

WHEREAS, prior to the termination of parental rights with respect to a child who was conceived as a result of a sexual assault perpetrated by that parent, Montana law currently requires the natural parent to have been convicted of the rape or sexual assault in a court of competent jurisdiction in any state; and

WHEREAS, in May 2015, President Obama signed the Rape Survivor Child Custody Act (Act), Public Law No. 114-22, which provides increased funding to states that allow women to petition for the termination of parental rights upon a finding supported by clear and convincing evidence that the child was conceived as a result of an act of sexual assault; and

WHEREAS, in the Act, Congress found that sexual assault is one of the most under-prosecuted serious crimes and, even when prosecuted, criminal conviction occurs in less than 5% of prosecutions; and

WHEREAS, Congress also noted that the United States Supreme Court has established that the clear and convincing evidence standard satisfies due process rights for proceedings to terminate or restrict parental rights, *Santosky v Kramer*, 455 U.S. 754 (1982) and the clear and convincing evidence standard is the most common standard for the termination of parental rights among all United States jurisdictions; and

WHEREAS, Congress found that a perpetrator of sexual assault may attempt to avoid prosecution by coercing the survivor with threats to obtain custody of the child or to assert parental rights, or may use the issue of parental rights to otherwise harass, intimidate, or manipulate the survivor.