

**MEMORANDUM**

May 13, 2013

**Subject:** State Statutes Regarding Parental or Visitation Rights of Rapists

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**This memorandum was prepared to enable distribution to more than one congressional office.**

This memorandum responds to your request for state laws regarding parental or visitation rights of rapists. We found this information by searching the LexisNexis State Statutes database using variations and combinations of the terms *parent, child, visitation, custody, parental rights, sex offense, rape, felony, conception, born, and conceive*. Please note that LexisNexis may not include very recent legislative enactments yet to be codified. While we have attempted to make the provided information fully inclusive, there is the possibility that some relevant statutes did not come up in our search.

Please contact CRS if you have any further questions.

**Table 1. State Statutes Regarding Parental or Visitation Rights of Rapists**

State	Statutory Text
Alabama	No statute found.
Alaska	No statute found.
Arizona	No statute found.
Arkansas	<p><b>Ark. Code Ann. § 9-13-101 (2012). Award of custody.</b></p> <p>(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.</p> <p>(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.</p> <p>(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.</p>



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## Alaska Parental Rights

Does the state allow for termination of rapists' parental rights over any child born from that rape?

Yes

Can all, some, or none of these parental rights be terminated?

All

What are the parental rights termination details?

N/A

Statutory citation(s):

See Ak. Stat. 25.23.180(c)(3).

Are there exceptions to the laws which allow for termination of rapists' parental rights?

Yes

What are the exceptions details?

Only applies where the child has first been identified as a "child in need of aid."

What is the type of proof required to terminate rapists' parental rights?

None Stipulated

What are the type of proof details?

Pursuant to Santosky v Kramer 45 USC 745, the default burden should be clear and convincing.

Type of proof statutory citation(s):

Santosky v Kramer 45 USC 745, the default burden should be clear and convincing.

Does the state allow for restrictions on rapists' adoptive rights?

Yes

What are the adoptive right details?

N/A

Adoptive rights statutory citation(s):

See Al. Stat. 25.23.180(d).

Does the state require that rapists pay child support even after parental rights have been terminated?

No

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*Fails to mention AS 25.23.180 (c)(3) and (e)*

## **Alaska**

### **Circumstances That Are Grounds for Termination of Parental Rights**

**Alaska Stat. §§ 47.10.011; 47.10.080; 47.10.086; 47.10.088**

The parent's parental rights may be terminated if the court finds by clear and convincing evidence that:

- The child has been subjected to conduct or conditions described below.
- The parent has not remedied the conduct or conditions in the home that place the child at substantial risk of harm.
- The department has complied with requirements concerning reasonable efforts.

Any of the following may be grounds for termination:

- The parent has abandoned the child.
- The parent is unable to discharge his or her parental duties due to:
  - » Emotional illness, mental illness, or mental deficiency
  - » Use of alcohol or controlled substances
  - » A conviction and incarceration for a felony, and the parent has not arranged for the child's care
- The parent has subjected the child to circumstances that pose a substantial risk of harm, including, but not limited to, abandonment, torture, chronic mental injury, chronic physical harm, or sexual abuse.
- The parent's conduct or neglect has resulted in serious physical or mental injury to the child.
- The child has been in foster care for 15 of the most recent 22 months, and reasonable efforts to rehabilitate the parent have failed.
- The parent has been convicted of:
  - » Homicide of a parent of the child or a child
  - » Aiding, abetting, attempting, or soliciting to commit a homicide of a parent of the child or a child
  - » A felony assault that resulted in serious bodily injury to a child
- The child has been sexually abused as a result of the parent's conduct or failure to protect the child.
- The parent has willfully failed to provide the child with needed medical treatment.
- The child has committed an illegal act as a result of pressure, guidance, or approval from the parent.
- Parental rights to another child of the parent have been involuntarily terminated and conditions that led to the termination have not been corrected.

### **Circumstances That Are Exceptions to Termination of Parental Rights**

**Alaska Stat. § 47.10.088**

The Department of Health and Social Services shall file a petition for termination of parental rights when the child has been in foster care for at least 15 of the most recent 22 months unless:

- The department has documented compelling reasons why termination of parental rights would not be in the best interests of the child. This may include the child being cared for by a relative.
- The department is required to make reasonable efforts according to the case plan and has not provided to the parent the family support services that the department has determined are necessary for the safe return of the child to the home.

### **Circumstances Allowing Reinstatement of Parental Rights**

**Alaska Stat. § 47.10.089**

After a termination order is entered and before the entry of an adoption or legal guardianship decree, a person who voluntarily relinquished parental rights to a child under this section may request a review hearing, upon a showing of good cause, to vacate the termination order and reinstate parental rights relating to that child. A court shall vacate a termination order if the person shows, by clear and convincing evidence, that reinstatement of parental rights is in the best interests of the child and that the person is rehabilitated and capable of providing the care and guidance that will serve the moral, emotional, mental, and physical welfare of the child.