S T A T E O F N E W Y O R K

3068

2013-2014 Regular Sessions

I N A S S E M B L Y

January 23, 2013

Introduced by M. of A. CLARK, ZEBROWSKI, SCARBOROUGH, SIMOTAS, JAFFEE, TITONE -- Multi-Sponsored by -- M. of A. CERETTO, CROUCH, ENGLEBRIGHT, GOTTFRIED -- read once and referred to the Committee on Codes

AN ACT to amend the penal law and the family court act, in relation to terminating the parental rights with respect to a specific child of a person convicted of rape that resulted in the conception of such child

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Section 130.92 of the penal law is amended by adding a new subdivision 4 to read as follows:

4. THE PARENTAL RIGHTS AND RESPONSIBILITIES WITH RESPECT TO A CHILD OF A PARENT CONVICTED OF THE CRIME OF RAPE IN THE FIRST DEGREE AS DEFINED IN SECTION 130.35 OF THIS ARTICLE, RAPE IN THE SECOND DEGREE AS DEFINED IN SECTION 130.30 OF THIS ARTICLE, OR RAPE IN THE THIRD DEGREE AS DEFINED IN SECTION 130.25 OF THIS ARTICLE, THAT RESULTED IN THE CONCEPTION OF SUCH CHILD MAY BE TERMINATED IN ACCORDANCE WITH SECTION FIVE HUNDRED SIXTY-SIX OF THE FAMILY COURT ACT.

S 2. Article 5 of the family court act is amended by adding a new part 6 to read as follows:

PART 6

TERMINATION OF PARENTAL RIGHTS UPON CONVICTION

SECTION 566. TERMINATION OF PARENTAL RIGHTS AND RESPONSIBILITIES UPON CONVICTION FOR RAPE.

S 566. TERMINATION OF PARENTAL RIGHTS AND RESPONSIBILITIES UPON CONVICTION FOR RAPE. (A) THE PARENTAL RIGHTS AND RESPONSIBILITIES WITH RESPECT TO A SPECIFIC CHILD OF A PARENT CONVICTED OF THE CRIME OF RAPE IN THE FIRST DEGREE AS DEFINED IN SECTION 130.35 OF THE PENAL LAW, RAPE IN THE SECOND DEGREE AS DEFINED IN SECTION 130.30 OF THE PENAL LAW, OR RAPE IN THE THIRD DEGREE AS DEFINED IN SECTION 130.25 OF THE PENAL LAW, THAT RESULTED IN THE CONCEPTION OF SUCH CHILD MAY BE TERMINATED IN ACCORDANCE WITH THIS SECTION.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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(B) THE PETITION FOR TERMINATION MAY BE FILED BY THE OTHER PARENT OR, IF THE OTHER PARENT IS A MINOR, THE PARENT OR GUARDIAN OF THE OTHER PARENT.

(C) THE PETITIONER MAY FILE A PETITION WITH THE COURT THAT REQUESTS THE TERMINATION OF THE PARENTAL RIGHTS AND RESPONSIBILITIES OF THE CONVICTED PARENT AND ALLEGES:

(1) THAT THE PARENT WAS CONVICTED OF THE CRIME OF RAPE IN THE FIRST DEGREE AS DEFINED IN SECTION 130.35 OF THE PENAL LAW, RAPE IN THE SECOND DEGREE AS DEFINED IN SECTION 130.30 OF THE PENAL LAW, OR RAPE IN THE THIRD DEGREE AS DEFINED IN SECTION 130.25 OF THE PENAL LAW; AND

(2) THAT SUCH CRIME RESULTED IN THE CONCEPTION OF THE CHILD.

(D) UPON RECEIPT OF THE PETITION, THE COURT SHALL COMMENCE A HEARING TO DETERMINE WHETHER THE ALLEGATIONS ESTABLISHED IN SUBDIVISION (C) OF THIS SECTION HAVE BEEN SUPPORTED BY CLEAR AND CONVINCING PROOF. IF SUCH ALLEGATIONS HAVE BEEN PROVEN, THE COURT SHALL TERMINATE THE PARENTAL RIGHTS AND RESPONSIBILITIES OF THE PARENT.

S 3. This act shall take effect on the ninetieth day after it shall have become a law.