



RAPE SURVIVOR SAFETY ACT

In Washington State rape victims who become pregnant and choose to keep their child can be forced to co-parent with their rapist.

The Rape Survivor Safety Act, SB 5321 and HB 1543 fixes this gap in our law by creating a court process in which a rape survivor could prevent or restrict the rapist's parental rights by proving by clear and convincing evidence that her pregnancy resulted from rape.

Who does this impact?

Five percent of women who are raped become pregnant; 38% choose to carry their child to term. Today, victims who become pregnant as a result of rape must make a complicated personal decision to terminate pregnancy, place for adoption, or raise a child. In Washington State, they make such a decision in the context of laws that are woefully inadequate to address their health, safety, or personal risks regarding parentage and parental rights.

Washington must do better for rape victims by joining the large and growing amount of other states who have crafted responsive rights via a court process for rape victims to terminate parental rights of their rapist.

Sexual Assault and Convictions

The Rape Survivor Safety Act, SB 5321 and HB 1543 creates a court process in which a rape survivor could prevent or restrict the rapist's parental rights by proving by clear and convincing evidence that her pregnancy resulted from rape. This is an extraordinarily high burden of proof, but it does *not* require the rapist be convicted of a crime. This is essential because the vast majority of sexual assaults, 92%, do not result in prosecution or conviction.

Less than 40% of all rapes are reported and only about 10% of all rapes lead to an arrest. Only 8% of all rapes are prosecuted, and a meager 4% of rapes lead to a felony conviction. That means, out 1000 rapes, only 7 offenders are convicted. That's why requiring a conviction would leave 96% of rape victims without any protection from co-parenting with their rapist.

A large and growing amount of states use the clear and convincing standard to protect a rape victim from co-parenting with her rapist (see below for the full list). This is a significant burden to meet and provides due process protection for all parties. Clear and convincing is the highest level of proof in civil proceedings and is the same standard Washington family courts use to consider the termination of parental rights in cases involving child abuse and neglect.

In 2015, Congress enacted the Rape Survivor Custody Act. The law provides additional funding to states that have legislation that allows "the mother of any child that was conceived through rape to seek court-ordered termination of the parental rights of her rapist with regard to the child" based on "clear and convincing evidence of rape". Washington would receive approximately \$341,135 in additional federal funds if the legislature enacts a qualifying law such as outlined in SB 5321 and HB 1543.

WCSAP encourages the legislature to fix this problem in our state and provide rape victims with the right to assert their rights to parent without interference from their rapist using a clear and convincing evidence standard. This legislation is vitally needed, constitutionally sound and incentivized by the US Congress.

- Rape is prevalent: 1 in 5 women in the United States have been raped in their lifetime. The majority of rapes occurred before age 25 by someone known to the victim.¹
- Rape is the most underreported violent crime.²
- Approximately 40% of all rapes are reported³ and only about 10% of all rapes lead to an arrest.⁴ Only 8% of all rapes are prosecuted,⁵ and a meager 4% of rapes lead to a felony conviction.⁶
- Prosecutors may decline to prosecute a case for many reasons, or they may agree to a plea deal before trial.
- Women are getting pregnant as a result of rape. National data indicates 32,000 women annually give birth to children conceived as a result of rape.⁷
- More women who conceive as a result of rape choose to keep and raise their child over placing the child for adoption.⁸
- 5% of women of reproductive age who are raped become pregnant as a result, of which 38% carry the child to term.⁹
- Out of 1000 rapes, only 7 offenders are convicted.¹⁰

Beyond Conviction

- To protect all survivors of sexual assault, the law must extend beyond requiring a criminal conviction for rape in order to allow survivors to obtain relief.
- Sexual assault is underreported and the majority of sexual assault cases do not result in a conviction.
- A large and growing number of states do not require a conviction in order to prevent a rapist from having parental rights (*AK, KS, FL, ID, IL, OK, PA, SD, TX, WI, IA, IN, MI, MO, GA, HI, ME, CT, VT, CO*).
- Clear and convincing evidence is the highest level of proof in civil proceedings and is the same standard of proof used in family courts that consider the termination of parental rights in cases involving child abuse and neglect.
- Washington has a tremendous opportunity to join other states that have recognized essential needs of victims related to rape and parentage and responsively crafted meaningful non-conviction-based processes to address termination of parental involvement and rights.

Federal Law

In 2016, OVW awarded the first funds under the Rape Survivor Child Custody Act (RSCCA). States were eligible to receive additional funds in their Stop Violence Against Women (STOP) and Sexual Assault Services Program (SASP) formula awards (up to 10% of the three-year average of combined STOP and SASP formula grant funds, with 75% of that amount supplementing the SASP award, and 25% supplementing the STOP award) if the state meets the requirements of the Act. To qualify, the state must have a law that allows the mother of a child conceived through rape to seek court-ordered termination of the parental rights of the rapist with regard to that child, which the court is authorized to grant upon clear and convincing evidence of rape. States are eligible to receive the funds a total of four times.

Last year, the following states with qualifying statutes applied for and received additional funding in their 2016 STOP and SAP awards: Alaska, Colorado, Florida, Georgia, Hawaii, Indiana, Iowa, Maine, Michigan, Missouri, Texas, and Wisconsin.

Support a non-conviction-based process whereby a survivor who becomes pregnant as a result of a rape can seek the court's assistance to terminate the rapist's parental involvement and rights, to further victim and child safety, well-being and healing.

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1. National Intimate Partner and Sexual Violence Survey, 2010.
2. Justice Department, National Crime Victimization Survey: 2008-2012.
3. FBI, Uniform Crime Reports: 2006-2010.
4. National Center for Policy Analysis, Crime and Punishment in America, 1999.
5. Department of Justice, Felony Defendants in Large Urban Counties: average of 2002-2006.
6. Department of Justice, Felony Defendants in Large Urban Counties: average of 2002-2006 also U.S. DEP'T OF JUSTICE, OFFICE OF JUSTICE PROGRAMS, NAT'L INSTITUTE OF JUSTICE, EXTENT, NATURE AND CONSEQUENCES OF RAPE VICTIMIZATION: FINDINGS FROM THE NATIONAL VIOLENCE AGAINST WOMEN SURVEY (SPECIAL REPORT) 7 (2006), available at <https://www.ncjrs.gov/pdffiles1/nij/210346.pdf>
7. Holmes M.M., Resnick, H.S., Kilpatrick, D.G., & Best, C.L. (1996) Rape-related pregnancy: estimates and descriptive characteristics from a national sample of women. *American Journal of Obstetrics and Gynecology*, 175(2), 320-324.
8. Holmes M.M., Resnick, H.S., Kilpatrick, D.G., & Best, C.L. (1996). Rape-related pregnancy: Estimates and descriptive characteristics from a national sample of women. *American Journal of Obstetrics and Gynecology*, 175(2), 320-324.
9. <https://www.rainn.org/statistics/criminal-justice-system>