

1 SB34  
2 196524-3  
3 By Senator Chambliss  
4 RFD: Judiciary  
5 First Read: 05-MAR-19  
6 PFD: 02/20/2019

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8 SYNOPSIS: Existing law provides a list of factors for  
9 a juvenile court to consider in making a  
10 determination of whether to terminate parental  
11 rights.

12 This bill would provide that the conviction  
13 of a parent for the crime of rape in the first  
14 degree or of incest is a factor for a juvenile  
15 court to consider when making a determination of  
16 whether to terminate parental rights for that  
17 parent if that instance of rape or incest resulted  
18 in the conception of the child.

19  
20 A BILL  
21 TO BE ENTITLED  
22 AN ACT

23  
24 To amend Section 12-15-319, Code of Alabama 1975, to  
25 create Jessi's law; to provide for termination of parental  
26 rights of a person who commits the crime of rape in the first

1 degree or incest if the rape or incest results in the  
2 conception of the child.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

4 Section 1. This act shall be known and may be cited  
5 as "Jessi's Law."

6 Section 2. Section 12-15-319, Code of Alabama 1975,  
7 is amended to read as follows:

8 "§12-15-319.

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

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

26 "(2) Emotional illness, mental illness, or mental  
27 deficiency of the parent, or excessive use of alcohol or

1 controlled substances, of a duration or nature as to render  
2 the parent unable to care for needs of the child.

3 "(3) That the parent has tortured, abused, cruelly  
4 beaten, or otherwise maltreated the child, or attempted to  
5 torture, abuse, cruelly beat, or otherwise maltreat the child,  
6 or the child is in clear and present danger of being thus  
7 tortured, abused, cruelly beaten, or otherwise maltreated as  
8 evidenced by the treatment of a sibling.

9 "(4) Conviction of and imprisonment for a felony.

10 "(5) Commission by the parents of any of the  
11 following:

12 "a. Murder or manslaughter of another child of that  
13 parent.

14 "b. Aiding, abetting, attempting, conspiring, or  
15 soliciting to commit murder or manslaughter of another child  
16 of that parent.

17 "c. A felony assault or abuse which results in  
18 serious bodily injury to the surviving child or another child  
19 of that parent. The term serious bodily injury shall mean  
20 bodily injury which involves substantial risk of death,  
21 extreme physical pain, protracted and obvious disfigurement,  
22 or protracted loss or impairment of the function of a bodily  
23 member, organ, or mental faculty.

24 "(6) Unexplained serious physical injury to the  
25 child under those circumstances as would indicate that the  
26 injuries resulted from the intentional conduct or willful  
27 neglect of the parent.

1           "(7) That reasonable efforts by the Department of  
2 Human Resources or licensed public or private child care  
3 agencies leading toward the rehabilitation of the parents have  
4 failed.

5           "(8) That parental rights to a sibling of the child  
6 have been involuntarily terminated.

7           "(9) Failure by the parents to provide for the  
8 material needs of the child or to pay a reasonable portion of  
9 support of the child, where the parent is able to do so.

10           "(10) Failure by the parents to maintain regular  
11 visits with the child in accordance with a plan devised by the  
12 Department of Human Resources, or any public or licensed  
13 private child care agency, and agreed to by the parent.

14           "(11) Failure by the parents to maintain consistent  
15 contact or communication with the child.

16           "(12) Lack of effort by the parent to adjust his or  
17 her circumstances to meet the needs of the child in accordance  
18 with agreements reached, including agreements reached with  
19 local departments of human resources or licensed child-placing  
20 agencies, in an administrative review or a judicial review.

21           "(13) A conviction for rape in the first degree  
22 pursuant to Section 13A-6-61 or incest pursuant to Section  
23 13A-13-3, committed by the parent if the rape or incest  
24 resulted in the conception of the child.

25           "(b) A rebuttable presumption that the parents are  
26 unable or unwilling to act as parents exists in any case where  
27 the parents have abandoned a child and this abandonment

1 continues for a period of four months next preceding the  
2 filing of the petition. Nothing in this subsection is intended  
3 to prevent the filing of a petition in an abandonment case  
4 prior to the end of the four-month period."

5 Section 3. This act shall become effective on the  
6 first day of the third month following its passage and  
7 approval by the Governor, or its otherwise becoming law.