



# NARAL Pro-Choice Maryland

## HB428 FAMILY LAW – CHILD CONCEIVED WITHOUT CONSENT – TERMINATION OF PARENTAL RIGHTS (RAPE SURVIVOR FAMILY PROTECTION ACT)

Presented to the Hon. Kathleen Dumais and Members of the House Judiciary Committee  
February 9, 2017 1:00pm

---

POSITION: SUPPORT

NARAL Pro-Choice Maryland urges the House Judiciary Committee to **give a favorable report for HB428, Rape Survivor Family Protection Act**, sponsored by Del. Kathleen Dumais.

Our organization is an advocate for reproductive health, rights, and justice. We work to ensure every child-bearing individual has the freedom to decide if, when, and how many children to have. In doing so, we honor pregnancy-decision making in all its complexity.

In the spirit of trauma informed care and restorative justice, we believe that the State of Maryland should establish a clear, accessible, and expedient, yet also fair and equitable, legal process to terminate the parental rights of a rapist when a child is conceived as a result of sexual assault. Currently, the state grants perpetrators presumptive and categorical paternity rights without providing rape survivors the opportunity to terminate those rights. It is estimated that 20% of Maryland women have experienced rape in their lifetimes. Approximately 5% that are of reproductive age become pregnant as a result of the crime. It is estimated that 38% of these survivors carry these pregnancies to term – some with the goal to parent, while others will offer the child for adoption. The decision whether to terminate a pregnancy conceived in a sexual assault can be influenced by the type of relationship the survivor has or will have with the perpetrator moving forward.

For those who choose to carry to term, a woman who becomes pregnant through rape runs the risk that the rapist will assert his parental rights. If she chooses to raise the child herself, it could mean her rapist inserting himself into her life for the next 18 years. The perpetrator may also hinder efforts to place the child up for adoption. In some extreme cases, rapists have only agreed to allow an adoption to go forward if the victim promised not to testify against him at trial.

Maryland is now one of seven states without this law.

Rape survivors should have the opportunity to terminate parental rights of the perpetrator by showing clear and convincing evidence that they were impregnated by the alleged sexual assault, rather than mandating criminal conviction, as too few cases result in a conviction of the perpetrator – approximately 3%. Furthermore, with the federal enactment of the Rape Survivor Child Custody Act in 2015, additional funding is available to states that allow “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 that child” based upon “clear and convincing evidence of rape.” This reflects recognition by national lawmakers that the clear and convincing standard is adequate in these cases.

Rape survivors deserve to make informed choices based upon the totality of their circumstances when faced with an unintended pregnancy as a result of a sexual assault. Providing a clear, accessible, and expedient, as well as fair and equitable, legal process to terminate the parental rights of the rapist allows the survivor to consider the possibility of carrying to term without the potential trauma of a rapist asserting his parental rights. Reproductive justice includes the right to parent with dignity and to do so within a healthy and safe environment.

For these reasons, **we urge a favorable report for HB428, Rape Survivor Family Protection Act.** NARAL Pro-Choice Maryland welcomes the opportunity to serve as an ongoing resource on this issue. Thank you for your time and consideration.