

Department of Legislative Services
Maryland General Assembly
2019 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 98

(Senator Hough, *et al.*)

Judicial Proceedings

Family Law - Child Conceived Without Consent - Child Support

This bill establishes that a termination of parental rights under statutory provisions regarding a child conceived by an act of nonconsensual sexual conduct does not affect a parent's responsibility to pay child support. However, a person may not bring an action for child support against an individual whose parental rights were terminated based on a finding of nonconsensual sexual conduct more than five years after the date on which the order terminating the parental rights was issued.

Fiscal Summary

State Effect: The bill does not materially affect State finances or the workload of the Judiciary.

Local Effect: The bill does not materially affect the workload of the circuit courts.

Small Business Effect: None.

Analysis

Current Law: A court is authorized, after a trial, to terminate the parental rights of a respondent if the court (1) determines that the respondent has been served, as specified; (2) finds that the respondent was either convicted of, or 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; 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. The court may not terminate parental rights 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 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. A termination of parental rights completely terminates a parent's right to custody of, guardianship of, access to, visitation with, and inheritance from the child, as well as a parent's responsibility to support the child, including the responsibility to pay child support.

An action for termination of parental rights may be filed by either parent of the child or the child's court-appointed attorney or guardian. An action filed by a parent must be filed within seven years after the later of either the date of the birth of the child or the date on which the parent knew or should have known the other parent's identity. An action filed by a court-appointed guardian or attorney must be filed before the child becomes an adult.

Background: According to the National Conference of State Legislatures, as of April 2017 (the latest information readily available), almost all of the states and the District of Columbia have enacted legislation specifically regarding the parental rights of perpetrators of rape resulting in the conception of a child. Chapters 3 and 4 of 2018 established Maryland's law, as set forth above. Approximately 30 of the states allow or require the complete termination of parental rights; the remaining states and the District of Columbia deny or restrict some aspect of parental rights, such as custody or visitation. In at least 11 states and the District of Columbia, the parent whose rights have been terminated or restricted may still be responsible for child support.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts); National Conference of State Legislatures; Department of Legislative Services

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