

Department of Legislative Services  
Maryland General Assembly  
2006 Session

FISCAL AND POLICY NOTE

Senate Bill 239

(Senator Greenip, *et al.*)

Judicial Proceedings

---

Family Law - Termination of Parental Rights - Child Conceived as the Result of Rape

---

This bill adds whether the parent has been convicted in any state or any federal court of rape that resulted in the conception of the child, to the list of factors that a juvenile court must give consideration to, in determining whether to terminate a parent's rights when ruling on a petition for the guardianship of a child. In an independent adoption proceeding, where the parent files a notice of objection, this bill adds whether the court finds, by clear and convincing evidence, that the parent has been convicted in any state or any federal court of rape that resulted in the conception of the child, to the list of factors that authorize a court to allow adoption without parental consent.

---

Fiscal Summary

**State Effect:** None. The bill's requirements could be met with existing resources.

**Local Effect:** None. The bill's requirements could be met with existing resources.

**Small Business Effect:** None.

---

Analysis

**Current Law:** If a juvenile court finds, by clear and convincing evidence, that termination of parental rights is in a child's best interests, after consideration of factors as required by law, the juvenile court may grant guardianship without parental consent and over the child's objection.

In ruling on a petition for guardianship of a child, a juvenile court must give primary consideration to the health and safety of the child and consideration to all other factors needed to determine whether termination of parental rights is in the child's best interests. Among the other factors that must be given primary consideration by the court is whether the parent has been convicted, in any state or any federal court, of a violent crime against the minor offspring of the parent, the child, or another parent of the child, or whether the parent aided, abetted or solicited to commit such a crime.

In an independent adoption proceeding, if the parent affirmatively withholds consent by filing a notice of objection, the court may allow adoption by a petitioner who has exercised care, control, or custody over the prospective adoptee for at least 180 days without the parental consent that otherwise would be required. The court is authorized to allow this type of adoption if it finds by clear and convincing evidence that the parent has been convicted in any state or any federal court of a violent crime against a minor offspring of the parent, the child, or another parent of the child, or has aided, abetted, or solicited to commit such a crime.

**Background:** The Administrative Office of the Courts reports that circuit courts initiated or opened 125,991 family cases in fiscal 2005. This included the opening or reopening of 4,087 Child in Need of Assistance petitions, 751 juvenile court guardianship petitions and 549 juvenile court adoption petitions. According to the *Uniform Crime Report* for Maryland, 1,141 forcible rapes and 175 attempted rapes occurred in Maryland in calendar 2004. The number of rapes that resulted in the conception of a child is unknown.

---

### Additional Information

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Department of Human Resources, Judiciary (Administrative Office of the Courts), Department of Legislative Services

**Fiscal Note History:** First Reader - February 15, 2006  
mam/jr

---

Analysis by: Karen D. Morgan

Direct Inquiries to:  
(410) 946-5510  
(301) 970-5510