHODE ISLAND (RI Gen. Laws 15-5-16): No parental rights if child was conceived by rape; if the child is the victim, visitation rights can be regained only if RP engages in counseling and the court determines visitation is in the best interest of the child.

SOUTH CAROLINA (SC Code, Secs. 63-7-1640; 63-7-2350; 63-7-2570): Parental rights can be terminated if the child was conceived by rape or any child in the household was abused by the RP; no adoption or foster considerations for households with RPs over age 18, except if the offense is pardoned and the court decides there is no danger to the child.

SOUTH DAKOTA (SDLRC Secs. 25-4A-20; 25-4A-24; 26-8A-21): Assumed parental rights for child conceived by rape is not in best interest of the child but allows for challenge; allowing a RP to spend unsupervised time with a child can affect custody rights; Courts are not compelled to reunify child with parent on the registry.

TENNESSEE (Tenn. Code Ann., 36-1-113; 36-6-102; 36-6-406; 40-39-211): No parental rights if child conceived by rape; RPs with minor victims cannot live with any child that is not their biological child, or any child if the victim was their own child, under age 12, or considered a violent offense; if a parent is trying to receive temporary or permanent custody of a child, an RP cannot be around the child or be in the household; any criminal conviction can be used to determine whether there is a risk to the child.

TEXAS (Tex. Fam. Code 161.001; 161.007): Parental rights may be terminated if the offense was an offense where injury was caused to the child, or if the child was conceived by rape. If the other parent marries or cohabits the RP whose child together was conceived by rape within 2 years after the birth of the child, the parental rights can be terminated.

UTAH (Utah Code, Secs. 76-5-414; 78A-6-312): No parental rights if the child was conceived by rape without agreement by both the victim and court agree or both parents cohabit and create a home together with the child; Child support can still be required; Reunification services are denied to RPs.

VERMONT (15 VSA 665): Courts can terminate parental rights if the child was conceived by rape or if the RP was convicted for sex trafficking with the non-RP parent as the victim, but child support can be compelled.

VIRGINIA (Va. Code 16.1-228; 20-124.1; 63.2-100): Leaving the child in the presence of a RP who is not the parent of the child is considered an act of child abuse/ neglect; it is not considered to be in the best interest of the child to give parental rights to RP if the child was conceived by rape.

WASHINGTON STATE (RCW, Secs. 9A.42.110; 9.94A.6551; 13.34.132; 26.10.160, set for repeal on 1/1/2021; 26.26.760): Washington's laws are long, repetitive, and confusing. It is a misdemeanor to leave a child in the care of an RP convicted for an offense involving a child unless it is part of a court reunification plan; RPs are ineligible for house arrest under parenting programs; courts may terminate parental rights if the child was conceived by rape, the RP was convicted for sex trafficking, or was classified as a sexual predator; while all RPs are considered a danger to children, this assumption can be challenged, and parental rights may be awarded to an RP under limited circumstances if offense did not involve the child, treatment has been completed, a psychosexual evaluation has been completed, and courts rule the RP is not a danger to the child, but the implication is these rulings are difficult to obtain.

WEST VIRGINIA (W. Va Code, Secs. 48-9-209; 48-9-209a; 49-4-602): Parental rights can be terminated if a child was conceived by rape, but may be compelled to pay child support; court is not obligated to preserve the family if one parent is a RP.

WISCONSIN (Wis. Stat. 48-415): Parental rights can be terminated if child was received by rape.

WYOMING (Wyo. Stat. 14-2-309): Parental rights of RP can be terminated if child was conceived by rape unless the parent seeking termination was married to or cohabiting with the offender resulting in the birth of the child for 2+ years immediately after the birth of the child; courts are not required to make reasonable efforts to reunify child to a parent who is an RP.

#### STATE STATUTES COVERING PARENTAL AND VISITATION RIGHTS FOR REGISTRANTS CURRENT AS OF NOVEMBER 2019 (UPDATED AS NEEDED)

##### ALABAMA

Alabama Code Sec. 12-15-312: Reasonable efforts in judicial determinations; situations in which reasonable efforts are not required to be made

(c) Reasonable efforts shall not be required to be made with respect to a parent of the child if the juvenile court has determined that the parental rights of the parent to a sibling of the child have been involuntarily terminated or that a parent has done any of the following:

(3) Been convicted of rape in the first degree pursuant to Section 13A-6-61, sodomy in the first degree pursuant to Section 13A-6-63, or incest pursuant to Section 13A-13-3. The juvenile court shall make a finding that the crime of rape, sodomy, incest, or other sexual abuse actually occurred by the parent against a child in any instance where the parent has been convicted as described in this subdivision.

Alabama Code Sec. 12-16-319: Grounds for termination of parental rights; factors considered; presumption arising from abandonment

(a) If the juvenile court finds from clear and convincing evidence, competent, material, and relevant in nature, that the parents of a child are unable or unwilling to discharge their responsibilities to and for the child, or that the conduct or condition of the parents renders them unable to properly care for the child and

that the conduct or condition is unlikely to change in the foreseeable future, it may terminate the parental rights of the parents. In determining whether or not the parents are unable or unwilling to discharge their responsibilities to and for the child and to terminate the parental rights, the juvenile court shall consider the following factors including, but not limited to, the following:

(4) Conviction and Imprisonment for a felony

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

Alabama Code Section 15-20A-11: Adult sex offender - Prohibited residence locations, etc.

(d) No adult sex offender shall establish or maintain a residence or any other living accommodation with a minor. For the purpose of this subsection, living accommodation includes, but is not limited to, any overnight visit with a minor. Notwithstanding the foregoing, an adult sex offender may reside with a minor if the adult sex offender is the parent, grandparent, stepparent, sibling, or stepsibling of the minor, unless one of the following conditions applies:

(1) Parental rights of the adult sex offender have been or are in the process of being terminated as provided by law.

(2) The adult sex offender has been convicted of any sex offense in which any of the minor children, grandchildren, stepchildren, siblings, or stepsiblings of the adult sex offender was the victim.

(3) The adult sex offender has been convicted of any sex offense in which a minor was the victim and the minor resided or lived with the adult sex offender at the time of the offense.

(4) The adult sex offender has been convicted of any sex offense involving a child, regardless of whether the adult sex offender was related to or shared a residence with the child victim. (Note: Alabama defines "Child" as anyone under age 12 for this purpose)

(5) The adult sex offender has been convicted of any sex offense involving forcible compulsion in which the victim was a minor.

## ALASKA

AS 25.23.180. Relinquishment and Termination of Parent and Child Relationships.

(c) The relationship of parent and child may be terminated by a court order issued in connection with a proceeding under this chapter or a proceeding under AS 47.10 on the grounds...



(3) that the parent committed an act constituting sexual assault or sexual abuse of a minor under the laws of this state or a comparable offense under the laws of the state where the act occurred that resulted in conception of the child and that termination of the parental rights of the biological parent is in the best interests of the child.

AS 47.10.086 - Reasonable efforts (reunification of child to family)

(c) The court may determine that reasonable efforts of the type described in (a) of this section are not required if the court has found by clear and convincing evidence that...

(1) the parent or guardian

(A) has sexually abused the child or another child of the parent or guardian; or

(B) is registered or required to register as a sex offender or child kidnapper under AS 12.63.

## ARIZONA

Ariz. Rev. Stat. Section 25-403.05 - Sexual offenders; murderers; legal decision-making and parenting time; notification of risk to child

A. Unless the court finds that there is no significant risk to the child and states its reasons in writing, the court shall not grant a person sole or joint legal decision-making of a child or unsupervised parenting time with a child if the person:

1. Is a registered sex offender.

B. A child's parent or custodian must immediately notify the other parent or custodian if the parent or custodian knows that a convicted or registered sex offender or a person who has been convicted of a dangerous crime against children as defined in section 13-705 may have access to the child. The parent or custodian must provide notice by first class mail, return receipt requested, by electronic means to an electronic mail address that the recipient provided to the parent or custodian for notification purposes or by other communication accepted by the court.

Arizona Rev. Stat., Section 25-416: Sexual assault conviction; effect on rights

If a person has been convicted of sexual assault under section 13-1406 and the sexual assault led to the birth of a child, the convicted person has none of the rights prescribed in this chapter related to legal decision-making or parenting time in regard to the child.

## ARKANSAS

AR Code Section 9-13-101 - Award of custody

(d)(1) If a party to an action concerning custody of or a right to visitation with a child is a sex offender who is required to register under the Sex Offender Registration Act of 1997, § 12-12-901 et seq., the

circuit court may not award custody or unsupervised visitation of the child to the sex offender unless the circuit court makes a specific finding that the sex offender poses no danger to the child.

(2) There is a rebuttable presumption that it is not in the best interest of the child to be placed in the care or custody of a sex offender or to have unsupervised visitation with a sex offender.

(3) There is a rebuttable presumption that it is not in the best interest of the child to be placed in the home of a sex offender or to have unsupervised visitation in a home in which a sex offender resides.

AR Code Sec. 9-10-121 - Termination of certain parental rights for putative fathers convicted of rape.

(a) All rights of a putative father to custody, visitation, or other contact with a child conceived as a result of a rape shall be terminated immediately upon conviction of the rape in which the child was conceived under § 5-14-103.

(b) The biological mother of a child conceived as a result of rape may petition the court under § 9-10-104 to reinstate the parental rights of a putative father terminated under subsection (a) of this section.

(c) A putative father to a child conceived as a result of rape shall pay child support as provided under § 9-10-109.

(d) A child conceived as a result of rape is entitled to:

(1) Child support under § 9-10-109; and

(2) Inheritance under § 28-9-201 et seq.

AR Code Section 9-13-105 - Criminal records check

(a) Any parent of a minor child in a circuit court case may petition the court to order a criminal records check of the other parent of the minor child or other adult members of the household eighteen (18) years of age or older who reside with the parent for custody and visitation determination purposes.

(b) If the court determines there is reasonable cause to suspect that the other parent or other adult members of the household eighteen (18) years of age or older who reside with the parent may have engaged in criminal conduct that would be relevant to the issue of custody of the minor child or visitation privileges, the court may order a criminal records check through the Arkansas Crime Information Center, including a check of the sex offender registry under the Sex Offender Registration Act of 1997, § 12-12-901 et seq.

(c) The court shall review the results of the criminal records check, and if it deems appropriate, provide the results to the petitioning parent.

(d) Any costs associated with conducting a criminal records check shall be borne by the petitioning party.

CALIFORNIA

Cal. Fam. Code, Sec. 3030

(a) (1) No person shall be granted physical or legal custody of, or unsupervised visitation with, a child if the person is required to be registered as a sex offender under Section 290 of the Penal Code where the victim was a minor, or if the person has been convicted under Section 273a, 273d, or 647.6 of the Penal Code, unless the court finds that there is no significant risk to the child and states its reasons in writing or on the record. The child may not be placed in a home in which that person resides, nor permitted to have unsupervised visitation with that person, unless the court states the reasons for its findings in writing or on the record.

(2) No person shall be granted physical or legal custody of, or unsupervised visitation with, a child if anyone residing in the person's household is required, as a result of a felony conviction in which the victim was a minor, to register as a sex offender under Section 290 of the Penal Code, unless the court finds there is no significant risk to the child and states its reasons in writing or on the record. The child may not be placed in a home in which that person resides, nor permitted to have unsupervised visitation with that person, unless the court states the reasons for its findings in writing or on the record.

(3) The fact that a child is permitted unsupervised contact with a person who is required, as a result of a felony conviction in which the victim was a minor, to be registered as a sex offender under Section 290 of the Penal Code, shall be prima facie evidence that the child is at significant risk. When making a determination regarding significant risk to the child, the prima facie evidence shall constitute a presumption affecting the burden of producing evidence. However, this presumption shall not apply if there are factors mitigating against its application, including whether the party seeking custody or visitation is also required, as the result of a felony conviction in which the victim was a minor, to register as a sex offender under Section 290 of the Penal Code.

(b) No person shall be granted custody of, or visitation with, a child if the person has been convicted under Section 261 of the Penal Code and the child was conceived as a result of that violation...

(d) The court may order child support that is to be paid by a person subject to subdivision (a), (b), or (c) to be paid through the local child support agency, as authorized by Section 4573 of the Family Code and Division 17 (commencing with Section 17000) of this code.

Cal. Fam. Section 3030.5 - Modification or termination of order upon conviction requiring registration as sex offender

(a) Upon the motion of one or both parents, or the legal guardian or custodian, or upon the court's own motion, an order granting physical or legal custody of, or unsupervised visitation with, a child may be modified or terminated if either of the following circumstances has occurred since the order was entered, unless the court finds that there is no significant risk to the child and states its reasons in writing or on the record:

(1) The person who has been granted physical or legal custody of, or unsupervised visitation with the child is required, as a result of a felony conviction in which the victim was a minor, to be registered as a sex offender under Section 290 of the Penal Code.

(2) The person who has been granted physical or legal custody of, or unsupervised visitation with, the child resides with another person who is required, as a result of a felony conviction in which the victim was a minor, to be registered as a sex offender under Section 290 of the Penal Code.

(b) The fact that a child is permitted unsupervised contact with a person who is required, as a result of a felony conviction in which the victim was a minor, to be registered as a sex offender under Section 290 of the Penal Code, shall be prima facie evidence that the child is at significant risk. When making a determination regarding significant risk to the child, the prima facie evidence shall constitute a presumption affecting the burden of producing evidence. However, this presumption shall not apply if there are factors mitigating against its application, including whether the party seeking custody or visitation is also required, as the result of a felony conviction in which the victim was a minor, to register as a sex offender under Section 290 of the Penal Code.

(c) The court shall not modify an existing custody or visitation order upon the ex parte petition of one party pursuant to this section without providing notice to the other party and an opportunity to be heard. This notice provision applies only when the motion for custody or visitation change is based solely on the fact that the child is allowed unsupervised contact with a person required, as a result of a felony conviction in which the victim was a minor, to register as a sex offender under Section 290 of the Penal Code and does not affect the court's ability to remove a child upon an ex parte motion when there is a showing of immediate harm to the child.

Cal. Welf. and Inst. Code, Section 355.1 - Finding of physical abuse, neglect or cruelty

(d) Where the court finds that either a parent, a guardian, or any other person who resides with, or has the care or custody of, a minor who is currently the subject of the petition filed under Section 300 (1) has been previously convicted of sexual abuse as defined in Section 11165.1 of the Penal Code, (2) has been previously convicted of an act in another state that would constitute sexual abuse as defined in Section 11165.1 of the Penal Code if committed in this state, (3) has been found in a prior dependency hearing or similar proceeding in the corresponding court of another state to have committed an act of sexual abuse, or (4) is required, as the result of a felony conviction, to register as a sex offender pursuant to Section 290 of the Penal Code, that finding shall be prima facie evidence in any proceeding that the subject minor is a person described by subdivision (a), (b), (c), or (d) of Section 300 and is at substantial risk of abuse or neglect. The prima facie evidence constitutes a presumption affecting the burden of producing evidence.

## COLORADO

Colo. Rev. Stat. Section 14-10-129 - Modification of parenting time

(3)(a) If a parent has been convicted of any of the crimes listed in paragraph (b) of this subsection (3) or convicted in another state or jurisdiction, including but not limited to a military or federal jurisdiction, of

an offense that, if committed in Colorado, would constitute any of the crimes listed in paragraph (b) of this subsection (3), or convicted of any crime in which the underlying factual basis has been found by the court on the record to include an act of domestic violence, as defined in section 18-6-800.3(1), C.R.S., that constitutes a potential threat or endangerment to the child, the other parent, or any other person who has been granted custody of or parental responsibility for the child pursuant to court order may file an objection to parenting time with the court. The other parent or other person having custody or parental responsibility shall give notice to the offending parent of such objection as provided by the Colorado rules of civil procedure, and the offending parent shall have twenty-one days from such notice to respond. If the offending parent fails to respond within twenty-one days, the parenting time rights of such parent shall be suspended until further order of the court. If such parent responds and objects, a hearing shall be held within thirty-five days of such response. The court may determine that any offending parent who responds and objects shall be responsible for the costs associated with any hearing, including reasonable attorney fees incurred by the other parent. In making such determination, the court shall consider the criminal record of the offending parent and any actions to harass the other parent and the children, any mitigating actions by the offending parent, and whether the actions of either parent have been substantially frivolous, substantially groundless, or substantially vexatious. The offending parent shall have the burden at the hearing to prove that parenting time by such parent is in the best interests of the child or children.

(3)(b) The provisions of paragraph (a) of this subsection (3) shall apply to the following crimes:

(III) Enticement of a child, as defined in section 18-3-305, C.R.S.;

(IV)

(A) Sexual assault, as described in section 18-3-402, C.R.S.; and

(B) Sexual assault in the first degree, as described in section 18-3-402, C.R.S., as it existed prior to July 1, 2000;

(V) Sexual assault in the second degree, as described in section 18-3-403, C.R.S., as it existed prior to July 1, 2000;

(VI)

(A) Unlawful sexual contact if the victim is compelled to submit, as described in section 18-3-404(2), C.R.S.; and

(B) Sexual assault in the third degree if the victim is compelled to submit, as described in section 18-3-404(2), C.R.S., as it existed prior to July 1, 2000;

(VII) Sexual assault on a child, as defined in section 18-3-405, C.R.S.;

(VIII) Incest, as described in section 18-6-301, C.R.S.;

(IX) Aggravated incest, as described in section 18-6-302, C.R.S.;

(X) Child abuse, as described in section 18-6-401(7)(a)(I) to (7)(a)(IV), C.R.S.;

(XI) Human trafficking of a minor for sexual servitude, as described in section 18-3-504(2), C.R.S.;

(XII) Sexual exploitation of children, as defined in section 18-6-403, C.R.S.;

(XIII) Procurement of a child for sexual exploitation, as defined in section 18-6-404, C.R.S.;

(XIV) Soliciting for child prostitution, as defined in section 18-7-402, C.R.S.;

(XV) Pandering of a child, as defined in section 18-7-403, C.R.S.;

(XVI) Procurement of a child, as defined in section 18-7-403.5, C.R.S.;

(XVII) Keeping a place of child prostitution, as defined in section 18-7-404, C.R.S.;

- (XVIII) Pimping of a child, as defined in section 18-7-405, C.R.S.;
- (XIX) Inducement of child prostitution, as defined in section 18-7-405.5, C.R.S.;
- (XX) Patronizing a prostituted child, as defined in section 18-7-406, C.R.S.

(c) If the party was convicted in another state or jurisdiction of an offense that, if committed in Colorado, would constitute an offense listed in subparagraphs (III) to (XX) of paragraph (b) of this subsection (3), the court shall order that party to submit to a sex-offense-specific evaluation and a parental risk assessment in Colorado and the court shall consider the recommendations of the evaluation and the assessment in any order the court makes relating to parenting time or parental contact. The convicted party shall pay for the costs of the evaluation and the assessment.

Colo. Rev. Stat., Section 19-5-105.5 - Termination of parent-child legal relationship upon a finding that the child was conceived as a result of sexual assault - legislative declaration – definitions

(3) If a child was conceived as a result of an act that led to the parent's conviction for sexual assault or for a conviction in which the underlying factual basis was sexual assault, the victim of the sexual assault or crime may file a petition in the juvenile court to prevent future contact with the parent who committed the sexual assault and to terminate the parent-child legal relationship of the parent who committed the sexual assault or crime.

(4) The verified petition filed under this section must allege that:

- (a) The respondent was convicted on or after July 1, 2013, of an act of sexual assault against the petitioner or convicted of a crime in which the underlying factual basis was sexual assault against the petitioner;
- (b) A child was conceived as a result of the act of sexual assault or crime described under paragraph (a) of this subsection (4); and
- (c) Termination of the parent-child legal relationship of the respondent with the child is in the best interests of the child.

(8) (a) A respondent whose parental rights are terminated in accordance with this section has:

- (I) No right to allocation of parental responsibilities, including parenting time and decision-making responsibilities for the child;
- (II) No right of inheritance from the child; and
- (III) No right to notification of, or standing to object to, the adoption of the child.

(b) Notwithstanding the provisions of section 19-3-608, termination of parental rights under subsection (7) of this section does not relieve the respondent of any obligation to pay child support or birth-related costs unless waived by the petitioner. In cases in which child support obligations are not waived, the court, as informed by the wishes of the petitioner, shall determine if entering an order to pay child support is in the best interests of the child. If the court orders the respondent to pay child support, the court shall order the payments to be made through the child support registry to avoid the need for any contact between the parties and order that the payments be treated as a nondisclosure of information case. If the petitioner's parent-child legal relationship to the child is terminated after the entry of a child support order against the respondent, the court shall modify the child support order accordingly.

(9) A respondent whose parent-child legal relationship has been terminated in accordance with this section has no right to make medical treatment decisions or any other decisions on behalf of the child.

(9.5) The court may order a respondent whose parent-child legal relationship has been terminated to provide medical and family information to be shared with the child, as appropriate, and with the petitioner. For terminations entered under this section and section 19-5-105.7, the state court administrator shall establish a uniform process to determine how the information is collected, who can access it, when it can be accessed, and how it is stored. The court may order that a respondent's failure to comply with the request for information in a timely manner constitutes contempt of court.

Colo. Rev. Stat., Section 19-5-105.7: Termination of parent-child legal relationship in a case of an allegation that a child was conceived as a result of sexual assault but in which no conviction occurred - legislative declaration – definitions

(3) The person who alleges that he or she is a victim of sexual assault and who alleges that a child was conceived as a result of a sexual assault in which a conviction did not occur may file a petition in the juvenile court to prevent future contact with the parent who allegedly committed the sexual assault and to terminate the parent-child legal relationship of the parent who allegedly committed the sexual assault.

## CONNECTICUT

Conn. Gen. Stat., Section 17a-111b - Commissioner of Children and Families' duties re reunification of child with parent. Court determination on motion that reunification efforts are not required. Permanency plans

b) The Commissioner of Children and Families or any other party may, at any time, file a motion with the court for a determination that reasonable efforts to reunify the parent with the child are not required. The court shall hold an evidentiary hearing on the motion not later than thirty days after the filing of the motion or may consolidate the hearing with a trial on a petition to terminate parental rights pursuant to section 17a-112. The court may determine that such efforts are not required if the court finds upon clear and convincing evidence that:

(4) the parent was convicted by a court of competent jurisdiction of sexual assault, except a conviction of a violation of section 53a-71 or 53a-73a resulting in the conception of the child;

## DELAWARE

Del. Code Tit. 13, Sec. 722A – Purpose

The purpose of this subchapter is to protect children from sex offenders by presuming that it is not in the best interests of a child to be placed in a custodial, residential or unsupervised visitation arrangement with a sex offender, regardless of whether the sex offender's victim was an adult or a child.

Nothing in this subchapter shall preclude the court from denying custody, residency or visitation under other appropriate circumstances, including denying same under an ex parte or other emergency order.

Delaware Code Title 13, Section 724A - Rebuttable presumption against unsupervised visitation, custody or residence of a child to a sex offender

(a) Notwithstanding other provisions of this title, there shall be a rebuttable presumption that no sex offender shall be awarded sole or joint custody of any child, that no child shall primarily reside with a sex offender, and that no sex offender shall have unsupervised visitation with a child.

(b) The above presumptions may be overcome if:

- (1) There is not a criminal sentencing order prohibiting same; and
- (2) There have been no further sexual offenses or criminal acts of violence; and
- (3) The sex offender is in compliance with the terms of probation, if applicable; and
- (4) The sex offender has successfully completed an intensive program of evaluation and counseling designed specifically for sex offenders and conducted by a public or private agency or a certified mental health professional, and as a result of such, does not pose a risk to children; and
- (5) The sex offender has successfully completed a program of substance abuse counseling if the court determines such counseling is appropriate; and
- (6) The best interests of the child would be served by giving residential or custodial responsibilities for the child or visitation with the child to the sex offender.

(c) Notwithstanding other provisions of this title, where the child who is the subject of the petition is also the victim of the sex offender, the court shall not award joint or sole custody to the sex offender, nor permit the sex offender to exercise custodial or residential responsibilities, nor permit any visitation, without considering expert testimony from a certified mental health professional that such a custodial, residential or visitation arrangement is in the child's best interests. If such a custodial, residential or visitation arrangement is determined under this subsection to be in the best interests of the child, the court shall then apply the remaining factors set forth in subsection (b) of this section.

(d) In those cases in which more than 1 party is a sex offender, or where the party currently having custodial rights has permitted the sex offender to exercise residential or custodial responsibilities for the child or have visitation with the child, in violation of a criminal or civil court order, the case shall be referred by the court to the Division of Family Services of the Department of Services for Children, Youth and Their Families for investigation as to whether the child is abused, dependent or neglected as a result of these circumstances.

(e) If a child is conceived and subsequently born as the result of an act of rape of any degree or unlawful sexual intercourse, in either the first or second degree with the mother, the biological father of said child shall not be permitted visitation privileges under this section. This subsection shall apply only where the father pleads guilty or nolo contendere, or is convicted of any degree of rape or unlawful sexual intercourse, in either the first or second degree.



Del. Code tit. 13, Section 725A – Findings

Should the court grant custody, residential responsibilities or visitation to a sex offender under this subchapter, the court shall make specific written findings in support of its decision, including any limitations or requirements for further counseling, services or other safeguards necessary to ensure the safety and best interests of the child continue to be served.

Del. Code tit. 13, Section 726A - Sexual abuse without a criminal conviction

In the absence of a criminal conviction, if the court finds by a preponderance of the evidence that a parent has sexually abused a child, the court shall prohibit all visitation and contact between that parent and the child, until it considers testimony from a certified mental health professional who is the therapist for the child, as to whether such a custodial, residential or visitation arrangement is in the child's best interests. If a custodial, residential or visitation arrangement is in the child's best interests, in determining same, the court should consider all relevant factors including:

- (1) Whether the abusive parent has successfully completed a treatment program of evaluation and counseling that is specifically designed for sexual abusers and is conducted by a public or private agency or a certified mental health professional, and as a result, does not pose a risk to children;
- (2) Whether the abusive parent has successfully completed a program of alcohol or drug abuse counseling if the court determines such counseling is appropriate; and
- (3) Any testimony by a certified mental health professional who is the therapist for the sexually abusive parent.

Del. Code tit. 13, Section 728 - Residence; visitation; sanctions

(e) The Court shall not enter an order requiring visitation in a correctional facility if the person incarcerated is a sex offender unless the requirements of subchapter II of Chapter 7A of this title are met.

Del. Code tit. 13, Section 728A - Ordered mediation prohibited

Notwithstanding any other provision of law to the contrary, Family Court mediation conferences shall be prohibited in any child custody or visitation proceeding in which 1 of the parties is a sex offender.

DISTRICT OF COLUMBIA

D.C. Code, Section 16-914 - Custody of children

(k) Notwithstanding any other provision of this section, no person shall be granted legal custody or physical custody of, or visitation with, a child if the person has been convicted of first degree sexual abuse, second degree sexual abuse, or child sexual abuse, and the child was conceived as a result of that violation. Nothing in this subsection shall be construed as abrogating or limiting the responsibility of a person described herein to pay child support.

## FLORIDA

## Fla. Stat. 39.806 - Grounds for termination of parental rights

(1) Grounds for the termination of parental rights may be established under any of the following circumstances:

(d) When the parent of a child is incarcerated and...

2. The incarcerated parent has been determined by the court to be a violent career criminal as defined in s. 775.084, a habitual violent felony offender as defined in s. 775.084, or a sexual predator as defined in s. 775.21; has been convicted of first degree or second degree murder in violation of s. 782.04 or a sexual battery that constitutes a capital, life, or first degree felony violation of s. 794.011; or has been convicted of an offense in another jurisdiction which is substantially similar to one of the offenses listed in this paragraph. As used in this section, the term "substantially similar offense" means any offense that is substantially similar in elements and penalties to one of those listed in this subparagraph, and that is in violation of a law of any other jurisdiction, whether that of another state, the District of Columbia, the United States or any possession or territory thereof, or any foreign jurisdiction

(g) The parent or parents have subjected the child or another child to aggravated child abuse as defined in s. 827.03, sexual battery or sexual abuse as defined in s. 39.01, or chronic abuse.

(m) The court determines by clear and convincing evidence that the child was conceived as a result of an act of sexual battery made unlawful pursuant to s. 794.011, or pursuant to a similar law of another state, territory, possession, or Native American tribe where the offense occurred. It is presumed that termination of parental rights is in the best interest of the child if the child was conceived as a result of the unlawful sexual battery. A petition for termination of parental rights under this paragraph may be filed at any time. The court must accept a guilty plea or conviction of unlawful sexual battery pursuant to s. 794.011 as conclusive proof that the child was conceived by a violation of criminal law as set forth in this subsection.

(n) The parent is convicted of an offense that requires the parent to register as a sexual predator under s. 775.21.

(2) Reasonable efforts to preserve and reunify families are not required if a court of competent jurisdiction has determined that any of the events described in paragraphs (1)(b)-(d) or paragraphs (1)(f)-(m) have occurred.

(3) If a petition for termination of parental rights is filed under subsection (1), a separate petition for dependency need not be filed and the department need not offer the parents a case plan having a goal of reunification, but may instead file with the court a case plan having a goal of termination of parental rights to allow continuation of services until the termination is granted or until further orders of the court are issued.

(4) If an expedited termination of parental rights petition is filed, reasonable efforts shall be made to place the child in a timely manner in accordance with the permanency plan, and to complete whatever steps are necessary to finalize the permanent placement of the child.

## GEORGIA

Ga. Code § 15-11-2

As used in this chapter, the term:

(5) “Aggravated circumstances” means the parent has:

(G) Caused his child to be conceived as a result of having nonconsensual sexual intercourse with the mother of his child or when the mother is less than ten years of age.

Ga. Code § 19-7-22

d) (2)(A) If the court determines by clear and convincing evidence that the father caused his child to be conceived as a result of having nonconsensual sexual intercourse with the mother of his child or when the mother is less than ten years of age, or an offense which consists of the same or similar elements under federal law or the laws of another state or territory of the United States, it shall create a presumption against legitimation.

(B) Notwithstanding Code Section 53-2-3, if the court denies a legitimation petition under this paragraph, the child shall be capable of inheriting from or through his or her father. Notwithstanding Code Section 53-2-4, if the court denies a legitimation petition under this paragraph, the father shall not be capable of inheriting from or through his child.

(C) If there is a pending criminal proceeding in connection with an allegation made pursuant to subparagraph (A) of this paragraph, the court shall stay discovery in the legitimation action until the completion of such criminal proceeding.

Ga. Code § 19-8-10

(a) (3) Parental rights may be terminated pursuant to paragraph (1) or (2) of this subsection when the court determines by clear and convincing evidence that the: (D) Parent caused his child to be conceived as a result of having nonconsensual sexual intercourse with the mother of his child or when the mother is less than ten years of age...

...and the court shall set the matter down to be heard in chambers not less than 30 and not more than 60 days following the receipt by such remaining parent of the notice under subsection (b) of this Code section and shall enter an order terminating such parental rights if it so finds and if it is of the opinion that adoption is in the best interests of the child, after considering the physical, mental, emotional, and moral

condition and needs of the child who is the subject of the proceeding, including the need for a secure and stable home.

## HAWAII

Haw. Rev. Stat., Section 571-46 - Criteria and procedure in awarding custody and visitation; best interest of the child

(17) Notwithstanding any provision to the contrary, no natural parent shall be granted custody of or visitation with a child if the natural parent has been convicted in a court of competent jurisdiction in any state of rape or sexual assault and the child was conceived as a result of that offense; provided that:

(A) A denial of custody or visitation under this paragraph shall not affect the obligation of the convicted natural parent to support the child;

(B) The court may order the convicted natural parent to pay child support;

(C) This paragraph shall not apply if subsequent to the date of conviction, the convicted natural parent and custodial natural parent cohabit and establish a mutual custodial environment for the child; and

(D) A custodial natural parent may petition the court to grant the convicted natural parent custody and visitation denied pursuant to this paragraph, and upon such petition the court may grant custody and visitation to the convicted natural parent where it is in the best interest of the child.

Haw. Rev. Stat., 571-61 - Termination of parental rights; petition

(5) The family courts may terminate the parental rights in respect to any child of any natural parent upon a finding by clear and convincing evidence that the natural parent committed sexual assault of the other natural parent, or an equivalent offense under the laws of another state, territory, possession, or Native American tribe where the offense occurred, and the child was conceived as a result of the sexual assault perpetrated by the parent whose rights are sought to be terminated; provided that:

(A) The court shall accept, as conclusive proof of the sexual assault, a guilty plea or conviction of the child's natural parent for the sexual assault, or an equivalent offense under the laws of another state, territory, possession, or Native American tribe where the offense occurred, of the other natural parent;

(B) Termination shall mean, when used with respect to parental rights in this paragraph, a complete and final termination of the parent's right to custody of, guardianship of, visitation with, access to, and inheritance from a child;

(C) The termination of parental rights shall not affect the obligation of the child's natural parent to support the child;

(D) The court may order the child's natural parent to pay child support;

(E) It is presumed that termination of parental rights is in the best interest of the child if the child was conceived as a result of the sexual assault;

(F) This paragraph shall not apply if subsequent to the date of the sexual assault, the child's natural parent and custodial natural parent cohabit and establish a mutual custodial environment for the child; and

(G) The custodial natural parent may petition the court to reinstate the child's natural parent's parental rights terminated pursuant to this paragraph.

Haw. Rev. Stat., Section 587A-4 – Definitions

"Aggravated circumstances" means that:

(7) The parent is required, to register with a sex offender registry under section 113 (a) of the Adam Walsh Child-Protection and Safety Act of 2006, title 42 United States Code section 16913(a).

IDAHO

Idaho Code § 16-2005

(2) The court may grant an order terminating the relationship and may rebuttably presume that such termination of parental rights is in the best interests of the child where:

(a) The parent caused the child to be conceived as a result of rape, incest, lewd conduct with a minor child under the age of sixteen (16) years, or sexual abuse of a child under the age of sixteen (16) years, as defined in sections 18-6101, 18-1508, 18-1506 and 18-6602, Idaho Code;

(ii) Sexual abuse against a child of the parent. Sexual abuse, for the purposes of this section, includes any conduct described in section 18-1506, 18-1506A, 18-1507, 18-1508, 18-1508A, 18-6101 or 18-6608, Idaho Code...

INDIANA

Indiana Code 31-35-3-4. Petition; conviction of certain offenses

Sec. 4. If:

(1) an individual is convicted of the offense of...

(E) rape (IC 35-42-4-1)... (G) child molesting (IC 35-42-4-3);

(H) child exploitation (IC 35-42-4-4);

(I) sexual misconduct with a minor (IC 35-42-4-9); or

(J) incest (IC 35-46-1-3); and

(2) the victim of the offense:

(A) was less than sixteen (16) years of age at the time of the offense; and

(B) is:

(i) the individual's biological or adoptive child; or

(ii) the child of a spouse of the individual who has committed the offense;

the attorney for the department, the child's guardian ad litem, or the court appointed special advocate may file a petition with the juvenile or probate court to terminate the parent-child relationship of the individual who has committed the offense with the victim of the offense, the victim's siblings, or any biological or adoptive child of that individual.

Indiana Code > Title 31 > Article 35 > Chapter 3.5 – Termination of Parent-Child Relationship of an Individual Who Committed an Act of Rape

This Chapter covers Sections 31-35-3.5-1 to 31-35-3.5-12 and outlines the court process to terminate the rights of a person who created a child through an act of rape

Indiana Code 31-35-3.5-3. Petition to terminate parental rights

Sec. 3. Subject to section 4 of this chapter, 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 verified petition with the juvenile or probate court to terminate the parent-child relationship between the child and the alleged perpetrator of the act of rape.

Indiana Code 31-35-3.5-6. Commission of rape is prima facie evidence that termination of parental rights is in the best interests of a child conceived as a result of the rape

Sec. 6. A showing by clear and convincing evidence that:

(1) the alleged perpetrator committed an act of rape against a parent described in section 5(2)(A) of this chapter; and

(2) the child was conceived as a result of the act of rape;

is prima facie evidence that termination of the parent-child relationship between the alleged perpetrator and the child is in the best interests of the child.

Indiana Code 31-35-3.5-7. Termination of parental rights; burden of proof

Sec. 7. (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 5(2)(A) and 5(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 either element in subsection (a), the court shall deny the petition.

## ILLINOIS

## 720 ILCS 5/12-21.6-5

Sec. 12-21.6-5. Parent or guardian leaving custody or control of child with child sex offender.

(a) For the purposes of this Section, "minor" means a person under 18 years of age; and "child sex offender" means a sex offender who is required to register under the Sex Offender Registration Act and is a child sex offender as defined in Sections 11-9.3 and 11-9.4 of this Code.

(b) It is unlawful for a parent or guardian of a minor to knowingly leave that minor in the custody or control of a child sex offender, or allow the child sex offender unsupervised access to the minor.

(c) This Section does not apply to leaving the minor in the custody or control of, or allowing unsupervised access to the minor by:

- (1) a child sex offender who is the parent of the minor;
- (2) a person convicted of a violation of subsection (c) of Section 12-15 of this Code; or
- (3) a child sex offender who is married to and living in the same household with the parent or guardian of the minor.

This subsection (c) shall not be construed to allow a child sex offender to knowingly reside within 500 feet of the minor victim of the sex offense if prohibited by subsection (b-6) of Section 11-9.4 of this Code.

(d) Sentence. A person who violates this Section is guilty of a Class A misdemeanor.

(e) Nothing in this Section shall prohibit the filing of a petition or the instituting of any proceeding under Article II of the Juvenile Court Act of 1987 relating to abused minors.

## 750 ILCS 46/622

Sec. 622. Allocation of parental responsibilities or parenting time prohibited to men who father through sexual assault or sexual abuse.

(a) This Section applies to a person who has been found to be the father of a child under this Act and who:

- (1) has been convicted of or who has pled guilty or nolo contendere to a violation of Section 11-1.20 (criminal sexual assault), Section 11-1.30 (aggravated criminal sexual assault), Section 11-1.40 (predatory criminal sexual assault of a child), Section 11-1.50 (criminal sexual abuse), Section 11-1.60 (aggravated criminal sexual abuse), Section 11-11 (sexual relations within families), Section 12-13 (criminal sexual assault), Section 12-14 (aggravated criminal sexual assault), Section 12-14.1 (predatory criminal sexual assault of a child), Section 12-15 (criminal sexual abuse), or Section 12-16 (aggravated criminal sexual abuse) of the Criminal Code of 1961 or the Criminal Code of 2012, or a similar statute in another jurisdiction, for his conduct in fathering that child; or
- (2) at a fact-finding hearing, is found by clear and convincing evidence to have committed an act of non-consensual sexual penetration for his conduct in fathering that child.

(b) A person described in subsection (a) shall not be entitled to an allocation of any parental responsibilities or parenting time with that child without the consent of the child's mother or guardian. If the person described in subsection (a) is also the guardian of the child, he does not have the authority to consent to parenting time or the allocation of parental responsibilities under this Section. If the mother of the child is a minor, and the person described in subsection (a) is also the father or guardian of the mother, then he does not have the authority to consent to the allocation of parental responsibilities or parenting time.

(c) Notwithstanding any other provision of this Act, nothing in this Section shall be construed to relieve the father described in subsection (a) of any support and maintenance obligations to the child under this Act. The child's mother or guardian may decline support and maintenance obligations from the father.

(d) Notwithstanding any other provision of law, the father described in subsection (a) of this Section is not entitled to any inheritance or other rights from the child without the consent of the child's mother or guardian.

(e) Notwithstanding any provision of the Illinois Marriage and Dissolution of Marriage Act, the parent, grandparent, great-grandparent, or sibling of the person described in subsection (a) of this Section does not have standing to bring an action requesting the allocation of parental responsibilities or parenting time with the child without the consent of the child's mother or guardian.

(f) A petition under this Section may be filed by the child's mother or guardian either as an affirmative petition in circuit court or as an affirmative defense in any proceeding filed by the person described in subsection (a) of this Section regarding the child.

## IOWA

### Iowa Code, Section 232.68 – Definitions

#### 2.a. "Child abuse" or "abuse" means:

(9)(a) A person who is responsible for the care of a child knowingly allowing another person custody of, control over, or unsupervised access to a child under the age of fourteen or a child with a physical or mental disability, after knowing the other person is required to register or is on the sex offender registry under chapter 692A .

(b) This subparagraph does not apply in any of the following circumstances:

(i) A child living with a parent or guardian who is a sex offender required to register or on the sex offender registry under chapter 692A.

(ii) A child living with a parent or guardian who is married to and living with a sex offender required to register or on the sex offender registry under chapter 692A.

(iii) A child who is a sex offender required to register or on the sex offender registry under chapter 692A who is living with the child's parent, guardian, or foster parent and is also living with the child to whom access was allowed.



(c) For purposes of this subparagraph, "control over" means any of the following:

- (i) A person who has accepted, undertaken, or assumed supervision of a child from the parent or guardian of the child.
- (ii) A person who has undertaken or assumed temporary supervision of a child without explicit consent from the parent or guardian of the child.

(10) The person responsible for the care of the child has knowingly allowed the child access to obscene material as defined in section 728.1 or has knowingly disseminated or exhibited such material to the child.

NEW SUBPARAGRAPH.

(11) The recruitment, harboring, transportation, provision, obtaining, patronizing, or soliciting of a child for the purpose of commercial sexual activity as defined in section 710A.1.

b. "Child abuse" or "abuse" shall not be construed to hold a victim responsible for failing to prevent a crime against the victim.

Iowa Code, Section 232.116 Grounds for termination.

1. Except as provided in subsection 3, the court may order the termination of both the parental rights with respect to a child and the relationship between the parent and the child on any of the following grounds:

o. The parent has been convicted of a felony offense that is a sex offense against a minor as defined in section 692A.101, the parent is divorced from or was never married to the minor's other parent, and the parent is serving a minimum sentence of confinement of at least five years for that offense.

p. The court finds there is clear and convincing evidence that the child was conceived as the result of sexual abuse as defined in section 709.1, and the biological parent against whom the sexual abuse was perpetrated requests termination of the parental rights of the biological parent who perpetrated the sexual abuse.

Iowa Code, Section 598.41 - Custody of children

3. In considering what custody arrangement under subsection 2 is in the best interest of the minor child, the court shall consider the following factors:

k. Whether a parent has allowed a person custody or control of, or unsupervised access to a child after knowing the person is required to register or is on the sex offender registry as a sex offender under chapter 692A.

Iowa Code, Section 600A.8 Grounds for termination.

The juvenile court shall base its findings and order under section 600A.9 on clear and convincing proof. The following shall be, either separately or jointly, grounds for ordering termination of parental rights:

9. The parent has been imprisoned for a crime against the child, the child's sibling, or another child in the household, or the parent has been imprisoned and it is unlikely that the parent will be released from prison for a period of five or more years.

10. The parent has been convicted of a felony offense that is a sex offense against a minor as defined in section 692A.101, the parent is divorced from or was never married to the minor's other parent, and the parent is serving a minimum sentence of confinement of at least five years for that offense.

11. The court finds there is clear and convincing evidence that the child was conceived as the result of sexual abuse as defined in section 709.1, and the biological parent against whom the sexual abuse was perpetrated requests termination of the parental rights of the biological parent who perpetrated the sexual abuse.

#### Iowa Code, Section 726.6 - Child endangerment

1. A person who is the parent, guardian, or person having custody or control over a child or a minor under the age of eighteen with a mental or physical disability, or a person who is a member of the household in which a child or such a minor resides, commits child endangerment when the person does any of the following...

h. Knowingly allows a person custody or control of, or unsupervised access to a child or a minor after knowing the person is required to register or is on the sex offender registry as a sex offender under chapter 692A. However, this paragraph does not apply to a person who is a parent or guardian of a child or a minor, who is required to register as a sex offender, or to a person who is married to and living with a person required to register as a sex offender.

#### KANSAS

KS Stat. 23-3203. Factors considered in determination of legal custody, residency and parenting time of a child

23-3203(a) In determining the issue of legal custody, residency and parenting time of a child, the court shall consider all relevant factors, including, but not limited to...

(9) evidence of domestic abuse, including, but not limited to... (B) an act of domestic violence, stalking or sexual assault...

(15) whether a parent is subject to the registration requirements of the Kansas offender registration act, K.S.A. 22-4901 et seq., and amendments thereto, or any similar act in any other state, or under military or federal law;

(16) whether a parent has been convicted of abuse of a child, K.S.A. 21-3609, prior to its repeal, or K.S.A. 2019 Supp. 21-5602, and amendments thereto;

(17) whether a parent is residing with an individual who is subject to registration requirements of the Kansas offender registration act, K.S.A. 22-4901 et seq., and amendments thereto, or any similar act in any other state, or under military or federal law; and

(18) whether a parent is residing with an individual who has been convicted of abuse of a child, K.S.A. 21-3609, prior to its repeal, or K.S.A. 2019 Supp. 21-5602, and amendments thereto.

Kan. Stat. 38-2269

(a) When the child has been adjudicated to be a child in need of care, the court may terminate parental rights or appoint a permanent custodian when the court finds by clear and convincing evidence that the parent is unfit by reason of conduct or condition which renders the parent unable to care properly for a child and the conduct or condition is unlikely to change in the foreseeable future.

(b) In making a determination of unfitness the court shall consider, but is not limited to, the following, if applicable...

(h) If a parent is convicted of an offense as provided in K.S.A. 2019 Supp. 38-2271(a)(7), and amendments thereto, or is adjudicated a juvenile offender because of an act which if committed by an adult would be an offense as provided in K.S.A. 2019 Supp. 38-2271(a)(7), and amendments thereto, and if the victim was the other parent of a child, the court may disregard such convicted or adjudicated parent's opinions or wishes in regard to the placement of such child.

(a) It is presumed in the manner provided in K.S.A. 60-414, and amendments thereto, that a parent is unfit by reason of conduct or condition which renders the parent unable to fully care for a child, if the state establishes, by clear and convincing evidence, that...

(7) a parent has been convicted of (murder offenses and) ... human trafficking or aggravated human trafficking, K.S.A. 21-3446 or 21-3447, prior to their repeal, or K.S.A. 2017 Supp. 21-5426, and amendments thereto, or commercial sexual exploitation of a child, K.S.A. 2017 Supp. 21-6422, and amendments thereto, or comparable proceedings under the laws of another jurisdiction or, has been adjudicated a juvenile offender because of an act which if committed by an adult would be an offense as provided in this subsection, and the victim of such murder was the other parent of the child;

(12) a parent has been convicted of rape, K.S.A. 21-3502, prior to its repeal, or K.S.A. 2017 Supp. 21-5503, and amendments thereto, or comparable proceedings under the laws of another jurisdiction resulting in the conception of the child;

(b) The burden of proof is on the parent to rebut the presumption of unfitness by a preponderance of the evidence. In the absence of proof that the parent is presently fit and able to care for the child or that the parent will be fit and able to care for the child in the foreseeable future, the court shall terminate parental rights in proceedings pursuant to K.S.A. 2017 Supp. 38-2266 et seq., and amendments thereto.

KENTUCKY

Kentucky Statutes 403.322 – Custody, visitation, and inheritance rights denied parent convicted of felony sexual offense from which victim delivered a child — Waiver — child support obligation

(1) The Commonwealth recognizes that certain victims of sexual assault may conceive a child as a result of the sexual assault and may choose to bear and raise the child. The Commonwealth also recognizes that victims of a sexual assault who have elected to raise a child born as a result of the sexual assault, as well as that child, may suffer serious emotional or physical trauma if the perpetrator of the assault is granted parental rights with the child.

(2) Except as provided in subsection (3) of this section, any person who has been convicted of a felony offense under KRS Chapter 510, in which the victim of that offense has conceived and delivered a child, shall not have custody or visitation rights, or the rights of inheritance under KRS Chapter 391 with respect to that child.

(3) The mother of the child may waive the protection afforded under subsection (2) of this section regarding visitation and request that the court grant reasonable visitation rights with the child if paternity has been acknowledged.

(4) Unless waived by the mother and, if applicable, the public agency substantially contributing to the support of the child, a court shall establish a child support obligation against the father of the child pursuant to KRS 403.211.

KS 405.028 - Custody, visitation, and inheritance rights denied parent convicted of a felony sexual offense from which victim delivered a child -- Waiver -- Child support obligation.

(1) Except as provided in subsection (2) of this section, any person who has been convicted of a felony offense under KRS Chapter 510, in which the victim of that offense has conceived and delivered a child, shall not have custody or visitation rights, or the right of inheritance under KRS Chapter 391 with respect to that child.

(2) The mother of the child may waive the protection afforded under subsection (1) of this section regarding visitation and request that the court grant reasonable visitation rights with the child if paternity has been acknowledged.

(3) Unless waived by the mother and, if applicable, the public agency substantially contributing to the support of the child, a court shall establish a child support obligation against the father of the child pursuant to KRS 403.211.

## LOUISIANA

LA Civ Code 137 - Denial of visitation; felony rape; death of a parent

A. In a proceeding in which visitation of a child is being sought by a natural parent, if the child was conceived through the commission of a felony rape, the natural parent who committed the felony rape shall be denied visitation rights and contact with the child.

La. Child Code, Section 1004 - Petition for termination of parental rights; authorization to file

I. When a child is conceived as the result of a sex offense as defined in R.S. 15:541, the victim of the sex offense may petition to terminate the rights of the perpetrator of the sex offense. Termination shall result in the loss of custody, visitation, contact, and other parental rights of the perpetrator regarding the child, but shall not affect the inheritance rights of the child. The perpetrator shall be cast in judgment for court costs.

La. Child Code, Section 1015 - Grounds; termination of parental rights

The grounds for termination of parental rights are...

(3) Conviction of a sex offense as defined in R.S. 15:541 by the natural parent which resulted in the conception of the child.

(4) Misconduct of the parent toward this child or any other child of the parent or any other child which constitutes extreme abuse, cruel and inhuman treatment, or grossly negligent behavior below a reasonable standard of human decency, including but not limited to the conviction, commission, aiding or abetting, attempting, conspiring, or soliciting to commit any of the following:

(c) Aggravated crime against nature as defined by R.S. 14:89.1(A)(2).

(d) Rape.

(e) Sodomy.

(l) Sexual exploitation or abuse, which shall include, but is not limited to acts which are prohibited by R.S. 14:43.1, 43.2, 46.3, 80, 81, 81.1, 81.2, 82.1(A)(2), 89, and 89.1.

(m) Human trafficking when sentenced pursuant to the provisions of R.S. 14:46.2(B)(2) or (3).

La. Child Code, Section 1015.1 - Termination of parental rights, certain grounds; costs and fees

B. All court costs, attorney fees, costs of enforcement and modification proceedings, costs of appeals, evaluation fees, and expert witness fees incurred in filing, maintaining, or defending any proceeding under Article 1015(3) or (9) shall be paid by the perpetrator of the sex offense, including all costs of medical and psychological care for the sexually abused adult, or for the child conceived as a result of the sex offense.

MAINE

Me. Stat. tit. 19-A, Section 1653 - Parental rights and responsibilities

3. Best interest of child. The court, in making an award of parental rights and responsibilities with respect to a child, shall apply the standard of the best interest of the child. In making decisions regarding the child's residence and parent-child contact, the court shall consider as primary the safety and well-being of the child. In applying this standard, the court shall consider the following factors...

Q. The existence of a parent's conviction for a sex offense or a sexually violent offense as those terms are defined in Title 34-A, section 11203; [ 2009, c. 593, § 3 (AMD) .]

R. If there is a person residing with a parent, whether that person:

- (1) Has been convicted of a crime under Title 17-A, chapter 11 or 12 or a comparable crime in another jurisdiction; (Note: Chapter 11 covers SEX ASSAULTS (Sec. 251 — 261), Chapter 12 covers SEXUAL EXPLOITATION OF MINORS (Sec. 281 — 285))
- (2) Has been adjudicated of a juvenile offense that, if the person had been an adult at the time of the offense, would have been a violation of Title 17-A, chapter 11 or 12; or
- (3) Has been adjudicated in a proceeding, in which the person was a party, under Title 22, chapter 1071 as having committed a sexual offense; and [ 2009, c. 593, § 4 (AMD) .]

Me. Rev. Stat. Ann. tit. 19-A, Section 1658 - Termination of parental rights and responsibilities in cases involving sexual assault

This section applies to the termination of 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.

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, the court shall terminate the parental rights and responsibilities of the parent. If the petitioner proves the allegation in subsection 2, paragraph B by clear and convincing evidence, the court may 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.

Me. Rev. Stat. Ann. tit. 22, § 4055

1-A. Rebuttable presumption. The court may presume that the parent is unwilling or unable to protect the child from jeopardy and these circumstances are unlikely to change within a time which is reasonably calculated to meet the child's needs if:

B. The victim of any of the following crimes was a child for whom the parent was responsible or the victim was a child who was a member of a household lived in or frequented by the parent and the parent has been convicted of:

- (6) Rape;
- (7) Gross sexual misconduct or gross sexual assault;
- (8) Sexual abuse of minors;
- (9) Incest;
- (10) Kidnapping;
- (11) Promotion of prostitution, sexual exploitation of a minor, sex trafficking or aggravated sex trafficking; or
- (12) A comparable crime in another jurisdiction;

1-B. Conception by sexual assault as grounds for termination. The court may order termination of parental rights if the court finds, based on 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.

## MARYLAND

Md. Family Law Code Ann., Sec. 5-1402 - Termination of parental rights.

(a) In general. -- Except as provided in subsection (b) of this section, after a trial, a court may terminate the parental rights of a respondent under this subtitle if the court:

- (1) determines that the respondent has been served in accordance with the Maryland Rules;
- (2)(i) finds that the respondent has been convicted of an act of nonconsensual sexual conduct against the other parent that resulted in the conception of the child at issue in an action under this subtitle; or  
(ii) finds by clear and convincing evidence that the respondent committed an act of nonconsensual sexual conduct against the other parent that resulted in the conception of the child at issue in an action under this subtitle; and
- (3) finds by clear and convincing evidence that it is in the best interest of the child to terminate the parental rights of the respondent.

(b) Exception; conditions. -- The court may not terminate parental rights under subsection (a) of this section if the parents were married at the time of the conception of the child at issue unless:

- (1) the respondent has been convicted of an act of nonconsensual sexual conduct against the other parent that resulted in the conception of the child; or
- (2) the parents were separated in accordance with a protective order during the time of the conception of the child and have remained separate and apart since the time of conception.

(c) Effect of termination. -- A termination of parental rights under this section terminates completely:

- (1) a parent's right to custody of, guardianship of, access to, visitation with, and inheritance from the child; and
- (2) a parent's responsibility to support the child, including the responsibility to pay child support.

## MASSACHUSETTS

Mass. Gen. Laws Ann. ch. 209C, § 3

No court shall make an order providing visitation rights to a parent who was convicted of rape, under sections 22 to 23B, inclusive, of chapter 265 or section 2, 3, 4 or 17 of chapter 272, and is seeking to obtain visitation with the child who was conceived during the commission of that rape, unless the judge determines that such child is of suitable age to signify the child's assent and the child assents to such order and that assent is in the best interest of the child; provided, however, that a court may make an order providing visitation rights to a parent convicted of rape under section 23 of said chapter 265, if (i) visitation is in the best interest of the child and (ii) either the other parent of the child conceived during the commission of that rape has reached the age of 18 and said parent consents to such visitation or the judge makes an independent determination that visitation is in the best interest of the child.

## MICHIGAN

Mich. Comp. Laws, Sec. 712A.13a - Definitions; petition; release of juvenile; order removing abusive person from home; placement of child; foster care; conditions; duty of court to inform parties; criminal record check and central registry clearance; family-like setting; parenting time; siblings; joint placement; visitation or other contact; review and modification of orders and plans; release of information; information included with order; "abuse" defined

- (6) If a court finds a parent is required by court order to register under the sex offenders registration act, the department may, but is not required to, make reasonable efforts to reunify the child with the parent. The court may order reasonable efforts to be made by the department.

Mich. Comp. Laws, Sec. 712A.18f - Report; preparation and contents of case service plan; order of disposition; updating and revising case service plan; rules; review by child's physician in case of abuse and neglect; testimony

- (3) The case service plan shall provide for placing the child in the most family-like setting available and in as close proximity to the child's parents' home as is consistent with the child's best interests and special needs. The case service plan shall include, but is not limited to, the following...

(g) Conditions that would limit or preclude placement or parenting time with a parent who is required by court order to register under the sex offenders registration act.

Mich. Comp. Laws, Section 712A.19a - Permanency planning hearing; conditions; time limitation; reunion of child and family not required; purpose; obtaining child's views regarding permanency plan; consideration of out-of-state placement; notice; statement; return of child to parent; noncompliance with case service plan; other conditions as evidence; termination of parental rights to child; exceptions;



alternative placement plans; powers and appointment of guardian; information considered as evidence; revocation or termination of guardianship

- (2) The court shall conduct a permanency planning hearing within 30 days after there is a judicial determination that reasonable efforts to reunite the child and family are not required. Reasonable efforts to reunify the child and family must be made in all cases except if any of the following apply...
- (d) The parent is required by court order to register under the sex offenders registration act.

Mich. Comp. Laws § 722.25

(2) Notwithstanding other provisions of this act, if a child custody dispute involves a child who is conceived as the result of acts for which 1 of the child's biological parents is convicted of criminal sexual conduct as provided in sections 520a to 520e and 520g of the Michigan penal code, 1931 PA 328, MCL 750.520a to 750.520e and 750.520g, or a substantially similar statute of another state or the federal government, or is found by clear and convincing evidence in a fact-finding hearing to have committed acts of nonconsensual sexual penetration, the court shall not award custody to that biological parent. This subsection does not apply to a conviction under section 520d(1)(a) of the Michigan penal code, 1931 PA 328, MCL 750.520d. This subsection does not apply if, after the date of the conviction, or the date of the finding in a fact-finding hearing described in this subsection, the biological parents cohabit and establish a mutual custodial environment for the child.

(3) An offending parent is not entitled to custody of a child described in subsection (2) without the consent of that child's other parent or guardian.

(4) Notwithstanding other provisions of this act, subsection (2) does not relieve an offending parent of any support or maintenance obligation to the child. The other parent or the guardian of the child may decline support or maintenance from the offending parent.

(5) A parent may assert an affirmative defense of the provisions of subsection (2) in a proceeding brought by the offending parent regarding a child described in subsection (2).

Mich. Comp. Laws § 722.1445

Sec. 15. (1) If an action is brought by an alleged father who proves by clear and convincing evidence that he is the child's father, the court may make a determination of paternity and enter an order of filiation as provided for under section 7 of the paternity act, 1956 PA 205, MCL 722.717.

(2) If an action is brought by a mother who, after a fact-finding hearing, proves by clear and convincing evidence that the child was conceived as a result of nonconsensual sexual penetration, the court shall do 1 of the following:

- (a) Revoke an acknowledgment of parentage for an acknowledged father.
- (b) Determine that a genetic father is not the child's father.
- (c) Set aside an order of filiation for an affiliated father.

(d) Make a determination of paternity regarding an alleged father and enter an order of revocation of paternity for that alleged father.

(3) Subsection (2) does not apply if, after the date of the alleged nonconsensual sexual penetration described in subsection (2), the biological parents cohabit and establish a mutual custodial environment for the child.

(4) As used in this section, "sexual penetration" means that term as defined in section 520a of the Michigan penal code, 1931 PA 328, MCL 750.520a.

## MISSISSIPPI

Miss. Code, Section 93-15-119 - Involuntary termination in chancery court for reasons of abandonment, desertion, or parental unfitness to raise the child; standard of proof

(1) A court hearing a petition under this chapter may terminate the parental rights of a parent when, after conducting an evidentiary hearing, the court finds by clear and convincing evidence:

(b) That a parent has committed against the other parent a sexual act that is unlawful under Section 97-3-65 or 97-3-95, or under a similar law of another state, territory, possession or Native American tribe where the offense occurred, and that the child was conceived as a result of the unlawful sexual act. A criminal conviction of the unlawful sexual act is not required to terminate the offending parent's parental rights under this paragraph (b).

Miss. Code, Sec. 97-5-42 - Protection of children from parents convicted of felony child sexual abuse; creation of local registry; penalties; standards for visitation

(3) No person who has been convicted of felony parental child sexual abuse shall be entitled to have parental or other visitation rights as to that child who was the victim, unless he or she files a petition in the chancery court of the county in which the child resides, reciting the conviction, and joining as parties defendant any other parent, guardian, person standing in loco parentis or having legal or physical custody of the child. A guardian ad litem shall be appointed to represent the child at petitioner's expense. The court shall appoint a qualified psychologist or psychiatrist to conduct an independent examination of the petitioner to determine whether contact with that person poses a physical or emotional risk to the child, and report to the court. Such examination shall be at petitioner's expense. The court shall require any such petitioner to deposit with the court sufficient funds to pay expenses chargeable to a petitioner hereunder, the amount of such deposit to be within the discretion of the chancellor. Any defendant and the child through his or her guardian ad litem shall be entitled to a full evidentiary hearing on the petition. In no event shall a child be required to testify in court or by deposition, or be subjected to any psychological examination, without the express consent of the child through his or her guardian ad litem. Such guardian ad litem shall consult with the child's legal guardian or custodians before consenting to such testimony or examination. At any hearing there is a rebuttable presumption that contact with the child poses a physical and emotional risk to the child. That presumption may be rebutted and visitation or contact allowed on

such terms and conditions that the chancery court shall set only upon specific written findings by the court that:

- (a) Contact between the child and the offending parent is appropriate and poses minimal risk to the child;
- (b) If the child has received counseling, that the child's counselor believes such contact is in the child's best interest;
- (c) The offending parent has successfully engaged in treatment for sex offenders or is engaged in such treatment and making progress; and
- (d) The offending parent's treatment provider believes contact with the child is appropriate and poses minimal risk to the child. If the court, in its discretion, allows visitation or contact it may impose such conditions to the visitation or contact which it finds reasonable, including supervision of contact or visitation by a neutral and independent adult with a detailed plan for supervision of any such contact or visitation.

## MISSOURI

Mo. Rev. Stat., Section 211. 038

211.038. Children not to be reunited with parents or placed in a home, when — discretion to return, when. — 1. A child under the jurisdiction of the juvenile court shall not be reunited with a parent or placed in a home in which the parent or any person residing in the home has been found guilty of any of the following offenses when a child was the victim:

- (1) A felony violation of section 566.030, 566.031, 566.032, 566.060, 566.061, 566.062, 566.064, 566.067, 566.068, 566.069, 566.071, 566.083, 566.100, 566.101, 566.111, 566.151, 566.203, 566.206, 566.209, 566.211, or 566.215;
- (2) A violation of section 568.020;
- (3) Abuse of a child under section 568.060 when such abuse is sexual in nature;
- (4) A violation of section 568.065;
- (5) A violation of section 573.200;
- (6) A violation of section 573.205; or
- (7) A violation of section 568.175;
- (8) A violation of section 566.040, 566.070, or 566.090 as such sections existed prior to August 28, 2013; or
- (9) A violation of section 566.212, 568.080, or 568.090 as such sections existed prior to January 1, 2017.

2. For all other violations of offenses in chapters 566 and 568 not specifically listed in subsection 1 of this section or for a violation of an offense committed in another state when a child is the victim that would be a violation of chapter 566 or 568 if committed in Missouri, the juvenile court may exercise its discretion regarding the placement of a child under the jurisdiction of the juvenile court in a home in which a parent or any person residing in the home has been found guilty of, or pled guilty to, any such offense.

3. If the juvenile court determines that a child has abused another child, such abusing child shall be prohibited from returning to or residing in any residence located within one thousand feet of the residence

of the abused child, or any child care facility or school that the abused child attends, until the abused child reaches eighteen years of age. The prohibitions of this subsection shall not apply where the alleged abuse occurred between siblings or children living in the same home.

Mo. Rev. Stat., Section 211.447

2. Except as provided for in subsection 4 of this section, a petition to terminate the parental rights of the child's parent or parents shall be filed by the juvenile officer or the division, or if such a petition has been filed by another party, the juvenile officer or the division shall seek to be joined as a party to the petition, when:

(4) The parent has been found guilty of or pled guilty to a felony violation of chapter 566 or 573 when the child or any child in the family was a victim, or a violation of section 568.020 or 568.065 when the child or any child in the family was a victim. As used in this subdivision, a "child" means any person who was under eighteen years of age at the time of the crime and who resided with such parent or was related within the third degree of consanguinity or affinity to such parent.

5. The juvenile officer or the division may file a petition to terminate the parental rights of the child's parent when it appears that one or more of the following grounds for termination exist:

(4) The child was conceived and born as a result of an act of forcible rape or rape in the first degree. When the biological father has pled guilty to, or is convicted of, the forcible rape or rape in the first degree of the birth mother, such a plea or conviction shall be conclusive evidence supporting the termination of the biological father's parental rights; or

11. A court of competent jurisdiction may terminate the parental rights of a biological father of a child if he is an alleged perpetrator of forcible rape under section 566.030 as it existed prior to August 28, 2013, or rape in the first degree under section 566.030 that resulted in the conception and birth of the child. The biological mother who is the victim of the forcible rape or rape in the first degree or, if she is a minor, someone on her behalf may file a petition to terminate the parental rights of the biological father. The court may terminate the parental rights of the biological father if the court finds that by:

- (1) Clear, cogent, and convincing evidence the biological father committed the act of forcible rape or rape in the first degree against the biological mother;
- (2) Clear, cogent, and convincing evidence the child was conceived as a result of that act of forcible rape or rape in the first degree; and
- (3) The preponderance of the evidence the termination of the parental rights of the biological father is in the best interests of the child.

MONTANA

Mont. Code Ann. 2019, Sec. 40-6-1001. Petition for termination -- criteria -- process. (1) A district court may order a termination of the parent-child legal relationship after the filing of a petition pursuant to this section alleging the factual grounds for termination as provided for in subsection (2).

- (2) Grounds for termination pursuant to this section exist when the parent of a child:
  - (a) is convicted of a felony in which sexual intercourse occurred or is a minor adjudicated a delinquent youth because of an act that, if committed by an adult, would be a felony in which sexual intercourse occurred and, as a result of the sexual intercourse, the child is born; or
  - (b) at a fact-finding hearing is found by clear and convincing evidence, except as provided in the federal Indian Child Welfare Act, if applicable, to have committed an act of sexual intercourse without consent, sexual assault, or incest that caused the child to be conceived.
- (3) The court's order must state the reasons for the decision.
- (4) The victim of the crime or act may file a petition pursuant to this section. If the victim is a minor, the victim's parent or guardian may file a petition on the victim's behalf.
- (5) The respondent to the petition has the right to counsel in all proceedings held pursuant to the petition.
- (6) Before termination of the parent-child legal relationship may be ordered, the court shall determine whether the provisions of 40-6-1002 and 40-6-1003 have been followed.
- (7) There is no right to a jury trial at proceedings held to consider the termination of a parent-child legal relationship.
- (8)(a) An order for the termination of the parent-child legal relationship divests the child and the parent of all legal rights, powers, immunities, duties, and obligations with respect to each other as provided in Title 40, chapter 6, part 2, and Title 41, chapter 3, part 2, except:
  - (i) the right of the child to inherit from the parent; and
  - (ii) that nothing in this section may be construed to relieve the parent whose rights are terminated as provided in this part of any child support obligations as provided in Title 40, chapters 4 and 5.
- (b) An order or decree entered pursuant to this part may not disentitle a child to any benefit due to the child from a third person, including but not limited to an Indian tribe, an agency, a state, or the United States.

Mont. Code Ann. 2019, Sec. 41-3-609

- (1) The court may order a termination of the parent-child legal relationship upon a finding established by clear and convincing evidence, except as provided in the federal Indian Child Welfare Act, if applicable, that any of the following circumstances exist:
  - (c) the parent is convicted of a felony in which sexual intercourse occurred or is a minor adjudicated a delinquent youth because of an act that, if committed by an adult, would be a felony in which sexual intercourse occurred and, as a result of the sexual intercourse, the child is born;

Mont. Code Ann. 2019, Sec. 45-5-503

(8) If as a result of sexual intercourse without consent a child is born, the offender who has been convicted of an offense under this section and who is the biological parent of the child resulting from the sexual intercourse without consent forfeits all parental and custodial rights to the child if the provisions of 46-1-401 have been followed.

## NEBRASKA

Neb. Rev. Stat., Section 43-292 - Termination of parental rights; grounds.

The court may terminate all parental rights between the parents or the mother of a juvenile born out of wedlock and such juvenile when the court finds such action to be in the best interests of the juvenile and it appears by the evidence that one or more of the following conditions exist:

(9) The parent of the juvenile has subjected the juvenile or another minor child to aggravated circumstances, including, but not limited to, abandonment, torture, chronic abuse, or sexual abuse;

(11) One parent has been convicted of felony sexual assault of the other parent under section 28-319.01 or 28-320.01 or a comparable crime in another state.

Neb. Rev. Stat., Section 43-292.02

Termination of parental rights; state; duty to file petition; when.

(4) Except as otherwise provided in the Nebraska Indian Child Welfare Act, if a child is conceived by the victim of a sexual assault, a petition for termination of parental rights of the perpetrator shall be granted if such termination is in the best interests of the child and (a) the perpetrator has been convicted of or pled guilty or nolo contendere to sexual assault of the child's birth parent under section 28-319 or 28-320 or a law in another jurisdiction similar to either section 28-319 or 28-320 or (b) the perpetrator has fathered the child or given birth to the child as a result of such sexual assault.

Neb. Rev. Stat., Section 43-2933

Registered sex offender; other criminal convictions; limitation on or denial of custody or access to child; presumption; modification of previous order.

(1)(a) No person shall be granted custody of, or unsupervised parenting time, visitation, or other access with, a child if the person is required to be registered as a sex offender under the Sex Offender Registration Act for an offense that would make it contrary to the best interests of the child for such access or for an offense in which the victim was a minor or if the person has been convicted under section 28-311, 28-319.01, 28-320, 28-320.01, or 28-320.02, unless the court finds that there is no significant risk to the child and states its reasons in writing or on the record.

(b) No person shall be granted custody of, or unsupervised parenting time, visitation, or other access with, a child if anyone residing in the person's household is required to register as a sex offender under the Sex Offender Registration Act as a result of a felony conviction in which the victim was a minor or for an offense that would make it contrary to the best interests of the child for such access unless the court finds that there is no significant risk to the child and states its reasons in writing or on the record.

(c) The fact that a child is permitted unsupervised contact with a person who is required, as a result of a felony conviction in which the victim was a minor, to be registered as a sex offender under the Sex Offender Registration Act shall be prima facie evidence that the child is at significant risk. When making a determination regarding significant risk to the child, the prima facie evidence shall constitute a presumption affecting the burden of producing evidence. However, this presumption shall not apply if there are factors mitigating against its application, including whether the other party seeking custody, parenting time, visitation, or other access is also required, as the result of a felony conviction in which the victim was a minor, to register as a sex offender under the Sex Offender Registration Act.

(2) Except as otherwise provided in the Nebraska Indian Child Welfare Act, no person shall be granted custody, parenting time, visitation, or other access with a child if the person has been convicted under section 28-319 or 28-320 or a law in another jurisdiction similar to either section 28-319 or 28-320 and the child was conceived as a result of that violation unless the custodial parent or guardian, as defined in section 43-245, consents.

(3) A change in circumstances relating to subsection (1) or (2) of this section is sufficient grounds for modification of a previous order.

#### Annotations from NE Legislature

To overcome the "bursting bubble" presumption set forth in subdivision (1)(c) of this section, a custodial parent must produce evidence that, even with a sex offender's access, the child or children are not at significant risk. If the evidence is produced, the presumption disappears and the trial court must weigh the evidence presented free from any legal presumptions. *Hopkins v. Hopkins*, 294 Neb. 417, 883 N.W.2d 363 (2016).

Taken together, subdivision (1)(b) and subsection (3) of this section create a statutory presumption against custody being awarded to a person residing with a person required to register under the Sex Offender Registration Act due to a felony conviction in which the victim was a minor or as a result of an offense that would make it contrary to the best interests of the child whose custody is at issue, but this presumption can be overcome by evidence. *Watkins v. Watkins*, 285 Neb. 693, 829 N.W.2d 643 (2013).

Pursuant to subsection (2) of this section, no person shall be granted custody, parenting time, visitation, or other access with a child if the person has been convicted under section 28-319 (first degree sexual assault) and the child was conceived as a result of that violation. *In re Interest of Danajah G. et al.*, 23 Neb. App. 244, 870 N.W.2d 432 (2015).

## NEVADA

NRS 125C.210 - Child conceived as result of sexual assault: Rights of natural father convicted of sexual assault; rights when father is spouse of victim; rebuttable presumption upon divorce.

1. Except as otherwise provided in subsection 2, if a child is conceived as the result of a sexual assault and the person convicted of the sexual assault is the natural father of the child, the person has no right to custody of or visitation with the child unless the natural mother or legal guardian consents thereto and it is in the best interest of the child.

2. The provisions of subsection 1 do not apply if the person convicted of the sexual assault is the spouse of the victim at the time of the sexual assault. If the persons later divorce, the conviction of sexual assault creates a rebuttable presumption that sole or joint custody of the child by the perpetrator of the sexual assault is not in the best interest of the child. The court shall set forth findings that any custody or visitation arrangement ordered by the court adequately protects the child and the victim of the sexual assault.

## NRS 128.105

1. The primary consideration in any proceeding to terminate parental rights must be whether the best interests of the child will be served by the termination. An order of the court for the termination of parental rights must be made in light of the considerations set forth in this section and NRS 128.106 to 128.109, inclusive, and based on evidence and include a finding that:

(a) The best interests of the child would be served by the termination of parental rights; and  
(b) The conduct of the parent or parents was the basis for a finding made pursuant to subsection 3 of NRS 432B.393 or demonstrated at least one of the following:

(8) The child was conceived as a result of a sexual assault for which the natural parent was convicted.

NRS 432B.393 - Preservation and reunification of family of child to prevent or eliminate need for removal from home before placement in foster care and to make safe return to home possible; when reasonable efforts are not required; determining whether reasonable efforts have been made

3. An agency which provides child welfare services is not required to make the reasonable efforts required by subsection 1 if the court finds that...

(h) A parent of the child is required to register as a sex offender pursuant to the provisions of chapter 179D of NRS or the provisions of the federal Adam Walsh Child Protection and Safety Act of 2006, 42 U.S.C. §§ 16901 et seq.

## NEW HAMPSHIRE

N.H. Rev. Stat. Ann., Section 170-C:5-a - Termination of the Parent-Child Relationship in Cases of Sexual Assault.



A petition for termination of the parent-child relationship shall be granted in cases where the child's birth is the result of sexual assault of the birth mother and where termination of the parent-child relationship is in the best interests of the child. Upon a showing, beyond a reasonable doubt, that the child's birth is the result of sexual assault of the birth mother, there shall be a rebuttable presumption that termination of the biological father's parent-child relationship with the child is in the best interest of the child. This section shall apply to a person who has been found to be the father of a child and who:

I. Has been convicted of or who has pled guilty or nolo contendere to a violation of sexual assault as defined in RSA 632-A:2 through RSA 632-A:4, or a similar statute in another state against the birth mother for his conduct in fathering the child; or

II. At a fact-finding hearing, is found beyond a reasonable doubt to have fathered the child through an act of non-consensual sexual penetration.

#### NEW JERSEY

NJ Stat. Ann., Sec. 9:2-4.1 - Person convicted of sexual assault, custody of, visitation to minor child; denied, exceptions.

1. a. Notwithstanding any provision of law to the contrary, a person convicted of sexual assault under N.J.S.2C:14-2 shall not be awarded the custody of or visitation rights to any minor child, including a minor child who was born as a result of or was the victim of the sexual assault, except upon a showing by clear and convincing evidence that it is in the best interest of the child for custody or visitation rights to be awarded. However, a court that awards such custody or visitation rights to a person convicted of sexual assault under N.J.S.2C:14-2 shall stay enforcement of the order or judgment for at least 10 days in order to permit the appeal of the order or judgment and application for a stay in accordance with the Rules of Court.

b. Notwithstanding any provision of law to the contrary, a person convicted of sexual contact under NJS 2C:14-3 or endangering the welfare of a child under NJS 2C:24-4 shall not be awarded the custody of or visitation rights to any minor child, except upon a showing by clear and convincing evidence that it is in the best interest of the child for such custody or visitation rights to be awarded. However, a court that awards such custody or visitation rights to a person convicted of sexual contact under N.J.S.2C:14-3 or endangering the welfare of a child under NJS 2C:24-4 shall stay enforcement of the order or judgment for at least 10 days in order to permit the appeal of the order or judgment and application for a stay in accordance with the Rules of Court.

c. A denial of custody or visitation under this section shall not by itself terminate the parental rights of the person denied visitation or custody, nor shall it affect the obligation of the person to support the minor child.

d. In any proceeding for establishment or enforcement of such an obligation of support the victim shall not be required to appear in the presence of the obligor and the victim's and child's whereabouts shall be kept confidential.

## NEW MEXICO

N.M. Stat. § 32A-5-19

The consent to adoption or relinquishment of parental rights required pursuant to the provisions of the Adoption Act shall not be required from:

C. a biological father of an adoptee conceived as a result of rape or incest...

## NEW YORK

N.Y. Dom. Rel., Sec. 240 - Custody and child support; orders of protection

1-c (b) Notwithstanding any other provision of this chapter to the contrary, there shall be a rebuttable presumption that it is not in the best interests of the child to be placed in the custody of or to visit with a person who has been convicted of one or more of the following sexual offenses in this state or convicted of one or more offenses in another jurisdiction which, if committed in this state, would constitute one or more of the following offenses, when a child who is the subject of the proceeding was conceived as a result: (A) rape in the first or second degree; (B) course of sexual conduct against a child in the first degree; (C) predatory sexual assault; or (D) predatory sexual assault against a child.

N.Y. Dom. Rel., Sec. 240 and N.Y. Fam. Ct. Act, Section 651 - Jurisdiction over habeas corpus proceedings and petitions for custody and visitation of minors

Both contain the following statement:

3. Decisions and reports for review. The court shall conduct a review of the following:

- (i) related decisions in court proceedings initiated pursuant to article ten of this act, and all warrants issued under his act; and
- (ii) reports of the statewide computerized registry of orders of protection established and maintained pursuant to section two hundred twenty-one-a of the executive law, and reports of the sex offender registry established and maintained pursuant to section one hundred sixty-eight-b of the correction law.

## NORTH CAROLINA

NORTH CAROLINA (NC Gen Stat., Secs. 7B-1111; 14-27.21; 14-27.22; 14-27.23; 50-13.1): The court may terminate parental rights if the child is conceived by rape.

NC Gen. Stat., Section 7B-1111. Grounds for terminating parental rights

(a) The court may terminate the parental rights upon a finding of one or more of the following:

(11) The parent has been convicted of a sexually related offense under Chapter 14 of the General Statutes that resulted in the conception of the juvenile.

NC Gen. Stat., Sebc. 14-27.21. First-degree forcible rape, 14-27.22. Second-degree forcible rape, and 14-27.23. Statutory rape of a child by an adult.

All three statutes contain the following statement:

(c) Upon conviction, a person convicted under this section has no rights to custody of or rights of inheritance from any child born as a result of the commission of the rape, nor shall the person have any rights related to the child under Chapter 48 or Subchapter 1 of Chapter 7B of the General Statutes.

NC Gen. Stat., Section 50-13.1 - Action or proceeding for custody of minor child

(a) Any parent, relative, or other person, agency, organization or institution claiming the right to custody of a minor child may institute an action or proceeding for the custody of such child, as hereinafter provided. Any person whose actions resulted in a conviction under G.S. 14-27.21, G.S. 14-27.22, G.S. 14-27.23, or G.S. 14-27.24 (note: all Rape offenses, including statutory) and the conception of the minor child may not claim the right to custody of that minor child. Unless a contrary intent is clear, the word "custody" shall be deemed to include custody or visitation or both.

(a1) Notwithstanding any other provision of law, any person instituting an action or proceeding for custody ex parte who has been convicted of a sexually violent offense as defined in G.S. 14-208.6(5) shall disclose the conviction in the pleadings.

## NORTH DAKOTA

27-20-17. Release from detention or shelter care - Hearing - Conditions of release.

As a condition to the child's release from shelter care, the court may order a parent, guardian, custodian, or any other member of the household in which the child resides to vacate the child's residence if probable cause exists to believe that the parent, guardian, custodian, or other member of the household has committed a sexual offense with or against the child, pursuant to sections 12.1-20-03 through 12.1-20-07 or section 12.1-20-11, and the presence of the alleged sexual offender in the child's residence presents a danger to the child's life or physical, emotional, or mental health. The court may order that the parent, guardian, or custodian not allow contact with an identified person if the court determines the order is in the best interests of the child.

27-20-44. Termination of parental rights

1. The court by order may terminate the parental rights of a parent with respect to the parent's child if:

b. The child is subjected to aggravated circumstances as defined under subsection 3 of section 27-20-02 (note, this includes most sex offenses)...

e. The parent has pled guilty or nolo contendere to, or has been found guilty of engaging in a sexual act under section 12.1-20-03 or 12.1-20-04, the sexual act led to the birth of the parent's child, and termination of the parental rights of the parent is in the best interests of the child.

## OHIO

ORC 3109.04 Allocating parental rights and responsibilities for care of children - shared parenting.

(C) Prior to trial, the court may cause an investigation to be made as to the character, family relations, past conduct, earning ability, and financial worth of each parent and may order the parents and their minor children to submit to medical, psychological, and psychiatric examinations... When the court allocates parental rights and responsibilities for the care of children or determines whether to grant shared parenting in any proceeding, it shall consider whether either parent or any member of the household of either parent has been convicted of or pleaded guilty to a violation of section 2919.25 of the Revised Code or a sexually oriented offense involving a victim who at the time of the commission of the offense was a member of the family or household that is the subject of the proceeding, has been convicted of or pleaded guilty to any sexually oriented offense or other offense involving a victim who at the time of the commission of the offense was a member of the family or household that is the subject of the proceeding and caused physical harm to the victim in the commission of the offense, or has been determined to be the perpetrator of the abusive act that is the basis of an adjudication that a child is an abused child. If the court determines that either parent has been convicted of or pleaded guilty to a violation of section 2919.25 of the Revised Code or a sexually oriented offense involving a victim who at the time of the commission of the offense was a member of the family or household that is the subject of the proceeding, has been convicted of or pleaded guilty to any sexually oriented offense or other offense involving a victim who at the time of the commission of the offense was a member of the family or household that is the subject of the proceeding and caused physical harm to the victim in the commission of the offense, or has been determined to be the perpetrator of the abusive act that is the basis of an adjudication that a child is an abused child, it may designate that parent as the residential parent and may issue a shared parenting decree or order only if it determines that it is in the best interest of the child to name that parent the residential parent or to issue a shared parenting decree or order and it makes specific written findings of fact to support its determination.

(F)(1) In determining the best interest of a child pursuant to this section, whether on an original decree allocating parental rights and responsibilities for the care of children or a modification of a decree allocating those rights and responsibilities, the court shall consider all relevant factors, including, but not limited to...

(h) Whether either parent or any member of the household of either parent previously has been convicted of or pleaded guilty to any criminal offense involving any act that resulted in a child being an abused child or a neglected child; whether either parent, in a case in which a child has been adjudicated an abused child or a neglected child, previously has been determined to be the perpetrator of the abusive or neglectful act that is the basis of an adjudication; whether either parent or any member of the household of either parent previously has been convicted of or pleaded guilty to a violation of section 2919.25 of the

Revised Code or a sexually oriented offense involving a victim who at the time of the commission of the offense was a member of the family or household that is the subject of the current proceeding; whether either parent or any member of the household of either parent previously has been convicted of or pleaded guilty to any offense involving a victim who at the time of the commission of the offense was a member of the family or household that is the subject of the current proceeding and caused physical harm to the victim in the commission of the offense; and whether there is reason to believe that either parent has acted in a manner resulting in a child being an abused child or a neglected child;

ORC 3109.042 Custody rights of unmarried mother.

(B) Notwithstanding division (A) of this section, an unmarried female who has been convicted of or pleaded guilty to rape or sexual battery and has been declared under section 3109.501 of the Revised Code to be the parent of a child born as a result of rape or sexual battery shall not be a residential parent and legal custodian of that child.

ORC 3109.501 Children conceived as result of rape or sexual battery; declaration of paternity.

(A) Except as provided in division (C) and subject to division (D) of this section, a person who is the victim of rape or sexual battery for which a child was conceived as a result may bring an action to declare the person who was convicted of or pleaded guilty to the offense to be the parent of the child conceived as a result of rape or sexual battery committed by the other person.

(B) In an action seeking a declaration described in division (A) of this section, a court may issue an order declaring that the other person is the parent of a child conceived as a result of rape or sexual battery committed by the other person if all of the following are established by clear and convincing evidence:

- (1) The other person was convicted of or pleaded guilty to the rape or sexual battery.
- (2) The person bringing the action was the victim of the rape or sexual battery.
- (3) The child was conceived as a result of the rape or sexual battery.
- (4) Both persons are the parents of the child established pursuant to genetic testing conducted in different places or at different times or as provided in Chapter 3111. of the Revised Code.

(C) A person to whom the following apply may seek a declaration described in division (A) of this section only pursuant to a proceeding for divorce, dissolution, legal separation, or annulment:

- (1) The person is the victim of a rape or sexual battery for which a child was conceived as a result.
- (2) The person is married to the person who was convicted of or pleaded guilty to the rape or sexual battery.

(D) An action seeking a declaration under division (A) of this section shall be filed in a court with jurisdiction over juvenile matters if the parents of the child are not married and in a court with jurisdiction over domestic relations matters, pursuant to a proceeding for divorce, dissolution, legal separation, or annulment, if the parents of the child are married.

ORC 3109.502 Continuation of declaration of paternity proceedings during criminal proceedings.

An action under section 3109.501 of the Revised Code shall be continued until the court renders a judgment and all appeals have been exhausted in the criminal proceedings regarding the charge of rape or sexual battery that is the basis of the action. On the final disposition of the criminal proceedings, the court shall do one of the following:

- (A) Proceed with the action if the person was convicted of or pleaded guilty to rape or sexual battery;
- (B) Dismiss the action if the person was acquitted of the charge of rape or sexual battery.

ORC 3109.503 Notice of parental rights.

(A) A person who brings an action under division (A) of section 3109.501 of the Revised Code seeking a declaration that another person is the parent of a child conceived as a result of rape or sexual battery committed by the other person shall notify the court in which the action is brought of any order previously issued by any court that grants the other person parental rights with respect to that child. The notice shall include the name of the court that issued the order, the date of issuance of the order, the name and number of the case in which the order was issued, the parental rights granted under the order, and the name of the person to whom the parental rights were granted.

(B) A court that issues an order under section 3109.501 of the Revised Code declaring a person to be the parent of a child conceived as a result of rape or sexual battery committed by the person shall notify any court that has issued an order granting the person parental rights with respect to that child and that was identified in accordance with division (A) of this section by the person who brought the action.

ORC 3109.504 Granting of parental rights prohibited.

(A) No court shall issue an order granting parental rights with respect to a child to a person who has been convicted of or pleaded guilty to rape or sexual battery and has been declared, in an action or proceeding under section 3109.501 or 3109.505 of the Revised Code regarding that child, to be the parent of a child conceived as a result of rape or sexual battery committed by the person.

(B) On receipt of a notice under section 3109.503 of the Revised Code, a court that has issued an order granting parental rights regarding the person and child addressed in the notice shall terminate the order.

ORC 3109.505 Consolidation of actions.

Any action described in section 3109.501 of the Revised Code may be consolidated with any action or proceeding for parental rights regarding a child conceived as a result of rape or sexual battery.

ORC 3109.507 Revocation or modification of order.

(A) If a court issues an order under section 3109.501 of the Revised Code declaring a person to be the parent of a child conceived as a result of rape or sexual battery committed by the person, no court shall

revoke or modify the order or the resulting denial, termination, or limitation of the person's parental rights and the person's relatives' rights under sections 3109.50 to 3109.506 of the Revised Code, except upon motion of the victim of the rape or sexual battery requesting the revocation or modification. The motion shall be made in the court that issued the order under section 3109.501 of the Revised Code.

(B) The denial, termination, or limitation of parental rights under sections 3109.50 to 3109.506 of the Revised Code does not relieve the person of any debts owed to the other parent or the child prior to the denial, termination, or limitation.

## OKLAHOMA

Okla. Stat., Sec. 10A-1-4-705. Religious preference in placement - Placement of child – Restriction on placement in home of felon or sex offender

C. A prospective foster or adoptive parent shall not be an approved placement for a child if the prospective foster or adoptive parent or any other person residing in the home of the prospective foster or adoptive parent has been convicted of any of the following felony offenses:

5. A crime involving violence, including, but not limited to, rape, sexual assault or homicide, but excluding those crimes specified in paragraph 1 of this subsection.

D. 1. Under no circumstances shall a child be placed with or in the custody of an individual subject to the Oklahoma Sex Offenders Registration Act or an individual who is married to or living with an individual subject to the Oklahoma Sex Offenders Registration Act.

Okla. Stat., Sec. 10A-1-4-904

B. The court may terminate the rights of a parent to a child based upon the following legal grounds:

11. A finding that the child was conceived as a result of rape perpetrated by the parent whose rights are sought to be terminated;

15. A finding that there exists a substantial erosion of the relationship between the parent and child caused at least in part by the parent's serious or aggravated neglect of the child, physical or sexual abuse or exploitation of the child, a prolonged and unreasonable absence of the parent from the child or an unreasonable failure by the parent to visit or communicate in a meaningful way with the child;

Okla. Stat., Sec. 30-2-117. Custody by abandonment of a minor - Qualified relative

D. Custody by abandonment shall be made on the verified petition of a qualified relative and shall be substantially in the following form...

14. That I am qualified to be granted care and custody by abandonment. I further inform the Court that I am not a minor, incapacitated person or partially incapacitated person. Attached to this petition is a completed Oklahoma Sex Offenders Registration Act Affidavit. There are no conflicts of interest that

would preclude or be substantially detrimental to my ability to act in the best interest(s) of the minor child(ren).

E. Affidavits attesting to the compliance of the guardian with the Uniform Child Custody Jurisdiction and Enforcement Act and the Oklahoma Sex Offenders Registration Act shall be attached to the petition and shall be substantially in the following forms...

6. Oklahoma Sex Offenders Registration Act

Affidavit

I am not a person subject to registration under the Oklahoma Sex Offenders Registration Act. I am not married to or living with such a person, or a person who has been convicted of, or has charges pending for, a felony or any relevant misdemeanor, nor has anyone living with me or frequently present in my home previously been convicted of, or has charges pending for, a relevant felony or misdemeanor.

That as guardian of the above minor child(ren) under no circumstances shall I permit the child to be left in the custody of a person who is known to me to be subject to registration under the Oklahoma Sex Offenders Registration Act. Nor shall I permit the children to be left in the custody of a person married or living with such a person, or with any individual who has been convicted of any crime involving domestic abuse. Nor shall these children be placed in the custody of a person who has previously been convicted of, or has charges pending for, a relevant felony or misdemeanor.

Okla. Stat., Sec. 43-112.2. Evidence of ongoing domestic abuse or child abuse - Determinations relating to convicted sex offenders – Presumption

A. In every case involving the custody of, guardianship of or visitation with a child, the court shall consider for determining the custody of, guardianship of or the visitation with a child whether any person seeking custody or who has custody of, guardianship of or visitation with a child:

1. Is or has been subject to the registration requirements of the Oklahoma Sex Offenders Registration Act or any similar act in any other state;

2. Has been convicted of a crime listed in the Oklahoma Child Abuse Reporting and Prevention Act or in Section 582 of Title 57 of the Oklahoma Statutes...

5. Is residing with an individual who is or has been subject to the registration requirements of the Oklahoma Sex Offenders Registration Act or any similar act in any other state;

6. Is residing with a person who has been convicted of a crime listed in the Oklahoma Child Abuse Reporting and Prevention Act or in Section 582 of Title 57 of the Oklahoma Statutes;

B. There shall be a rebuttable presumption that it is not in the best interests of the child to have custody or guardianship granted to a person who:



1. Is subject to or has been subject to the registration requirements of the Oklahoma Sex Offenders Registration Act or any similar act in any other state;
2. Has been convicted of a crime listed in the Oklahoma Child Abuse Reporting and Prevention Act or in Section 582 of Title 57 of the Oklahoma Statutes...
5. Is residing with a person who is or has been subject to the registration requirements of the Oklahoma Sex Offenders Registration Act or any similar act in any other state;
6. Is residing with a person who has been convicted of a crime listed in the Oklahoma Child Abuse Reporting and Prevention Act or in Section 582 of Title 57 of the Oklahoma Statutes;

C. Custody of, guardianship of, or visitation with a child shall not be granted to any person if it is established that the custody, guardianship or visitation will likely expose the child to a foreseeable risk of material harm.

Okla. Stat., Sec. 43-112.5. Custody or guardianship - Order of preference - Death of custodial parent - Preference of child - Evidence of domestic abuse - Registered sex offenders

C. In applying subsection A of this section, a court shall award custody or guardianship of a child to a parent, unless the court finds that the parent is affirmatively unfit. There shall be a rebuttable presumption that a parent is affirmatively unfit if the parent:

1. Is or has been subject to the registration requirements of the Oklahoma Sex Offenders Registration Act or any similar act in any other state, except as provided in subsection D of this section...
5. Is residing with a person who is or has been subject to the registration requirements of the Oklahoma Sex Offenders Registration Act or any similar act in any other state;

D. In applying subsection A of this section, a court shall not award custody or guardianship of a child to any person who has been convicted, whether upon a verdict or plea of guilty or upon a plea of nolo contendere, or received a suspended sentence or any probationary term, or is currently serving a sentence or any form of probation or parole in a court in any state of any of the following crimes:

1. Sexual abuse or sexual exploitation of a child, Section 843.5 of Title 21 of the Oklahoma Statutes;
2. Child endangerment, if the offense involved sexual abuse of a child, Section 852.1 of Title 21 of the Oklahoma Statutes;
3. Kidnapping, if the offense involved sexual abuse or sexual exploitation of a child, Section 741 of Title 21 of the Oklahoma Statutes;
4. Incest, Section 885 of Title 21 of the Oklahoma Statutes;
5. Forcible sodomy of a child, Section 888 of Title 21 of the Oklahoma Statutes;
6. Child stealing, if the offense involved sexual abuse or sexual exploitation, Section 891 of Title 21 of the Oklahoma Statutes;
7. Procuring minors for participation in child pornography, Section 1021.2 of Title 21 of the Oklahoma Statutes;
8. Consent to participation of minors in child pornography, Section 1021.3 of Title 21 of the Oklahoma Statutes;
9. Facilitating, encouraging, offering or soliciting sexual conduct with a minor by use of technology, Section 1040.13a of Title 21 of the Oklahoma Statutes;

10. Distributing child pornography, Section 1040.13 of Title 21 of the Oklahoma Statutes;
11. Possession, purchase or procurement of child pornography, Section 1024.2 of Title 21 of the Oklahoma Statutes;
12. Aggravated possession of child pornography, Section 1040.12a of Title 21 of the Oklahoma Statutes;
13. Procuring a child under eighteen (18) years of age for prostitution, Section 1087 of Title 21 of the Oklahoma Statutes;
14. Inducing, keeping, detaining or restraining a child under eighteen (18) years of age for prostitution, Section 1088 of Title 21 of the Oklahoma Statutes;
15. First degree rape, Section 1114 of Title 21 of the Oklahoma Statutes;
16. Lewd or indecent proposals or acts to a child under sixteen (16) years of age, Section 1123 of Title 21 of the Oklahoma Statutes; or
17. Solicitation of minors in any crime provided in subsection B of Section 1021 of Title 21 of the Oklahoma Statutes.

Okla. Stat., Sec. 43-150.8. Court-ordered visitation - Appearance at hearing - Rebuttable presumptions

D. Rebuttable presumptions for proceedings under the Deployed Parents Custody and Visitation Act...

3. There shall be a rebuttable presumption that visitation by a family member who has perpetrated domestic violence against a spouse, a child, a domestic living partner, or is otherwise subject to registration requirements of the Sex Offenders Registration Act is not in the best interest of the child.

Okla. Stat., Sec. 10-7505-5.1. Favorable preplacement home study required - Waiver - Exception - Placement not approved in certain circumstances (Note: Adoption law)

D. Under no circumstances shall a child be placed in the custody of an individual subject to the Oklahoma Sex Offenders Registration Act or an individual who is married to or living with an individual subject to the Oklahoma Sex Offenders Registration Act.

Okla. Stat., Sec.10-7505-6.3. Application for final decree - Waiver of interlocutory decree and waiting period - Notice of hearing - Appearance - Entry of final decree (Note: Adoption)

H. Under no circumstances shall a child be placed in the custody of an individual subject to the Oklahoma Sex Offenders Registration Act or an individual who is married to or living with an individual subject to the Oklahoma Sex Offenders Registration Act.

## OREGON

2017 ORS 107.137 - Factors considered in determining custody of child

1. Except as provided in subsection (6) of this section, in determining custody of a minor child under ORS 107.105 (Provisions of judgment) or 107.135 (Vacation or modification of judgment), the court shall give primary consideration to the best interests and welfare of the child. In determining the best interests and welfare of the child, the court shall consider the following relevant factors...

(f) The willingness and ability of each parent to facilitate and encourage a close and continuing relationship between the other parent and the child. However, the court may not consider such willingness and ability if one parent shows that the other parent has sexually assaulted or engaged in a pattern of behavior of abuse against the parent or a child and that a continuing relationship with the other parent will endanger the health or safety of either parent or the child.

(6)(a) The court determining custody of a minor child under ORS 107.105 (Provisions of judgment) or 107.135 (Vacation or modification of judgment) shall not award sole or joint custody of the child to a parent if:

(A) The court finds that the parent has been convicted of rape under ORS 163.365 (Rape in the second degree) or 163.375 (Rape in the first degree) or other comparable law of another jurisdiction; and  
(B) The rape resulted in the conception of the child.

(b) A denial of custody under this subsection does not relieve the parent of any obligation to pay child support.

2017 ORS 419B.510 - Termination upon finding child conceived as result of rape

(1) The rights of the parent may be terminated as provided in ORS 419B.500 if the court finds that the child or ward was conceived as the result of an act that led to the parent's conviction for rape under ORS 163.365 or 163.375 or other comparable law of another jurisdiction.

(2) Termination of parental rights under subsection (1) of this section does not relieve the parent of any obligation to pay child support.

(3) Termination of parental rights under subsection (1) of this section is an independent basis for termination of parental rights and the court need not make any of the considerations or findings described in ORS 419B.502, 419B.504, 419B.506 or 419B.508.

## PENNSYLVANIA

Pa. C.S., Sec. 23-2511: Grounds for involuntary termination.

(a) General rule.--The rights of a parent in regard to a child MAY be terminated after a petition filed on any of the following grounds:

(10) The parent has been found by a court of competent jurisdiction to have committed sexual abuse against the child or another child of the parent based on a judicial adjudication as set forth in paragraph (1)(i), (ii), (iii) or (iv) or (4) of the definition of "founded report" in section 6303(a) (relating to definitions) where the judicial adjudication is based on a finding of "sexual abuse or exploitation" as defined in section 6303(a).

(11) The parent is required to register as a sexual offender under 42 Pa.C.S. Ch. 97 Subch. H (relating to registration of sexual offenders) or I (relating to continued registration of sexual offenders) or to register with a sexual offender registry in another jurisdiction or foreign country.

Pa. Cons. Stat. 23-4321

(2) Parents are liable for the support of their children who are unemancipated and 18 years of age or younger.

(2.1) Paragraph (2) applies whether or not parental rights of the parent have been terminated due to a conviction for any of the following where the other parent is the victim and a child has been conceived as a result of the offense:

- (i) 18 Pa.C.S. § 3121 (relating to rape);
- (ii) 18 Pa.C.S. § 3122.1 (relating to statutory sexual assault);
- (iii) 18 Pa.C.S. § 3124.1 (relating to sexual assault), where the offense involved sexual intercourse;
- (iv) 18 Pa.C.S. § 3124.2 (relating to institutional sexual assault), where the offense involved sexual intercourse; or
- (v) 18 Pa.C.S. § 4302 (relating to incest), where the offense involved sexual intercourse.

Pa. C.S., 23-5329: Consideration of criminal conviction.

(a) Offenses.--Where a party seeks any form of custody, the court shall consider whether that party or member of that party's household has been convicted of or has pleaded guilty or no contest to any of the offenses in this section or an offense in another jurisdiction substantially equivalent to any of the offenses in this section. The court shall consider such conduct and determine that the party does not pose a threat of harm to the child before making any order of custody to that party when considering the following offenses:

18 Pa.C.S. 2901 (relating to kidnapping); 18 Pa.C.S. 2902 (relating to unlawful restraint); 18 Pa.C.S. 2903 (relating to false imprisonment); 18 Pa.C.S. 2910 (relating to luring a child into a motor vehicle or structure); 18 Pa.C.S. 3121 (relating to rape); 18 Pa.C.S. 3122.1 (relating to statutory sexual assault); 18 Pa.C.S. 3123 (relating to involuntary deviate sexual intercourse); 18 Pa.C.S. 3124.1 (relating to sexual assault); 18 Pa.C.S. 3125 (relating to aggravated indecent assault); 18 Pa.C.S. 3126 (relating to indecent assault); 18 Pa.C.S. 3127 (relating to indecent exposure); 18 Pa.C.S. 3129 (relating to sexual intercourse with animal); 18 Pa.C.S. 3130 (relating to conduct relating to sex offenders); 18 Pa.C.S. 4302 (relating to incest); 18 Pa.C.S. 5902(b) (relating to prostitution and related offenses); 18 Pa.C.S. 5903(c) or (d) (relating to obscene and other sexual materials and performances); 18 Pa.C.S. 6301 (relating to corruption of minors); 18 Pa.C.S. 6312 (relating to sexual abuse of children); 18 Pa.C.S. 6318 (relating to unlawful contact with minor); 18 Pa.C.S. 6320 (relating to sexual exploitation of children).

(b.1) Parent convicted of certain sexual offenses.--

(1) Notwithstanding any provision of this chapter to the contrary and subject to paragraph (2), if a parent who is a victim of any of the offenses set forth in this paragraph objects, no court shall award any type of custody set forth in section 5323 (relating to award of custody) to the other parent of a child conceived as a result of any of the following offenses for which the other parent has been convicted:

18 Pa.C.S. § 3121.

18 Pa.C.S. § 3122.1.

18 Pa.C.S. § 3124.1, where the offense involved sexual intercourse.

18 Pa.C.S. § 3124.2 (relating to institutional sexual assault), where the offense involved sexual intercourse.

18 Pa.C.S. § 4302.

(2) A court may award any type of custody set forth in section 5323 to a parent who has been convicted of an offense under paragraph (1) if:

- (i) the parent who is a victim had an opportunity to address the court;
- (ii) the child is of suitable age and consents to the custody order; and
- (iii) the court determines the award is in the best interest of the child.

(3) Paternity of the child shall be established by voluntary acknowledgment of paternity or blood, genetic or other paternity testing acceptable to the court. The cost of the testing shall be borne by the parent who was convicted of the offense.

## RHODE ISLAND

RI Gen. Laws 15-5-16. Alimony and counsel fees – Custody of children.

(d)(3) A judicial determination that the child has been physically or sexually abused by the natural parent shall constitute sufficient cause to deny the right of visitation. However, when the court enters an order denying visitation under this section, it shall review the case at least annually to determine what, if any, action the parent has taken to rehabilitate himself or herself and whether the denial of visitation continues to be in the child's best interests.

(4) No person shall be granted custody of or visitation with a child if that person has been convicted under or pled nolo contendere to a violation of §§ 11-37-2, 11-37-4, or 11-37-8.1 or other comparable law of another jurisdiction, and the child was conceived as a result of that violation; unless after hearing the family court finds that the natural mother or legal guardian consents to visitation with the child, and the court determines that visitation is in the best interest of the child, then the court may order supervised visitation and counseling.

(5) The court may order a natural parent who has been denied the right of visitation due to physical or sexual abuse of his or her child to engage in counseling. The failure of the parent to engage in counseling, ordered by the court pursuant to this section, shall constitute sufficient cause to deny visitation.

(4) "Domestic violence" means the occurrence of one or more of the following acts between spouses or people who have a child in common...

(iii) Causing another to engage involuntarily in sexual relations by force, threat of force, or duress.

## SOUTH CAROLINA

SC Code 63-7-1640. Family preservation.

(C) The family court may authorize the department to terminate or forego reasonable efforts to preserve or reunify a family when the records of a court of competent jurisdiction show or when the family court determines that one or more of the following conditions exist:

(1) the parent has subjected the child or another child while residing in the parent's domicile to one or more of the following aggravated circumstances...

(c) sexual abuse

SC Code 63-7-2350 - Restrictions on foster care or adoption placements

A) No child in the custody of the Department of Social Services may be placed in foster care or for adoption with a person if the person or anyone eighteen years of age or older residing in the home:

(1) has a substantiated history of child abuse or neglect; or

(2) has pled guilty or nolo contendere to or has been convicted of:

(a) an 'Offense Against the Person' as provided for in Chapter 3, Title 16;

(b) an 'Offense Against Morality or Decency' as provided for in Chapter 15, Title 16;

(c) contributing to the delinquency of a minor as provided for in Section 16-17-490;

(d) the common law offense of assault and battery of a high and aggravated nature when the victim was a person seventeen years of age or younger;

(e) criminal domestic violence as defined in Section 16-25-20;

(f) criminal domestic violence of a high and aggravated nature as defined in Section 16-25-65;

(g) a felony drug-related offense under the laws of this State;

(h) unlawful conduct toward a child as provided for in Section 63-5-70;

(i) cruelty to children as provided for in Section 63-5-80;

(j) child endangerment as provided for in Section 56-5-2947; or

(k) criminal sexual conduct with a minor in the first degree as provided for in Section 16-3-655(A).

(B) A person who has been convicted of a criminal offense similar in nature to a crime enumerated in subsection (A) when the crime was committed in another jurisdiction or under federal law is subject to the restrictions set out in this section.

(C) At a minimum, the department shall require that all persons referenced in subsection (A) undergo a state fingerprint review to be conducted by the State Law Enforcement Division and a fingerprint review to be conducted by the Federal Bureau of Investigation. The department shall also check the State Central Registry of Child Abuse and Neglect, department records, the equivalent registry system for each state in which the person has resided for five years preceding an application for licensure as a foster parent, the national sex offender registry, and the state sex offender registry for applicants and all persons twelve years of age and older residing in the home of an applicant.

(D) This section does not prevent foster care placement or adoption placement when a conviction or plea of guilty or nolo contendere for one of the crimes enumerated in subsection (A) has been pardoned. However, notwithstanding the entry of a pardon, the department or other entity making placement or licensing decisions may consider all information available, including the person's pardoned convictions or pleas and the circumstances surrounding them, to determine whether the applicant is unfit or otherwise unsuited to provide foster care services.

S.C. Code 63-7-2570

The family court may order the termination of parental rights upon a finding of one or more of the following grounds and a finding that termination is in the best interest of the child:

(11) Conception of a child as a result of the criminal sexual conduct of a biological parent, as found by a court of competent jurisdiction, is grounds for terminating the rights of that biological parent, unless the sentencing court makes specific findings on the record that the conviction resulted from consensual sexual conduct when neither the victim nor the actor were younger than fourteen years of age nor older than eighteen years of age at the time of the offense.

#### SOUTH DAKOTA

SDLRC 25-4A-20 - Presumption that granting custody or visitation rights to person causing conception by rape or incest not in best interest of child. There shall be a rebuttable presumption that it is not in the best interest of the child for the court to place the child in the custody of or to grant visitation rights to a person that the court has found by a standard of clear and convincing evidence to have committed an act of rape or incest against the other parent that resulted in the conception of the child. The court may revoke visitation rights upon such a finding.

SDLRC, Section 25-4A-24 - Factors for consideration on request for joint physical custody

In considering a contested request for joint physical custody, in addition to the traditional factors for determining the best interests of a child, the court shall consider the following factors:

(13) Whether a parent allows another person custody or control of, or unsupervised access to, a child after knowing the person is required to register or is on the sex offender registry as a sex offender under chapter 22-24B;

SDLRC, Section 26-8A-21.1 - Exceptions to section 26-8A-21

Nothing in § 26-8A-21 requires reunification of a child with a parent who...

(11) Is required to register as a sex offender pursuant to chapter 22-24B.

S.D. Codified Laws, Section 26-8A-26.1 - Additional reasons for termination of parental rights

In addition to the provisions of § 26-8A-26, the court may find that good cause exists for termination of parental rights of a parent who...

(11) Is required to register as a sex offender pursuant to chapter 22-24B.

## TENNESSEE

### Tenn. Code Ann., Section 36-1-113 – Termination of parental rights

(g) Initiation of termination of parental or guardianship rights may be based upon any of the grounds listed in this subsection (g). The following grounds are cumulative and non-exclusive, so that listing conditions, acts or omissions in one ground does not prevent them from coming within another ground:

(10)(A) The parent has been convicted of aggravated rape pursuant to § 39-13-502, rape pursuant to § 39-13-503, or rape of a child pursuant to § 39-13-522, from which crime the child was conceived. A certified copy of the conviction suffices to prove this ground;

(B) When one (1) of the child's parents has been convicted of one (1) of the offenses specified in subdivision (g)(10)(A), the child's other parent shall have standing to file a petition to terminate the parental rights of the convicted parent. Nothing in this section shall give a parent standing to file a petition to terminate parental rights based on grounds other than those listed in this subdivision (g)(10);

Tenn. Code Ann., Section 36-6-102 - Custody, visitation and inheritance rights denied to parent convicted of rape where child conceived from crime -- Exception -- Child support obligation.

(a) Except as provided in subsection (b), any person who has been convicted of aggravated rape pursuant to § 39-13-502, rape pursuant to § 39-13-503, or rape of a child pursuant to § 39-13-522, from which crime a child was conceived shall not have custody or visitation rights, or the rights of inheritance with respect to that child.

(b) The other parent of the child may waive the protection afforded under subsection (a) regarding visitation and request that the court grant reasonable visitation rights with the child if paternity has been acknowledged.

(c) Unless waived by the other parent and, if contributing toward support of the child, the department of human services, a court shall establish a child support obligation against the father of the child pursuant to chapter 5, part 1 of this title.

### Tenn. Code, Section 36-6-406 - Restrictions in temporary or permanent parenting plans

(c) If a parent has been convicted as an adult of a sexual offense under § 39-15-302, title 39, chapter 17, part 10, or §§ 39-13-501 -- 39-13-511, or has been found to be a sexual offender under title 39, chapter 13, part 7, the court shall restrain the parent from contact with a child that would otherwise be allowed under this part. If a parent resides with an adult who has been convicted, or with a juvenile who has been



adjudicated guilty of a sexual offense under § 39-15-302, title 39, chapter 17, part 10, or §§ 39-13-501 -- 39-13-511, or who has been found to be a sexual offender under title 39, chapter 13, part 7, the court shall restrain that parent from contact with the child unless the contact occurs outside the adult's or juvenile's presence and sufficient provisions are established to protect the child.

(d) A parent's involvement or conduct may have an adverse effect on the child's best interest, and the court may preclude or limit any provisions of a parenting plan, if any of the following limiting factors are found to exist after a hearing...

(7) A parent's criminal convictions as they relate to such parent's ability to parent or to the welfare of the child...

Tenn. Code, Section 40-39-211 - Residential and work restrictions

(c) While mandated to comply with the requirements of this part, no sexual offender or violent sexual offender, whose victim was a minor, shall knowingly reside or conduct an overnight visit at a residence in which a minor resides or is present. Notwithstanding this subsection (c), the offender may reside, conduct an overnight visit, or be alone with a minor if the offender is the parent of the minor, unless one (1) of the following conditions applies:

- (1) The offender's parental rights have been or are in the process of being terminated as provided by law;
- (2) Any minor or adult child of the offender was a victim of a sexual offense or violent sexual offense committed by the offender; or
- (3) The offender has been convicted of a sexual offense or violent sexual offense the victim of which was a child under twelve (12) years of age.

TEXAS

Tex. Fam. Code, Section 161.001

(b) The court may order termination of the parent-child relationship if the court finds by clear and convincing evidence:

(1) that the parent has:

(L) been convicted or has been placed on community supervision, including deferred adjudication community supervision, for being criminally responsible for the death or serious injury of a child under the following sections of the Penal Code, or under a law of another jurisdiction that contains elements that are substantially similar to the elements of an offense under one of the following Penal Code sections, or adjudicated under Title 3 for conduct that caused the death or serious injury of a child and that would constitute a violation of one of the following Penal Code sections...

- (iv) Section 21.11 (indecenty with a child);
- (v) Section 22.01 (assault);
- (vi) Section 22.011 (sexual assault);

- (vii) Section 22.02 (aggravated assault);
- (viii) Section 22.021 (aggravated sexual assault);
- (ix) Section 22.04 (injury to a child, elderly individual, or disabled individual);
- (x) Section 22.041 (abandoning or endangering child);
- (xi) Section 25.02 (prohibited sexual conduct);
- (xii) Section 43.25 (sexual performance by a child);
- (xiii) Section 43.26 (possession or promotion of child pornography);
- (xiv) Section 21.02 (continuous sexual abuse of young child or children);
- (xv) Section 20A.02(a)(7) or (8) (trafficking of persons); and
- (xvi) Section 43.05(a)(2) (compelling prostitution);

(T) been convicted of...

(iv) the sexual assault of the other parent of the child under Section 22.011 or 22.021, Penal Code, or under a law of another state, federal law, or the Uniform Code of Military Justice that contains elements that are substantially similar to the elements of an offense under Section 22.011 or 22.021, Penal Code; or

(U) been placed on community supervision, including deferred adjudication community supervision, or another functionally equivalent form of community supervision or probation, for being criminally responsible for the sexual assault of the other parent of the child under Section 22.011 or 22.021, Penal Code, or under a law of another state, federal law, or the Uniform Code of Military Justice that contains elements that are substantially similar to the elements of an offense under Section 22.011 or 22.021, Penal Code; and

(2) that termination is in the best interest of the child.

Tex. Fam. Code, Section 161.007

(a) Except as provided by Subsection (b), the court shall order the termination of the parent-child relationship of a parent and a child if the court finds by clear and convincing evidence that:

(1) the parent has engaged in conduct that constitutes an offense under Section 21.02, 22.011, 22.021, or 25.02, Penal Code;

(2) as a direct result of the conduct described by Subdivision (1), the victim of the conduct became pregnant with the parent's child; and

(3) termination is in the best interest of the child.

(b) If, for the two years after the birth of the child, the parent was married to or cohabiting with the other parent of the child, the court may order the termination of the parent-child relationship of the parent and the child if the court finds that:

(1) the parent has been convicted of an offense committed under Section 21.02, 22.011, 22.021, or 25.02, Penal Code;

(2) as a direct result of the commission of the offense by the parent, the other parent became pregnant with the child; and

(3) termination is in the best interest of the child.

## UTAH

Utah Code 76-5-414. Child conceived as a result of sexual offense -- Custody and parent-time

(1) A person convicted of a violation of Title 76, Chapter 5, Part 4, Sexual Offenses, except for Sections 76-5-401 and 76-5-401.2, that results in conception of a child may not be granted custody or parent-time rights by a court regarding the child, unless:

- (a) the nonconvicted biological parent or legal guardian of the child consents and the court determines it is in the best interest of the child to award custody or parent-time to the convicted person; or
- (b) after the date of the conviction, the biological parents cohabit and establish a mutual custodial environment for the child.

(2) A denial of custody or parent-time under this section may not in and of itself:

- (a) terminate the parental rights of the person denied parent-time or custody; or
- (b) affect the obligation of the convicted person to financially support the child.

Utah Code 78A-6-312. Dispositional hearing -- Reunification services -- Exceptions.

(21) There is a presumption that reunification services should not be provided to a parent if the court finds, by clear and convincing evidence, that any of the following circumstances exist:

(d) The parent...

- (iii) committed sexual abuse against the child;
- (iv) is a registered sex offender or required to register as a sex offender;

## VERMONT

15 V.S.A. Sec. 665 - Rights and responsibilities order; best interests of the child

(f) The State has a compelling interest in not forcing a victim of sexual assault or sexual exploitation to continue an ongoing relationship with the perpetrator of the abuse. Such continued interaction can have traumatic psychological effects on the victim, making recovery more difficult, and negatively affect the victim's ability to parent and to provide for the best interests of the child. Additionally, the State recognizes that a perpetrator may use the threat of pursuing parental rights and responsibilities to coerce a victim into not reporting or not assisting in the prosecution of the perpetrator for the sexual assault or sexual exploitation, or to harass, intimidate, or manipulate the victim.

(1) The court may enter an order awarding sole parental rights and responsibilities to a parent and denying all parent-child contact with the other parent if the court finds by clear and convincing evidence that the nonmoving parent was convicted of sexually assaulting the moving parent and the child was conceived as a result of the sexual assault, or that the nonmoving parent was convicted of human trafficking pursuant to

13 V.S.A. § 2652, and the moving parent was the trafficked victim. As used in this subdivision, sexual assault shall include sexual assault as provided in 13 V.S.A. § 3252(a), (b), (d), and (e), aggravated sexual assault as provided in 13 V.S.A. § 3253, aggravated sexual assault of a child as provided in 13 V.S.A. § 3253a, lewd and lascivious conduct with a child as provided in 13 V.S.A. § 2602, and similar offenses in other jurisdictions.

(2) The court may enter an order awarding sole parental rights and responsibilities to one parent and denying all parent-child contact between the other parent and a child if the court finds by clear and convincing evidence that the child was conceived as a result of the nonmoving parent sexually assaulting or sexually exploiting the moving parent, or that the moving parent was trafficked by the nonmoving parent pursuant to 13 V.S.A. § 2652 and the court finds by a preponderance of the evidence that such an order is in the best interests of the child. A conviction is not required under this subdivision, and the court may consider other evidence of sexual assault or sexual exploitation in making its determination. For purposes of this subdivision:

(A) sexual assault shall include sexual assault as provided in 13 V.S.A. § 3252, aggravated sexual assault as provided in 13 V.S.A. § 3253, aggravated sexual assault of a child as provided in 13 V.S.A. § 3253a, lewd and lascivious conduct with a child as provided in 13 V.S.A. § 2602, and similar offenses in other jurisdictions; and

(B) sexual exploitation shall include sexual exploitation of an inmate as provided in 13 V.S.A. § 3257, sexual exploitation of a minor as provided in 13 V.S.A. § 3258, sexual abuse of a vulnerable adult as provided in 13 V.S.A. § 1379, and similar offenses in other jurisdictions.

(3) Issuance of an order pursuant to this subsection shall not affect the right of the custodial parent to seek child support from the noncustodial parent.

## VIRGINIA

Va. Code, Section 16.1-228 – Definitions; Va. Code Section 63.2-100 – Definitions

Both state the following: “When used in this chapter, unless the context otherwise requires:

‘Abused or neglected child’ means any child:

6. Whose parents or other person responsible for his care creates a substantial risk of physical or mental injury by knowingly leaving the child alone in the same dwelling, including an apartment as defined in § 55-79.2, with a person to whom the child is not related by blood or marriage and who the parent or other person responsible for his care knows has been convicted of an offense against a minor for which registration is required as a violent sexual offender pursuant to § 9.1-902;”

Va. Code, Section 20-124.1

Person with a legitimate interest” shall be broadly construed and includes, but is not limited to, grandparents, step-grandparents, stepparents, former stepparents, blood relatives and family members provided any such party has intervened in the suit or is otherwise properly before the court. The term shall be broadly construed to accommodate the best interest of the child. A party with a legitimate interest shall not include any person (i) whose parental rights have been terminated by court order, either voluntarily or involuntarily, (ii) whose interest in the child derives from or through a person whose parental rights have been terminated, either voluntarily or involuntarily, including but not limited to grandparents, stepparents, former stepparents, blood relatives and family members, if the child subsequently has been legally adopted, except where a final order of adoption is entered pursuant to § 63.2-1241, or (iii) who has been convicted of a violation of subsection A of § 18.2-61, § 18.2-63, subsection B of § 18.2-366, or an equivalent offense of another state, the United States, or any foreign jurisdiction, when the child who is the subject of the petition was conceived as a result of such violation.

WASHINGTON, D.C. – SEE DISTRICT OF COLUMBIA

WASHINGTON STATE

Wash. Rev. Code, Section 9A.42.110 - Leaving a child in the care of a sex offender

(1) A person is guilty of the crime of leaving a child in the care of a sex offender if the person is (a) the parent of a child; (b) entrusted with the physical custody of a child; or (c) employed to provide to the child the basic necessities of life, and leaves the child in the care or custody of another person who is not a parent, guardian, or lawful custodian of the child, knowing that the person is registered or required to register as a sex offender under the laws of this state, or a law or ordinance in another jurisdiction with similar requirements, because of a sex offense against a child.

(2) It is an affirmative defense to the charge of leaving a child in the care of a sex offender under this section, that the defendant must prove by a preponderance of the evidence, that a court has entered an order allowing the offender to have unsupervised contact with children, or that the offender is allowed to have unsupervised contact with the child in question under a family reunification plan, which has been approved by a court, the department of corrections, or the department of social and health services in accordance with department policies.

(3) Leaving a child in the care of a sex offender is a misdemeanor.

RCW 9.94A.6551 - Partial confinement as a part of a parenting program

(1) The secretary may transfer an offender from a correctional facility to home detention in the community if it is determined that the parenting program is an appropriate placement and when all of the following conditions exist...

(b) The offender has no current conviction for a felony that is a sex offense or a violent offense.

RCW 13.34.132 - Petition seeking termination of parent-child relationship—Requirements.

A court may order that a petition seeking termination of the parent and child relationship be filed if the following requirements are met:

- (1) The court has removed the child from his or her home pursuant to RCW 13.34.130;
- (2) Termination is recommended by the department or the supervising agency;
- (3) Termination is in the best interests of the child; and
- (4) Because of the existence of aggravated circumstances, reasonable efforts to unify the family are not required. Notwithstanding the existence of aggravated circumstances, reasonable efforts may be required if the court or department determines it is in the best interests of the child. In determining whether aggravated circumstances exist by clear, cogent, and convincing evidence, the court shall consider one or more of the following:

- (a) Conviction of the parent of rape of the child in the first, second, or third degree as defined in RCW 9A.44.073, 9A.44.076, and 9A.44.079...
- (e) Conviction of the parent of trafficking, or promoting commercial sexual abuse of a minor when the victim of the crime is the child, the child's other parent, a sibling of the child, or another child;
- (g) A finding by a court that a parent is a sexually violent predator as defined in RCW 71.09.020;
- (h) Failure of the parent to complete available treatment ordered under this chapter or the equivalent laws of another state, where such failure has resulted in a prior termination of parental rights to another child and the parent has failed to effect significant change in the interim. In the case of a parent of an Indian child, as defined in RCW 13.38.040, the court shall also consider tribal efforts to assist the parent in completing treatment and make it possible for the child to return home...
- (j) Conviction of the parent, when a child has been born of the offense, of: (A) A sex offense under chapter 9A.44 RCW; or (B) incest under RCW

Wash. Rev. Code, Section 26.09.191 - Restrictions in temporary or permanent parenting plans

- (1) The permanent parenting plan shall not require mutual decision-making or designation of a dispute resolution process other than court action if it is found that a parent has engaged in any of the following conduct...
  - (iv) the parent has been convicted as an adult of a sex offense under:
    - (A) RCW 9A.44.076 if, because of the difference in age between the offender and the victim, no rebuttable presumption exists under (d) of this subsection;
    - (B) RCW 9A.44.079 if, because of the difference in age between the offender and the victim, no rebuttable presumption exists under (d) of this subsection;
    - (C) RCW 9A.44.086 if, because of the difference in age between the offender and the victim, no rebuttable presumption exists under (d) of this subsection;
    - (D) RCW 9A.44.089;
    - (E) RCW 9A.44.093;
    - (F) RCW 9A.44.096;
    - (G) RCW 9A.64.020(1) or (2) if, because of the difference in age between the offender and the victim, no rebuttable presumption exists under (d) of this subsection;
    - (H) Chapter 9.68A RCW;

(I) Any predecessor or antecedent statute for the offenses listed in (a)(iv)(A) through (H) of this subsection;

(J) Any statute from any other jurisdiction that describes an offense analogous to the offenses listed in (a)(iv)(A) through (H) of this subsection.

This subsection (2)(a) shall not apply when (c) or (d) of this subsection applies.

(b) The parent's residential time with the child shall be limited if it is found that the parent resides with a person who has engaged in any of the following conduct...

(iii) the person has been convicted as an adult or as a juvenile has been adjudicated of a sex offense under:

(A) RCW 9A.44.076 if, because of the difference in age between the offender and the victim, no rebuttable presumption exists under (e) of this subsection;

(B) RCW 9A.44.079 if, because of the difference in age between the offender and the victim, no rebuttable presumption exists under (e) of this subsection;

(C) RCW 9A.44.086 if, because of the difference in age between the offender and the victim, no rebuttable presumption exists under (e) of this subsection;

(D) RCW 9A.44.089;

(E) RCW 9A.44.093;

(F) RCW 9A.44.096;

(G) RCW 9A.64.020(1) or (2) if, because of the difference in age between the offender and the victim, no rebuttable presumption exists under (e) of this subsection;

(H) Chapter 9.68A RCW;

(I) Any predecessor or antecedent statute for the offenses listed in (b)(iii)(A) through (H) of this subsection;

(J) Any statute from any other jurisdiction that describes an offense analogous to the offenses listed in (b)(iii)(A) through (H) of this subsection.

This subsection (2)(b) shall not apply when (c) or (e) of this subsection applies.

(c) If a parent has been found to be a sexual predator under chapter 71.09 RCW or under an analogous statute of any other jurisdiction, the court shall restrain the parent from contact with a child that would otherwise be allowed under this chapter. If a parent resides with an adult or a juvenile who has been found to be a sexual predator under chapter 71.09 RCW or under an analogous statute of any other jurisdiction, the court shall restrain the parent from contact with the parent's child except contact that occurs outside that person's presence.

(d) There is a rebuttable presumption that a parent who has been convicted as an adult of a sex offense listed in (d)(i) through (ix) of this subsection poses a present danger to a child. Unless the parent rebuts this presumption, the court shall restrain the parent from contact with a child that would otherwise be allowed under this chapter:

(i) RCW 9A.64.020(1) or (2), provided that the person convicted was at least five years older than the other person;

(ii) RCW 9A.44.073;

(iii) RCW 9A.44.076, provided that the person convicted was at least eight years older than the victim;

(iv) RCW 9A.44.079, provided that the person convicted was at least eight years older than the victim;

(v) RCW 9A.44.083;

(vi) RCW 9A.44.086, provided that the person convicted was at least eight years older than the victim;

- (vii) RCW 9A.44.100;
- (viii) Any predecessor or antecedent statute for the offenses listed in (d)(i) through (vii) of this subsection;
- (ix) Any statute from any other jurisdiction that describes an offense analogous to the offenses listed in (d)(i) through (vii) of this subsection.

(e) There is a rebuttable presumption that a parent who resides with a person who, as an adult, has been convicted, or as a juvenile has been adjudicated, of the sex offenses listed in (e)(i) through (ix) of this subsection places a child at risk of abuse or harm when that parent exercises residential time in the presence of the convicted or adjudicated person. Unless the parent rebuts the presumption, the court shall restrain the parent from contact with the parent's child except for contact that occurs outside of the convicted or adjudicated person's presence:

- (i) RCW 9A.64.020(1) or (2), provided that the person convicted was at least five years older than the other person;
- (ii) RCW 9A.44.073;
- (iii) RCW 9A.44.076, provided that the person convicted was at least eight years older than the victim;
- (iv) RCW 9A.44.079, provided that the person convicted was at least eight years older than the victim;
- (v) RCW 9A.44.083;
- (vi) RCW 9A.44.086, provided that the person convicted was at least eight years older than the victim;
- (vii) RCW 9A.44.100;
- (viii) Any predecessor or antecedent statute for the offenses listed in (e)(i) through (vii) of this subsection;
- (ix) Any statute from any other jurisdiction that describes an offense analogous to the offenses listed in (e)(i) through (vii) of this subsection.

(f) The presumption established in (d) of this subsection may be rebutted only after a written finding that the child was not conceived and subsequently born as a result of a sexual assault committed by the parent requesting residential time and that:

- (i) If the child was not the victim of the sex offense committed by the parent requesting residential time, (A) contact between the child and the offending parent is appropriate and poses minimal risk to the child, and (B) the offending parent has successfully engaged in treatment for sex offenders or is engaged in and making progress in such treatment, if any was ordered by a court, and the treatment provider believes such contact is appropriate and poses minimal risk to the child; or
- (ii) If the child was the victim of the sex offense committed by the parent requesting residential time, (A) contact between the child and the offending parent is appropriate and poses minimal risk to the child, (B) if the child is in or has been in therapy for victims of sexual abuse, the child's counselor believes such contact between the child and the offending parent is in the child's best interest, and (C) the offending parent has successfully engaged in treatment for sex offenders or is engaged in and making progress in such treatment, if any was ordered by a court, and the treatment provider believes such contact is appropriate and poses minimal risk to the child.

(g) The presumption established in (e) of this subsection may be rebutted only after a written finding that the child was not conceived and subsequently born as a result of a sexual assault committed by the parent requesting residential time and that:

- (i) If the child was not the victim of the sex offense committed by the person who is residing with the parent requesting residential time, (A) contact between the child and the parent residing with the



convicted or adjudicated person is appropriate and that parent is able to protect the child in the presence of the convicted or adjudicated person, and (B) the convicted or adjudicated person has successfully engaged in treatment for sex offenders or is engaged in and making progress in such treatment, if any was ordered by a court, and the treatment provider believes such contact is appropriate and poses minimal risk to the child; or

(ii) If the child was the victim of the sex offense committed by the person who is residing with the parent requesting residential time, (A) contact between the child and the parent in the presence of the convicted or adjudicated person is appropriate and poses minimal risk to the child, (B) if the child is in or has been in therapy for victims of sexual abuse, the child's counselor believes such contact between the child and the parent residing with the convicted or adjudicated person in the presence of the convicted or adjudicated person is in the child's best interest, and (C) the convicted or adjudicated person has successfully engaged in treatment for sex offenders or is engaged in and making progress in such treatment, if any was ordered by a court, and the treatment provider believes contact between the parent and child in the presence of the convicted or adjudicated person is appropriate and poses minimal risk to the child.

(h) If the court finds that the parent has met the burden of rebutting the presumption under (f) of this subsection, the court may allow a parent who has been convicted as an adult of a sex offense listed in (d)(i) through (ix) of this subsection to have residential time with the child supervised by a neutral and independent adult and pursuant to an adequate plan for supervision of such residential time. The court shall not approve of a supervisor for contact between the child and the parent unless the court finds, based on the evidence, that the supervisor is willing and capable of protecting the child from harm. The court shall revoke court approval of the supervisor upon finding, based on the evidence, that the supervisor has failed to protect the child or is no longer willing or capable of protecting the child.

(i) If the court finds that the parent has met the burden of rebutting the presumption under (g) of this subsection, the court may allow a parent residing with a person who has been adjudicated as a juvenile of a sex offense listed in (e)(i) through (ix) of this subsection to have residential time with the child in the presence of the person adjudicated as a juvenile, supervised by a neutral and independent adult and pursuant to an adequate plan for supervision of such residential time. The court shall not approve of a supervisor for contact between the child and the parent unless the court finds, based on the evidence, that the supervisor is willing and capable of protecting the child from harm. The court shall revoke court approval of the supervisor upon finding, based on the evidence, that the supervisor has failed to protect the child or is no longer willing or capable of protecting the child.

(j) If the court finds that the parent has met the burden of rebutting the presumption under (g) of this subsection, the court may allow a parent residing with a person who, as an adult, has been convicted of a sex offense listed in (e)(i) through (ix) of this subsection to have residential time with the child in the presence of the convicted person supervised by a neutral and independent adult and pursuant to an adequate plan for supervision of such residential time. The court shall not approve of a supervisor for contact between the child and the parent unless the court finds, based on the evidence, that the supervisor is willing and capable of protecting the child from harm. The court shall revoke court approval of the supervisor upon finding, based on the evidence, that the supervisor has failed to protect the child or is no longer willing or capable of protecting the child.

(k) A court shall not order unsupervised contact between the offending parent and a child of the offending parent who was sexually abused by that parent. A court may order unsupervised contact between the offending parent and a child who was not sexually abused by the parent after the presumption under (d) of this subsection has been rebutted and supervised residential time has occurred for at least two years with no further arrests or convictions of sex offenses involving children under chapter 9A.44 RCW, RCW 9A.64.020, or chapter 9.68A RCW and (i) the sex offense of the offending parent was not committed against a child of the offending parent, and (ii) the court finds that unsupervised contact between the child and the offending parent is appropriate and poses minimal risk to the child, after consideration of the testimony of a state-certified therapist, mental health counselor, or social worker with expertise in treating child sexual abuse victims who has supervised at least one period of residential time between the parent and the child, and after consideration of evidence of the offending parent's compliance with community supervision requirements, if any. If the offending parent was not ordered by a court to participate in treatment for sex offenders, then the parent shall obtain a psychosexual evaluation conducted by a certified sex offender treatment provider or a certified affiliate sex offender treatment provider indicating that the offender has the lowest likelihood of risk to reoffend before the court grants unsupervised contact between the parent and a child.

(l) A court may order unsupervised contact between the parent and a child which may occur in the presence of a juvenile adjudicated of a sex offense listed in (e)(i) through (ix) of this subsection who resides with the parent after the presumption under (e) of this subsection has been rebutted and supervised residential time has occurred for at least two years during which time the adjudicated juvenile has had no further arrests, adjudications, or convictions of sex offenses involving children under chapter 9A.44 RCW, RCW 9A.64.020, or chapter 9.68A RCW, and (i) the court finds that unsupervised contact between the child and the parent that may occur in the presence of the adjudicated juvenile is appropriate and poses minimal risk to the child, after consideration of the testimony of a state-certified therapist, mental health counselor, or social worker with expertise in treatment of child sexual abuse victims who has supervised at least one period of residential time between the parent and the child in the presence of the adjudicated juvenile, and after consideration of evidence of the adjudicated juvenile's compliance with community supervision or parole requirements, if any. If the adjudicated juvenile was not ordered by a court to participate in treatment for sex offenders, then the adjudicated juvenile shall obtain a psychosexual evaluation conducted by a certified sex offender treatment provider or a certified affiliate sex offender treatment provider indicating that the adjudicated juvenile has the lowest likelihood of risk to reoffend before the court grants unsupervised contact between the parent and a child which may occur in the presence of the adjudicated juvenile who is residing with the parent.

Wash. Rev. Code, Section 26.10.160 - [Repealed Effective 1/1/2021] Visitation rights-Limitations

(2)(a) Visitation with the child shall be limited if it is found that the parent seeking visitation has engaged in any of the following conduct:

(iv) the parent has been convicted as an adult of a sex offense under:

(A) RCW 9A.44.076 if, because of the difference in age between the offender and the victim, no rebuttable presumption exists under (d) of this subsection;

- (B) RCW 9A.44.079 if, because of the difference in age between the offender and the victim, no rebuttable presumption exists under (d) of this subsection;
- (C) RCW 9A.44.086 if, because of the difference in age between the offender and the victim, no rebuttable presumption exists under (d) of this subsection;
- (D) RCW 9A.44.089;
- (E) RCW 9A.44.093;
- (F) RCW 9A.44.096;
- (G) RCW 9A.64.020(1) or (2) if, because of the difference in age between the offender and the victim, no rebuttable presumption exists under (d) of this subsection;
- (H) Chapter 9.68A RCW;
- (I) Any predecessor or antecedent statute for the offenses listed in (a)(iv)(A) through (H) of this subsection;
- (J) Any statute from any other jurisdiction that describes an offense analogous to the offenses listed in (a)(iv)(A) through (H) of this subsection.

This subsection (2)(a) shall not apply when (c) or (d) of this subsection applies.

(b) The parent's visitation with the child shall be limited if it is found that the parent resides with a person who has engaged in any of the following conduct:

- (iii) the person has been convicted as an adult or as a juvenile has been adjudicated of a sex offense under:
  - (A) RCW 9A.44.076 if, because of the difference in age between the offender and the victim, no rebuttable presumption exists under (e) of this subsection;
  - (B) RCW 9A.44.079 if, because of the difference in age between the offender and the victim, no rebuttable presumption exists under (e) of this subsection;
  - (C) RCW 9A.44.086 if, because of the difference in age between the offender and the victim, no rebuttable presumption exists under (e) of this subsection;
  - (D) RCW 9A.44.089;
  - (E) RCW 9A.44.093;
  - (F) RCW 9A.44.096;
  - (G) RCW 9A.64.020(1) or (2) if, because of the difference in age between the offender and the victim, no rebuttable presumption exists under (e) of this subsection;
  - (H) Chapter 9.68A RCW;
  - (I) Any predecessor or antecedent statute for the offenses listed in (b)(iii)(A) through (H) of this subsection;
  - (J) Any statute from any other jurisdiction that describes an offense analogous to the offenses listed in (b)(iii)(A) through (H) of this subsection.

This subsection (2)(b) shall not apply when (c) or (e) of this subsection applies.

(d) There is a rebuttable presumption that a parent who has been convicted as an adult of a sex offense listed in (d)(i) through (ix) of this subsection poses a present danger to a child. Unless the parent rebuts this presumption, the court shall restrain the parent from contact with a child that would otherwise be allowed under this chapter:

- (i) RCW 9A.64.020(1) or (2), provided that the person convicted was at least five years older than the other person;

- (ii) RCW 9A.44.073;
- (iii) RCW 9A.44.076, provided that the person convicted was at least eight years older than the victim;
- (iv) RCW 9A.44.079, provided that the person convicted was at least eight years older than the victim;
- (v) RCW 9A.44.083;
- (vi) RCW 9A.44.086, provided that the person convicted was at least eight years older than the victim;
- (vii) RCW 9A.44.100;
- (viii) Any predecessor or antecedent statute for the offenses listed in (d)(i) through (vii) of this subsection;
- (ix) Any statute from any other jurisdiction that describes an offense analogous to the offenses listed in (d)(i) through (vii) of this subsection.

(e) There is a rebuttable presumption that a parent who resides with a person who, as an adult, has been convicted, or as a juvenile has been adjudicated, of the sex offenses listed in (e)(i) through (ix) of this subsection places a child at risk of abuse or harm when that parent exercises visitation in the presence of the convicted or adjudicated person. Unless the parent rebuts the presumption, the court shall restrain the parent from contact with the parent's child except for contact that occurs outside of the convicted or adjudicated person's presence:

- (i) RCW 9A.64.020(1) or (2), provided that the person convicted was at least five years older than the other person;
- (ii) RCW 9A.44.073;
- (iii) RCW 9A.44.076, provided that the person convicted was at least eight years older than the victim;
- (iv) RCW 9A.44.079, provided that the person convicted was at least eight years older than the victim;
- (v) RCW 9A.44.083;
- (vi) RCW 9A.44.086, provided that the person convicted was at least eight years older than the victim;
- (vii) RCW 9A.44.100;
- (viii) Any predecessor or antecedent statute for the offenses listed in (e)(i) through (vii) of this subsection;
- (ix) Any statute from any other jurisdiction that describes an offense analogous to the offenses listed in (e)(i) through (vii) of this subsection.

(f) The presumption established in (d) of this subsection may be rebutted only after a written finding that:

- (i) If the child was not the victim of the sex offense committed by the parent requesting visitation, (A) contact between the child and the offending parent is appropriate and poses minimal risk to the child, and (B) the offending parent has successfully engaged in treatment for sex offenders or is engaged in and making progress in such treatment, if any was ordered by a court, and the treatment provider believes such contact is appropriate and poses minimal risk to the child; or
- (ii) If the child was the victim of the sex offense committed by the parent requesting visitation, (A) contact between the child and the offending parent is appropriate and poses minimal risk to the child, (B) if the child is in or has been in therapy for victims of sexual abuse, the child's counselor believes such contact between the child and the offending parent is in the child's best interest, and (C) the offending parent has successfully engaged in treatment for sex offenders or is engaged in and making progress in such treatment, if any was ordered by a court, and the treatment provider believes such contact is appropriate and poses minimal risk to the child.

(g) The presumption established in (e) of this subsection may be rebutted only after a written finding that:

(i) If the child was not the victim of the sex offense committed by the person who is residing with the parent requesting visitation, (A) contact between the child and the parent residing with the convicted or adjudicated person is appropriate and that parent is able to protect the child in the presence of the convicted or adjudicated person, and (B) the convicted or adjudicated person has successfully engaged in treatment for sex offenders or is engaged in and making progress in such treatment, if any was ordered by a court, and the treatment provider believes such contact is appropriate and poses minimal risk to the child; or

(ii) If the child was the victim of the sex offense committed by the person who is residing with the parent requesting visitation, (A) contact between the child and the parent in the presence of the convicted or adjudicated person is appropriate and poses minimal risk to the child, (B) if the child is in or has been in therapy for victims of sexual abuse, the child's counselor believes such contact between the child and the parent residing with the convicted or adjudicated person in the presence of the convicted or adjudicated person is in the child's best interest, and (C) the convicted or adjudicated person has successfully engaged in treatment for sex offenders or is engaged in and making progress in such treatment, if any was ordered by a court, and the treatment provider believes contact between the parent and child in the presence of the convicted or adjudicated person is appropriate and poses minimal risk to the child.

(h) If the court finds that the parent has met the burden of rebutting the presumption under (f) of this subsection, the court may allow a parent who has been convicted as an adult of a sex offense listed in (d)(i) through (ix) of this subsection to have visitation with the child supervised by a neutral and independent adult and pursuant to an adequate plan for supervision of such visitation. The court shall not approve of a supervisor for contact between the child and the parent unless the court finds, based on the evidence, that the supervisor is willing and capable of protecting the child from harm. The court shall revoke court approval of the supervisor upon finding, based on the evidence, that the supervisor has failed to protect the child or is no longer willing or capable of protecting the child.

(i) If the court finds that the parent has met the burden of rebutting the presumption under (g) of this subsection, the court may allow a parent residing with a person who has been adjudicated as a juvenile of a sex offense listed in (e)(i) through (ix) of this subsection to have visitation with the child in the presence of the person adjudicated as a juvenile, supervised by a neutral and independent adult and pursuant to an adequate plan for supervision of such visitation. The court shall not approve of a supervisor for contact between the child and the parent unless the court finds, based on the evidence, that the supervisor is willing and capable of protecting the child from harm. The court shall revoke court approval of the supervisor upon finding, based on the evidence, that the supervisor has failed to protect the child or is no longer willing or capable of protecting the child.

(j) If the court finds that the parent has met the burden of rebutting the presumption under (g) of this subsection, the court may allow a parent residing with a person who, as an adult, has been convicted of a sex offense listed in (e)(i) through (ix) of this subsection to have visitation with the child in the presence of the convicted person supervised by a neutral and independent adult and pursuant to an adequate plan for supervision of such visitation. The court shall not approve of a supervisor for contact between the child and the parent unless the court finds, based on the evidence, that the supervisor is willing and capable of protecting the child from harm. The court shall revoke court approval of the supervisor upon

finding, based on the evidence, that the supervisor has failed to protect the child or is no longer willing or capable of protecting the child.

(k) A court shall not order unsupervised contact between the offending parent and a child of the offending parent who was sexually abused by that parent. A court may order unsupervised contact between the offending parent and a child who was not sexually abused by the parent after the presumption under (d) of this subsection has been rebutted and supervised visitation has occurred for at least two years with no further arrests or convictions of sex offenses involving children under chapter 9A.44 RCW, RCW 9A.64.020, or chapter 9.68A RCW and (i) the sex offense of the offending parent was not committed against a child of the offending parent, and (ii) the court finds that unsupervised contact between the child and the offending parent is appropriate and poses minimal risk to the child, after consideration of the testimony of a state-certified therapist, mental health counselor, or social worker with expertise in treating child sexual abuse victims who has supervised at least one period of visitation between the parent and the child, and after consideration of evidence of the offending parent's compliance with community supervision requirements, if any. If the offending parent was not ordered by a court to participate in treatment for sex offenders, then the parent shall obtain a psychosexual evaluation conducted by a certified sex offender treatment provider or a certified affiliate sex offender treatment provider indicating that the offender has the lowest likelihood of risk to reoffend before the court grants unsupervised contact between the parent and a child.

(l) A court may order unsupervised contact between the parent and a child which may occur in the presence of a juvenile adjudicated of a sex offense listed in (e)(i) through (ix) of this subsection who resides with the parent after the presumption under (e) of this subsection has been rebutted and supervised visitation has occurred for at least two years during which time the adjudicated juvenile has had no further arrests, adjudications, or convictions of sex offenses involving children under chapter 9A.44 RCW, RCW 9A.64.020, or chapter 9.68A RCW, and (i) the court finds that unsupervised contact between the child and the parent that may occur in the presence of the adjudicated juvenile is appropriate and poses minimal risk to the child, after consideration of the testimony of a state-certified therapist, mental health counselor, or social worker with expertise in treatment of child sexual abuse victims who has supervised at least one period of visitation between the parent and the child in the presence of the adjudicated juvenile, and after consideration of evidence of the adjudicated juvenile's compliance with community supervision or parole requirements, if any. If the adjudicated juvenile was not ordered by a court to participate in treatment for sex offenders, then the adjudicated juvenile shall obtain a psychosexual evaluation conducted by a certified sex offender treatment provider or a certified affiliate sex offender treatment provider indicating that the adjudicated juvenile has the lowest likelihood of risk to reoffend before the court grants unsupervised contact between the parent and a child which may occur in the presence of the adjudicated juvenile who is residing with the parent.

(m)(i) The limitations imposed by the court under (a) or (b) of this subsection shall be reasonably calculated to protect the child from the physical, sexual, or emotional abuse or harm that could result if the child has contact with the parent requesting visitation. If the court expressly finds based on the evidence that limitations on visitation with the child will not adequately protect the child from the harm or abuse that could result if the child has contact with the parent requesting visitation, the court shall restrain the person seeking visitation from all contact with the child.

(ii) The court shall not enter an order under (a) of this subsection allowing a parent to have contact with a child if the parent has been found by clear and convincing evidence in a civil action or by a preponderance of the evidence in a dependency action to have sexually abused the child, except upon recommendation by an evaluator or therapist for the child that the child is ready for contact with the parent and will not be harmed by the contact. The court shall not enter an order allowing a parent to have contact with the child in the offender's presence if the parent resides with a person who has been found by clear and convincing evidence in a civil action or by a preponderance of the evidence in a dependency action to have sexually abused a child, unless the court finds that the parent accepts that the person engaged in the harmful conduct and the parent is willing to and capable of protecting the child from harm from the person.

(iii) If the court limits visitation under (a) or (b) of this subsection to require supervised contact between the child and the parent, the court shall not approve of a supervisor for contact between a child and a parent who has engaged in physical, sexual, or a pattern of emotional abuse of the child unless the court finds based upon the evidence that the supervisor accepts that the harmful conduct occurred and is willing to and capable of protecting the child from harm. The court shall revoke court approval of the supervisor upon finding, based on the evidence, that the supervisor has failed to protect the child or is no longer willing to or capable of protecting the child.

(n) If the court expressly finds based on the evidence that contact between the parent and the child will not cause physical, sexual, or emotional abuse or harm to the child and that the probability that the parent's or other person's harmful or abusive conduct will recur is so remote that it would not be in the child's best interests to apply the limitations of (a), (b), and (m)(i) and (iii) of this subsection, or if the court expressly finds that the parent's conduct did not have an impact on the child, then the court need not apply the limitations of (a), (b), and (m)(i) and (iii) of this subsection. The weight given to the existence of a protection order issued under chapter 26.50 RCW as to domestic violence is within the discretion of the court. This subsection shall not apply when (c), (d), (e), (f), (g), (h), (i), (j), (k), (l), and (m)(ii) of this subsection apply.

(3) The court may modify an order granting or denying visitation rights whenever modification would serve the best interests of the child. Modification of a parent's visitation rights shall be subject to the requirements of subsection (2) of this section.

RCW 26.26A.465 - Precluding establishment of parentage by perpetrator of sexual assault.

(1) For the purposes of this section, "sexual assault" means nonconsensual sexual penetration that results in pregnancy.

(2) In a proceeding in which a parent alleges that a person committed a sexual assault that resulted in the parent becoming pregnant and subsequently giving birth to a child, the parent may seek to preclude the person from establishing or maintaining the person's parentage of the child. A parent who alleges that a child was born as a result of sexual assault may also seek additional relief as described in this section.

(3) This section does not apply if the person described in subsection (2) of this section has previously been adjudicated in a proceeding brought under RCW 26.26A.400 to be a parent of the child, except as may be specifically permitted under subsection (4) of this section.

(4) Unless RCW 26.26A.240 or 26.26A.430 applies, a parent must file a pleading making an allegation under subsection (2) of this section not later than four years after the birth of the child, except that for a

period of one year after January 1, 2019, a court may waive the time bar in cases in which a presumed, acknowledged, or adjudicated parent was found in a criminal or separate civil proceeding to have committed a sexual assault against the parent alleging that the child was born as a result of the sexual assault.

(5) If a parent makes an allegation under subsection (2) of this section and subsection (3) of this section does not apply, the court must conduct a fact-finding hearing on the allegation.

(a) The court may not enter any temporary orders providing residential time or decision making to the alleged perpetrator prior to the fact-finding hearing on the sexual assault allegation unless both of the following criteria are satisfied: (i) The alleged perpetrator has a bonded and dependent relationship with the child that is parental in nature; and (ii) the court specifically finds that it would be in the best interest of the child if such temporary orders are entered.

(b) Prior to the fact-finding hearing, the court may order genetic testing to determine whether the alleged perpetrator is biologically related to the child. If genetic testing reveals that the alleged perpetrator is not biologically related to the child, the fact-finding hearing must be stricken.

(c) Fourteen days prior to the fact-finding hearing, the parent alleging that the child was born as a result of a sexual assault shall submit affidavits setting forth facts supporting the allegation and shall give notice, together with a copy of the affidavit, to other parties to the proceedings, who may file opposing affidavits. Opposing affidavits must be submitted and served to other parties to the proceeding five days prior to the fact-finding hearing.

(d) The court shall determine on the record whether affidavits and documents submitted for the fact-finding hearing should be sealed.

(6) An allegation under subsection (2) of this section may be proved by:

(a) Evidence that the person was convicted of or pleaded guilty to a sexual assault under RCW 9A.44.040, 9A.44.050, or 9A.44.060, or a comparable crime of sexual assault, including child rape of any degree, in this state or any other jurisdiction, against the child's parent and the child was born within three hundred twenty days after the sexual assault; or

(b) Clear, cogent, and convincing evidence that the person committed sexual assault, as defined in this section, against the child's parent and the child was born within three hundred twenty days after the sexual assault.

(7) Subject to subsections (1) through (5) of this section, if the court determines that an allegation has been proved under subsection (6) of this section at the fact-finding hearing or after a bench trial, the court shall:

(a) Adjudicate that the person described in subsection (2) of this section is not a parent of the child, has no right to residential time or decision-making responsibilities for the child, has no right to inheritance from the child, and has no right to notification of, or standing to object to, the adoption of the child. If the parent who was the victim of the sexual assault expressly consents in writing for the court to decline to enter one or more of these restrictions or limitations, the court may do so;

(b) Require the state registrar of vital statistics to amend the birth record if requested by the parent and the court determines that the amendment is in the best interest of the child; and

(c) Require the person pay to child support, birth-related costs, or both, unless the parent requests otherwise and the court determines that granting the request is in the best interest of the child.

(8) The child's parent or guardian may decline an order for child support or birth-related costs. If the child's parent or guardian declines an order for child support, and is either currently receiving public assistance or later applies for it for the child born as a result of the sexual assault, support enforcement



agencies as defined in this chapter shall not file administrative or court proceedings to establish or collect child support, including medical support, from the person described in subsection (2) of this section.

(9) If the court enters an order under subsection (8) of this section providing that no child support obligation may be established or collected from the person described in subsection (2) of this section, the court shall forward a copy of the order to the Washington state support registry.

(10) The court may order an award of attorneys' fees under this section on the same basis as attorneys' fees are awarded under RCW 26.09.140.

(11) Any party may move to close the fact-finding hearing and any related proceedings under this section to the public. If no party files such a motion, the court shall determine on its own initiative whether the fact-finding hearing and any related proceedings under this section should be closed to the public. Upon finding good cause for closing the proceeding, and if consistent with Article I, section 10 of the state Constitution, the court may:

(a) Restrict admission to only those persons whom the court finds to have a direct interest in the case or in the work of the court, including witnesses deemed necessary to the disposition of the case; and

(b) Restrict persons who are admitted from disclosing any information obtained at the hearing that would identify the parties involved or the child.

## WEST VIRGINIA

### W. Va. Code, Sec. 48-9-209 - Parenting plan; limiting factors

(a) If either of the parents so requests, or upon receipt of credible information thereof, the court shall determine whether a parent who would otherwise be allocated responsibility under a parenting plan:

(2) Has sexually assaulted or sexually abused a child as those terms are defined in articles eight-b and eight-d, chapter sixty-one of this code;

W. Va Code, Secs. 48-9-209a - Child conceived as result of sexual assault or sexual abuse by a parent; rights of a biological parent convicted of sexual assault or abuse; post-conviction cohabitation; rebuttable presumption upon separation or divorce.

(a) Except as otherwise provided in this section, if a child custodial responsibility or parenting time dispute involves a child who is conceived as a result of acts by which one of the child's biological parents has been convicted of sexual assault, pursuant to section three, four or five, article eight-b, chapter sixty-one of this code, or of sexual abuse by a parent, guardian or custodian, pursuant to section five, article eight-d, chapter sixty-one of this code, the court shall not allocate custodial responsibility to the biological parent convicted of the sexual assault, and the convicted parent has no right to parenting time with the child unless the court finds by clear and convincing evidence set forth in written findings that it is in the best interests of the child, adequately protects the child and the victim of the sexual offense and that the person or persons with custodial responsibility of the child consent thereto.

(b) Subsection (a) does not apply if:

(1) The biological parents are husband and wife at the time of the offense and, after the date of conviction, cohabit and establish a mutual custodial environment for the child; or

(2) After the date of conviction, the unmarried biological parents cohabit and establish a mutual custodial environment for the child.

(c) If persons described by subsection (b) of this section later separate or divorce, the conviction of sexual assault, pursuant to section three, four or five, article eight-b, chapter sixty-one of this code, or of sexual abuse by a parent, guardian or custodian, pursuant to section five, article eight-d, chapter sixty-one of this code creates a rebuttable presumption that exclusive or shared custodial responsibility of the child by the perpetrator of the offense is not in the best interests of the child. The convicted parent has no right to parenting time with the child unless the court finds by clear and convincing evidence set forth in written findings that, despite the rebuttable presumption required by this subsection, a custodial responsibility or parenting time arrangement with the convicted parent is in the best interests of the child, adequately protects the child and the victim of the sexual offense, and that the victim of the sexual offense consents thereto.

(d) A denial of custodial responsibility or parenting time under this section does not by itself terminate the parental rights of the person denied custodial responsibility or parenting time, nor does it affect the obligation of the person to support the minor child.

W. Va. Code, Sec. 49-4-602 - Petition to court when child believed neglected or abused; temporary care, custody, and control of child at different stages of proceeding; temporary care; orders; emergency removal; when reasonable efforts to preserve family are unnecessary

(d) Situations when reasonable efforts to preserve the family are not required. -- For purposes of the court's consideration of temporary custody pursuant to subsection (a), (b), or (c) of this section, the department is not required to make reasonable efforts to preserve the family if the court determines:

(F) Has been required by state or federal law to register with a sex offender registry, and the court has determined in consideration of the nature and circumstances surrounding the prior charges against that parent, that the child's interests would not be promoted by a preservation of the family...

W. Va. Code, Section 49-4-604 - Disposition of neglected or abused children; case plans; dispositions; factors to be considered; reunification; orders; alternative dispositions

(7) For purposes of the court's consideration of the disposition custody of a child pursuant to this subsection, the department is not required to make reasonable efforts to preserve the family if the court determines:

(D) A parent has been required by state or federal law to register with a sex offender registry, and the court has determined in consideration of the nature and circumstances surrounding the prior charges against that parent, that the child's interests would not be promoted by a preservation of the family.

WISCONSIN

Wis. Stat. 48.415 - Grounds for involuntary termination of parental rights

At the fact-finding hearing the court or jury shall determine whether grounds exist for the termination of parental rights. If the child is an Indian child, the court or jury shall also determine at the fact-finding hearing whether continued custody of the Indian child by the Indian child's parent or Indian custodian is likely to result in serious emotional or physical damage to the Indian child under s. 48.028(4)(e)1. and whether active efforts under s. 48.028(4)(e)2. have been made to prevent the breakup of the Indian child's family and whether those efforts have proved unsuccessful, unless partial summary judgment on the grounds for termination of parental rights is granted, in which case the court shall make those determinations at the dispositional hearing. Grounds for termination of parental rights shall be one of the following:

(9) Parenthood as a result of sexual assault. (a) Parenthood as a result of sexual assault, which shall be established by proving that the child was conceived as a result of a sexual assault in violation of s. 940.225(1), (2) or (3), 948.02(1) or (2), 948.025, or 948.085. Conception as a result of sexual assault as specified in this paragraph may be proved by a final judgment of conviction or other evidence produced at a fact-finding hearing under s. 48.424 indicating that the person who may be the father of the child committed, during a possible time of conception, a sexual assault as specified in this paragraph against the mother of the child.

(b) If the conviction or other evidence specified in par. (a) indicates that the child was conceived as a result of a sexual assault in violation of s. 948.02(1) or (2) or 948.085, the mother of the child may be heard on her desire for the termination of the father's parental rights.

## WYOMING

Wyo. Stat., Section 14-2-309 - Grounds for termination of parent-child relationship; clear and convincing evidence

(a) The parent child legal relationship may be terminated if any one (1) or more of the following facts is established by clear and convincing evidence...

(ix) The parent committed sexual assault and the child was conceived as a result of the sexual assault. For the purposes of this paragraph, the following shall apply:

(A) A person committed sexual assault if the person was convicted of an offense under W.S. 6-2-302, 6-2-303, 6-2-314 through 6-2-316 or other similar law of another jurisdiction;

(B) Reasonable effort to reunify the family is not required to terminate parental rights;

(C) This paragraph shall not apply if the parent seeking termination was married to or cohabiting with the parent committing the sexual assault resulting in the birth of the child for not less than two (2) years immediately after the birth of the child. Nothing in this subparagraph shall be construed as limiting a parent from seeking termination under another provision of this section or from seeking sole custody under title 20, chapter 5 of the Wyoming statutes.

(c) Notwithstanding any other provision of this section, evidence that reasonable efforts have been made to preserve and reunify the family is not required in any case in which the court determines any one (1) or more of the following by clear and convincing evidence...

(iii) The parent has been convicted of committing one (1) or more of the following crimes against the child or another child of that parent:

(A) Sexual assault under W.S. 6-2-302 through 6-2-304;

(B) Sexual battery under W.S. 6-2-313;

(C) Sexual abuse of a minor under 6-2-314 through 6-2-317.

(iv) The parent is required to register as a sex offender pursuant to W.S. 7-19-302 if the offense involved the child or another child of that parent. This shall not apply if the parent is only required to register for conviction under W.S. 6-2-201;