



PREGNANCY AS A RESULT OF RAPE- SUPPORT A COMPREHENSIVE PROCESS FOR TERMINATION OF PARENTAL RIGHTS

Problem

Sexual assault victims who become pregnant from rape should not be expected to suffer with the trauma of their rape or to fear seeking help or justice for a crime committed against them because the reality of forced parenting with their rapist is so untenable and without legal recourse.

Washington State lacks a legal process and adequate protections for rape victims to pursue termination of parental rights where a child is conceived from rape. Legislation is needed to craft a responsive non-conviction-based court process in which a survivor could prevent or restrict the rapist's parental rights by proving by clear, cogent, and convincing evidence that the pregnancy resulted from a sexual assault.

Victims who become pregnant as a result of rape must make a complex and complicated personal decision to terminate, adopt, or raise a child conceived from rape. In Washington State, they must make such a decision in the context of laws that woefully fail to address their health, safety, or personal risks regarding parentage and parental rights.

This 2014 legislative session, WCSAP supported HB 2559 and the original version of its companion bill SB 6364. Both bills outlined a through process where if sexual assault is proved, the survivor can prevent the rapist from being legally recognized as a parent. The court process proposed required clear, cogent, and convincing evidence as the standard of proof. This 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.

WCSAP encourages the legislature to revisit these bills for the 2015 session as the protections for victims and the termination process outlined within them are vitally needed and constitutionally sound.

Scope

- 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 by rape.⁷
- More women who conceive from rape choose to keep and raise their child over placing the child for adoption.⁸
- Rapists use parental rights to threaten and coerce their victim into not testifying or pressing charges and/or to continually harass and intimidate their victim.

Scope

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.
- 10 states do not require a conviction in order to prevent a rapist from having parental rights (AK, FL, ID, IL, LA, OK, PA, SD, TX, WI).
- Other states have adopted processes by which clear, cogent, and convincing evidence is the standard of proof for proceedings.
- Clear, cogent, 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 who 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.

Solution

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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Citations

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3. FBI, Uniform Crime Reports: 2006-2010.
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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.