

Support HB 3128

Restricting Custody Rights of Men Who Father Through Sexual Assault

Status: Senate - Second Reading

Sponsors: Representative Williams (D-11); Senators Harmon (D-39); Steans (D-7);
Bush (D-31); Hastings (D-19)

What Does the Bill Do?

HB 3128 provides that when a child is conceived as a result of rape, the father's/rapist's custody rights may be restricted by Illinois courts based on clear and convincing evidence of the rape. Current law requires a criminal rape conviction.

Under current Illinois law:

- Rapists who are not convicted of sexual assault or sexual abuse may be able to exercise custody rights over the children conceived through their rapes.
- Most raped women are unable to take advantage of current Illinois law because rape is the most under-prosecuted serious crime in America.

The criminal conviction requirement:

- creates an insurmountable hurdle for the majority of raped women;
- is out-of-step and misaligned with the proof typically required to restrict custody rights;
- holds raped women to a higher standard than those who seek to restrict custody rights on the grounds of abuse, neglect, abandonment, etc.

Why Is This Reform Needed Now?

- **Pregnancy from rape occurs with “significant frequency.”** Between 25,000 and 32,000 rape-related pregnancies occur annually in the United States.
- **A substantial number of women choose to raise their rape-conceived children and, as a result, may face a “custody battle” with their rapists.** According to one study, 32.3% of raped women kept their infants. Another study found that, of the 73% of raped women who carried their pregnancies to term, 64% raised their children.
- **The “clear and convincing” evidence standard is the typical standard for restriction of custody rights. Raped women should not be held unfairly to a higher standard of proof.**

Supporting Organizations

- Office of the Illinois Attorney General
- Illinois Coalition Against Sexual Assault
- Chicago Bar Association
- Chicago Bar Foundation — Dawn Willis, CBF Advocacy Committee, (630) 667-3671
- Chicago Alliance Against Sexual Exploitation
- Project IRENE
- Illinois State Bar Association