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Maine Parentage Act – UPA 2017 updates
prepared by FLAC
corrected February 2, 2020

**COMMITTEE AMENDMENT “.” To LD 1291, An Act To Amend the
Maine Parentage Act**

Sec. 1. 19-A MRSA c. 61 (The Maine Parentage Act), subchapter 3 is amended to read:

**SUBCHAPTER 3
VOLUNTARY ACKNOWLEDGMENT OF ~~PATERNITY~~ PARENTAGE**

§1861. Acknowledgment of ~~paternity~~ parentage

The woman who gives birth to a child and a man, not her spouse, claiming to be the genetic father of the child following persons may sign an acknowledgment of ~~paternity with intent~~ parentage to establish ~~paternity~~ parentage of a child:

1. Person who gave birth. A person who gave birth to the child and who is not a gestational carrier as defined in section 1832, subsection 10;

2. Alleged genetic parent. A person who is the alleged genetic parent of the child and who is not a donor as defined in section 1832;

3. Presumed parent. A presumed parent of the child pursuant to subchapter 4, except that a presumed parent pursuant to section 1881, subsection 3 must meet the requirements of that section and may not submit an acknowledgment of parentage for at least 2 years from the time the child was born or adopted; and

4. Intended parent. An intended parent of the child pursuant to subsection 7.

§1862. Execution of acknowledgment of ~~paternity~~ parentage

1. Requirements. An acknowledgment of ~~paternity~~ parentage under section 1861 must:

A. Be in a record;

FOR COMMENTS AT PUBLIC HEARING ON FEBRUARY 5, 2020
(REPLACES PRINTED LD 1291)

B. Be signed, or otherwise authenticated, under penalty of perjury by the ~~woman~~ giving the person who gave birth to the child and by the ~~man~~ person seeking to establish ~~his~~ paternity parentage of the child;

C. State that:

(1) There is no other presumed parent of the child or, if there is another presumed parent, state that parent's full name; and

(2) There is no other acknowledged ~~father and no~~ parent, adjudicated parent or intended parent pursuant to subsection 7 of the child other than the ~~woman~~ giving person who gave birth to the child;

D. State whether there has been genetic testing and, if so, that the acknowledging ~~man's person's~~ claim of paternity parentage is consistent with the results of the testing; and

~~E. State that the man signing the acknowledgment believes himself to be the biological father; and~~

F. State that the signatories understand that the acknowledgment is the equivalent of a court determination of paternity parentage of the child and that a challenge to the acknowledgment is permitted only under limited circumstances and is barred after 2 years.

2. Notice. Before the ~~woman~~ giving person who gave birth or ~~alleged father~~ another person may sign an acknowledgment of paternity parentage under section 1861, the ~~woman~~ giving person who gave birth and the ~~putative father~~ acknowledging parent must be given oral and written notice of the alternatives to, the legal consequences of and the rights and responsibilities that arise from signing the acknowledgment.

3. Acknowledgment voidable. An acknowledgment of paternity parentage under section 1861 is voidable if it:

A. States that another person is a presumed parent, unless a denial of parentage signed or otherwise authenticated by the presumed parent is filed with the State Registrar of Vital Statistics;

B. States that another person is an acknowledged ~~father~~ parent, ~~or~~ adjudicated parent or intended parent; or

C. Falsely denies the existence of a ~~presumed parent, acknowledged father or adjudicated parent~~ with rights of parentage of the child under this chapter.

~~4. Presumed parent. A man who is a presumed parent under section 1881, subsection 3 may sign or otherwise authenticate an acknowledgment of paternity in accordance with the requirements of this subchapter.~~

§1863. Denial of parentage

A person presumed to be a parent under section 1881 or an alleged genetic parent may execute a denial of parentage only in the limited circumstances set forth in this section. A denial of parentage is valid only if:

1. Acknowledgment. An acknowledgment of paternity parentage signed or otherwise authenticated ~~by another man~~ is filed pursuant to this subchapter;

2. Under penalty of perjury. The denial is in a record and is signed or otherwise authenticated under penalty of perjury; and

3. Person executing. The person executing the denial has not previously:

A. Acknowledged paternity parentage, unless the previous acknowledgment has been rescinded pursuant to section 1867 or successfully challenged pursuant to section 1868; or

B. Been adjudicated to be the parent of the child.

§1864. Filing of an acknowledgment of paternity parentage and related or denial of parentage

1. Acknowledgment and denial. An acknowledgment of ~~paternity and related parentage~~ or denial of parentage under this subchapter must be signed after the birth of the child, filed with the State Registrar of Vital Statistics and may be contained in a single document or may be signed in counterparts ~~and may be~~ filed separately or simultaneously. If the acknowledgment and denial are both necessary, neither is valid until both are filed.

2. Effective date. Subject to subsection 1, an acknowledgment of paternity parentage or denial of parentage takes effect the date of the birth of the child or on the filing of the document with the State Registrar of Vital Statistics, whichever occurs later.

3. Signed by minor. An acknowledgment of paternity parentage or denial of parentage signed by a minor is valid if it is otherwise in compliance with this chapter.

§1865. Equivalent to adjudication

1. Acknowledgment. Except as otherwise provided in sections 1867 and 1868, a valid acknowledgment of paternity parentage under section 1861 filed with the State Registrar of Vital Statistics is equivalent to an adjudication of parentage of a child and confers upon the acknowledged ~~father~~ parent all of the rights and duties of a parent.

2. Denial. Except as otherwise provided in section 1867 and section 1868, subsection 1, a valid denial of parentage under section 1863 filed with the State Registrar of Vital Statistics in conjunction with a valid acknowledgment of paternity parentage under section 1861 is equivalent to an adjudication of the nonparentage of the presumed parent or alleged genetic parent and discharges the presumed parent or alleged genetic parent from all rights and duties of a parent.

§1866. No filing fee

The State Registrar of Vital Statistics may not charge a fee for filing an acknowledgment of paternity parentage or denial of parentage ~~under section 1864~~.

§1867. Proceeding for rescission

A signatory may rescind an acknowledgment of paternity parentage or denial of parentage under this subchapter by commencing a court proceeding to rescind before the earlier of: subject to section 1869, subsection 4.

1. ~~Sixty days after effective date~~ Timing. The court proceeding to rescind must be commenced before the earlier of: Sixty days after the effective date of the acknowledgment or denial, as provided in section 1864; and

A. Sixty days after the effective date of the acknowledgment or denial, as provided in section 1864; and

B. The date of the first hearing, in a court proceeding to which the signatory is a party, to adjudicate an issue relating to the child, including a proceeding seeking child support.

2. ~~Date of first hearing.~~ ~~The date of the first hearing, in a proceeding to which the signatory is a party, before a court to adjudicate an issue relating to the child, including a proceeding seeking child support.~~

3. Notice. If an acknowledgment is rescinded under this section, any associated denial of parentage becomes invalid, and the Office of Data, Research and Vital Statistics shall notify the person who gave birth to the child and any person who signed a denial of parentage of the child that the acknowledgment of parentage has been rescinded. Failure to give notice required by this section does not affect the validity of the rescission.

§1868. Challenge to acknowledgment

1. Challenge by signatory. After the period for rescission under section 1867 has expired, a signatory of an acknowledgment of paternity parentage or denial of parentage may commence a proceeding to challenge the acknowledgment or denial only:

- A. On the basis of fraud, duress, coercion, threat of harm or material mistake of fact; and
- B. Within 2 years after the acknowledgment or denial is filed with the State Registrar of Vital Statistics.

2. Challenge by person not a signatory. If an acknowledgment of paternity parentage has been made in accordance with this subchapter, an individual who is neither the child nor a signatory to the acknowledgment of paternity parentage and who seeks to challenge the validity of the acknowledgment and adjudicate parentage must commence a proceeding not later than 2 years after the effective date of the acknowledgment, as provided in section 1864, unless the individual person did not know and could not reasonably have known of the individual's person's potential genetic parentage on account of material misrepresentation or concealment, in which case the proceeding must be commenced no later than 2 years after discovery.

3. Burden of proof. A party challenging an acknowledgment of paternity or denial of parentage pursuant to this section has the burden of proof.

4. Consolidation. A court proceeding in which the validity of an acknowledgment of parentage is challenged may be consolidated with any other pending court actions regarding the child.

§1869. Procedure for rescission or challenge

1. Every signatory party. Every signatory to an acknowledgment of paternity parentage and any related denial of parentage under this subchapter must be made a party to a proceeding under section 1867 or 1868 to rescind or challenge the acknowledgment or denial.

2. Submission to personal jurisdiction. For the purpose of rescission of or challenge to an acknowledgment of paternity parentage or denial of parentage, a signatory submits to personal jurisdiction of this State by signing the acknowledgment or denial, effective upon the filing of the document with the State Registrar of Vital Statistics pursuant to section 1864.

3. Suspension of legal responsibilities. Except for good cause shown, during the pendency of a proceeding under section 1867 or 1868 to rescind or challenge an acknowledgment of paternity parentage or denial of parentage, the court may not

suspend the legal responsibilities of a signatory arising from the acknowledgment, including the duty to pay child support.

4. Proceeding to rescind or challenge. A proceeding under section 1867 or 1868 to rescind or challenge an acknowledgment of ~~paternity~~ parentage or denial of parentage must be conducted as a proceeding to adjudicate parentage under subchapter 1.

5. Amendment to birth record. At the conclusion of a proceeding under section 1867 or 1868 to rescind or challenge an acknowledgment of ~~paternity~~ parentage or denial of parentage, the court shall order the State Registrar of Vital Statistics to amend the birth record of the child, if appropriate.

§1870. Ratification not permitted

A court or administrative agency conducting a judicial or administrative proceeding may not ratify an unchallenged acknowledgment of ~~paternity~~ parentage under section 1861.

§1871. Forms for acknowledgment and denial of ~~paternity~~ parentage

To facilitate compliance with this subchapter, the State Registrar of Vital Statistics shall prescribe forms for the acknowledgment of ~~paternity~~ parentage and the denial of parentage. A valid acknowledgment of ~~paternity~~ parentage or denial of parentage is not affected by a later modification of the prescribed form.

§1872. Release of information

The State Registrar of Vital Statistics may release information relating to an acknowledgment of ~~paternity~~ parentage under section 1861 as provided in Title 22, section 2706.

§1873. Adoption of rules

The State Registrar of Vital Statistics may adopt rules to implement this subchapter. Rules adopted pursuant to this section are routine technical rules for the purposes of Title 5, chapter 375, subchapter 2-A.

Sec. 2. 19-A MRSA §1924 is amended to read:

§1924. Consent to assisted reproduction

1. Written consent. Consent by a person who intends to be a parent of a child born through assisted reproduction must be set forth in a signed record that is executed by each intended parent and provides that the signatories consent to use of assisted reproduction to conceive a child with the intent to parent the child.

2. Lack of written consent; parentage. Failure of a person to sign a consent required by subsection 1 before or after birth of the child does not preclude a finding of parentage:

- A. If consent can be proved by other means and the consenting individual resided with the child after birth and undertook to develop a parental relationship with the child; or
- B. As provided in this chapter.

3. Consent form. Consent under subsection 1 executed via a consent form adopted by the Office of Data, Research and Vital Statistics must be accepted and relied upon for purposes of issuing a birth record. Nothing in this subsection precludes a person from filing a voluntary acknowledgment of parentage under subchapter 3.

Sec. 3. 19-A MRSA c. 61, subc. 9 is enacted to read:

SUBCHAPTER 9
INFORMATION ABOUT DONOR

§1951. Definitions

As used in this subchapter, unless the context indicates otherwise, the following terms have the following meanings.

1. Identifying information. “Identifying information” means

- A. The full name of a donor;
- B. The date of birth of the donor; and
- C. The permanent and, if different, current address of the donor at the time of the donation.

2. Medical history. “Medical history” means information regarding any:

- A. Present illness of a donor;
- B. Past illness of the donor; and

C. Social, genetic and family history pertaining to the health of the donor.

3. Donor. “Donor” means a donor pursuant to section 1832, subsection 5 and section 1922, subsection 1 but does not include a person described in section 1922, subsection 2.

§1952. Applicability

This subchapter applies only to gametes collected on or after September 1, 2020.

§1953. Collection of information

1. Collection of information from donor. A gamete bank or fertility clinic operating in this state shall collect from a donor the donor’s identifying information and medical history at the time of the donation.

2. Collection of information when gametes from another gamete bank or fertility clinic. A gamete bank or fertility clinic operating in this state pursuant to federal law that receives the gametes of a donor collected by another gamete bank or fertility clinic shall collect and retain the information about the donor, including the donor’s name, address, telephone number and email address and any medical history of the donor, from the gamete bank or fertility from which it received the gametes and shall collect and retain information to identify the gamete bank or fertility clinic from which it received the gametes, including the name, address, telephone number and email address of that gamete bank or fertility clinic.

3. Disclosure of collected information. A gamete bank or fertility clinic operating in this state shall disclose the information collected under subsections 1 and 2 as provided under section 1955.

§1954. Declaration regarding identity disclosure

1. Information to donor; donor declaration. A gamete bank or fertility clinic operating in this state that collects gametes from a donor shall:

A. Provide the donor with information in a record about the donor’s choice regarding identity disclosure; and

B. Obtain a declaration from the donor regarding identity disclosure.

2. Declaration by donor. A gamete bank or fertility clinic operating in this state shall give a donor the choice to sign a declaration, attested under oath that either:

A. States that the donor agrees to disclose the donor's identity to a child conceived by assisted reproduction with the donor's gametes on request once the child attains 18 years of age; or

B. States that the donor does not agree presently to disclose the donor's identity to the child.

3. Withdrawal of declaration. A gamete bank or fertility clinic operating in this state shall permit a donor who has signed a declaration under subsection 2, paragraph B to withdraw the declaration at any time by signing a declaration under subsection 2, paragraph A.

§1955. Disclosure of identifying information and medical history

1. Identifying information upon request; notify donor. On request of a child conceived by assisted reproduction who attains 18 years of age, a gamete bank or fertility clinic operating in this state that collected, stored or released for use the gametes used in the assisted reproduction shall make a good-faith effort to provide the child with identifying information of the donor who provided the gametes, unless the donor signed and did not withdraw a declaration under section 1954, subsection 2, paragraph B. If the donor signed and did not withdraw the declaration, the gamete bank or fertility clinic shall make a good-faith effort to notify the donor, who may elect under section 1954, subsection 3 to withdraw the donor's declaration.

2. Nonidentifying information upon request. Regardless whether a donor signed a declaration under section 1954, subsection 2, paragraph B, on request by a child conceived by assisted reproduction who attains 18 years of age, or, if the child is a minor, by a parent or guardian of the child, a gamete bank or fertility clinic operating in this state that collected the gametes used in the assisted reproduction shall make a good-faith effort to provide the child or, if the child is a minor, the parent or guardian of the child, access to nonidentifying medical history of the donor.

3. Identification of gamete bank or fertility clinic. On request of a child conceived by assisted reproduction who attains 18 years of age, a gamete bank or fertility clinic operating in this state that received the gametes used in assisted reproduction from another gamete bank or fertility clinic shall disclose the name, address, telephone number and email address of the gamete bank or fertility clinic from which it received the gametes.

§1956. Recordkeeping

1. Identifying information about donor. A gamete bank or fertility clinic operating in this state that collects gametes for use in assisted reproduction shall collect and maintain identifying information and medical history about each gamete donor. The

gamete bank or fertility clinic shall collect and maintain records of gamete screening and testing and comply with reporting requirements, in accordance with federal law and applicable law of this state other than this subchapter.

2. Information about gamete bank or fertility clinic. A gamete bank or fertility clinic operating in this state that receives gametes from another gamete bank or fertility clinic shall maintain the name, address, telephone number, and electronic mail address of the gamete bank or fertility clinic from which it received the gametes.

Sec. 4. Effective date. This Act takes effect September 1, 2020.

SUMMARY

This amendment replaces the original bill.

This amendment amends the Maine Parentage Act to include 2 provisions that are part of the Uniform Parentage Act adopted by the Uniform Law Commission in 2017.

The bill amends the acknowledgment of paternity provision to broaden the process to be an acknowledgment of parentage and allows intended parents participating in assisted reproduction, as well as presumed parents, to sign the acknowledgment of parentage.

The bill adds a new subchapter 9 to the Maine Parentage Act to apply to the collection and sharing of information about donors who donate gametes used in assisted reproduction. It requires gamete banks and fertility clinics to collect information from donors and allow a donor to sign a declaration allowing the sharing of identifying information about the donor or prohibiting the sharing of identifying information about the donor. The child of assisted reproduction who reaches the age of 18 may request information about the donor from the gamete bank or fertility clinic. The parent or guardian of a child of assisted reproduction, while the child is a minor, may request nonidentifying information about the donor. If the donor signed a declaration prohibiting the sharing of identifying information about the donor, the gamete bank or fertility clinic may share only nonidentifying information. If the donor agreed to the sharing of identifying information, the gamete bank or fertility clinic must make a good faith effort to contact the donor, who may then prohibit the sharing of the information. Otherwise, the gamete bank or fertility clinic may share the identifying information upon request.