

1 AN ACT relating to sexual assault victims.

2 WHEREAS, only one percent of rapists and perpetrators of sexual assault are ever
3 convicted; and

4 WHEREAS, unconvicted rapists and perpetrators of sexual assault should not be
5 permitted to repeatedly traumatize their victims through continued contact; and

6 WHEREAS, requiring a conviction prior to terminating parental rights fails to
7 provide the necessary protection for a rape victim and her child; and

8 WHEREAS, the termination of parental rights is a civil matter, not a criminal
9 matter; and

10 WHEREAS, the clear and convincing evidence standard is the highest burden of
11 proof for a civil matter; and

12 WHEREAS, *Santosky v. Kramer*, 455 U.S. 745 (1982) held that the judicial
13 standard of clear and convincing evidence meets due process requirements in termination
14 of parental rights cases;

15 NOW, THEREFORE,

16 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

17 ➔Section 1. KRS 403.322 is amended to read as follows:

18 (1) The Commonwealth recognizes that certain victims of sexual assault may conceive
19 a child as a result of the sexual assault and may choose to bear and raise the child.

20 The Commonwealth also recognizes that victims of a sexual assault who have
21 elected to raise a child born as a result of the sexual assault, as well as that child,
22 may suffer serious emotional or physical trauma if the perpetrator of the assault is
23 granted parental rights with the child.

24 (2) Except as provided in subsection (3) of this section, any person who has been:

25 **(a)** Convicted of a felony offense under KRS Chapter 510; **or**

26 **(b)** **As a part of a custody, visitation, or probate proceeding, found by clear and**
27 **convincing evidence to have committed an offense in KRS Chapter 510;**~~[-]~~

1 in which the victim of that offense has conceived and delivered a child, shall not
2 have custody or visitation rights, or the rights of inheritance under KRS Chapter
3 391 with respect to that child.

- 4 (3) The mother of the child may waive the protection afforded under subsection (2) of
5 this section regarding visitation and request that the court grant reasonable visitation
6 rights with the child if paternity has been acknowledged. **A mother who is a minor**
7 **child shall not consent to waiver of this protection until she is at least eighteen**
8 **(18) years of age, and no one shall consent on her behalf.**
- 9 (4) Unless waived by the mother and, if applicable, the public agency substantially
10 contributing to the support of the child, a court shall establish a child support
11 obligation against the father of the child pursuant to KRS 403.211.