- 1 HB5
- 2 202436-1
- 3 By Representative Givan
- 4 RFD: Judiciary
- 5 First Read: 04-FEB-20
- 6 PFD: 07/23/2019

1	202436-1:n:06/13/2019:AHP/tj LSA2019-2031	
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8	SYNOPSIS:	Existing law provides that a juvenile court
9		may terminate parental rights of a parent who has
10		been convicted of certain sex crimes.
11		This bill would require a juvenile court to
12		find that a person is unable to properly care for a
13		child and to discharge his or her responsibilities
14		to and for the child, and to terminate the parental
15		rights of that person, in any case where the
16		juvenile court finds from clear and convincing
17		evidence that the person committed rape, incest,
18		sodomy, sexual torture, or sexual abuse against
19		another person and that rape, incest, sodomy,
20		sexual torture, or sexual abuse resulted in the
21		conception of the child.
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23		A BILL
24		TO BE ENTITLED
25		AN ACT

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To amend Section 12-15-319, Code of Alabama 1975, as amended by Act 2019-512, 2019 Regular Session; to require a juvenile court to terminate the parental rights of a person, in any case where the juvenile court finds from clear and convincing evidence that the person committed rape, incest, sodomy, sexual torture, or sexual abuse against another person and the commission of that act resulted in the conception of a child.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 12-15-319, Code of Alabama 1975, as amended by Act 2019-512, 2019 Regular Session, is amended to read as follows:

"\$12-15-319.

"(a) If the juvenile court finds from clear and convincing evidence, competent, material, and relevant in nature, that the parents of a child are unable or unwilling to discharge their responsibilities to and for the child, or that the conduct or condition of the parents renders them unable to properly care for the child and that the conduct or condition is unlikely to change in the foreseeable future, it may terminate the parental rights of the parents. In determining whether or not the parents are unable or unwilling to discharge their responsibilities to and for the child and to terminate the parental rights, the juvenile court shall consider the following factors including, but not limited to, the following:

"(1) That the parents have abandoned the child,
provided that in these cases, proof shall not be required of
reasonable efforts to prevent removal or reunite the child
with the parents.

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- "(2) Emotional illness, mental illness, or mental deficiency of the parent, or excessive use of alcohol or controlled substances, of a duration or nature as to render the parent unable to care for needs of the child.
- "(3) That the parent has tortured, abused, cruelly beaten, or otherwise maltreated the child, or attempted to torture, abuse, cruelly beat, or otherwise maltreat the child, or the child is in clear and present danger of being thus tortured, abused, cruelly beaten, or otherwise maltreated as evidenced by the treatment of a sibling.
 - "(4) Conviction of and imprisonment for a felony.
- "(5) Commission by the parents of any of the following:
 - "a. Murder or manslaughter of another child of that parent.
 - "b. Aiding, abetting, attempting, conspiring, or soliciting to commit murder or manslaughter of another child of that parent.
 - "c. A felony assault or abuse which results in serious bodily injury to the surviving child or another child of that parent. The term serious bodily injury shall mean bodily injury which involves substantial risk of death, extreme physical pain, protracted and obvious disfigurement,

or protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

- "(6) Unexplained serious physical injury to the child under those circumstances as would indicate that the injuries resulted from the intentional conduct or willful neglect of the parent.
 - "(7) That reasonable efforts by the Department of Human Resources or licensed public or private child care agencies leading toward the rehabilitation of the parents have failed.
 - "(8) That parental rights to a sibling of the child have been involuntarily terminated.
 - "(9) Failure by the parents to provide for the material needs of the child or to pay a reasonable portion of support of the child, where the parent is able to do so.
 - "(10) Failure by the parents to maintain regular visits with the child in accordance with a plan devised by the Department of Human Resources, or any public or licensed private child care agency, and agreed to by the parent.
 - "(11) Failure by the parents to maintain consistent contact or communication with the child.
 - "(12) Lack of effort by the parent to adjust his or her circumstances to meet the needs of the child in accordance with agreements reached, including agreements reached with local departments of human resources or licensed child-placing agencies, in an administrative review or a judicial review.

"(b) (1) If a parent has been convicted of rape in the first degree pursuant to Section 13A-6-61, sodomy in the first degree pursuant to Section 13A-6-63, or incest pursuant to Section 13A-13-3, the juvenile court shall make a finding that the parent is unable to properly care for a child and to discharge his or her responsibilities to and for a child, and shall terminate the parental rights of the parent.

"(2) If the juvenile court finds from clear and convincing evidence, competent, material, and relevant in nature, that a person committed rape, incest, sodomy, sexual torture, or sexual abuse against another person and that rape, incest, sodomy, sexual torture, or sexual abuse resulted in the conception of a child, the juvenile court shall make a finding that the person who committed the rape, incest, sodomy, sexual torture, or sexual abuse is unable to properly care for the child and to discharge his or her responsibilities to and for the child, and shall terminate the person's parental rights.

"(c) A rebuttable presumption that the parents are unable or unwilling to act as parents exists in any case where the parents have abandoned a child and this abandonment continues for a period of four months next preceding the filing of the petition. Nothing in this subsection is intended to prevent the filing of a petition in an abandonment case prior to the end of the four-month period."

Section 2. This act shall become effective immediately following its passage and approval by the Governor, or its otherwise becoming law.