

# MAINE STATE LEGISLATURE

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Amendment Name: Amendment CA (H-832) (LD 1291 2020)

Date: 8/12/2020



Date: (Filing No. H- )

JUDICIARY

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
129TH LEGISLATURE
SECOND SPECIAL SESSION

COMMITTEE AMENDMENT " " to H.P. 934, L.D. 1291, Bill, "An Act To Update the Maine Parentage Act"

Amend the bill by striking out everything after the enacting clause and inserting the following:

Sec. 1. 19-A MRSA §1844, sub-§1, ¶A, as enacted by PL 2015, c. 296, Pt. A, §1 and affected by Pt. D, §1, is amended to read:

A. All signatories to an acknowledgment of paternity parentage or denial of parentage as provided in subchapter 3; and

Sec. 2. 19-A MRSA §1851, sub-§3, as enacted by PL 2015, c. 296, Pt. A, §1 and affected by Pt. D, §1, is amended to read:

3. Acknowledgment. An effective voluntary acknowledgment of paternity parentage under subchapter 3;

Sec. 3. 19-A MRSA c. 61, sub-c. 3, headnote is amended to read:

SUBCHAPTER 3

VOLUNTARY ACKNOWLEDGMENT OF PATERNITY PARENTAGE

Sec. 4. 19-A MRSA §1861, as enacted by PL 2015, c. 296, Pt. A, §1 and affected by Pt. D, §1, is amended to read:

§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;

COMMITTEE AMENDMENT

1           **2. Alleged genetic parent.** A person who is the alleged genetic parent of the child  
2 and who is not a donor;

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

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

8           **Sec. 5. 19-A MRS §1862**, as corrected by RR 2015, c. 1, §12, is amended to  
9 read:

10           **§1862. Execution of acknowledgment of paternity parentage**

11           **1. Requirements.** An acknowledgment of paternity parentage under section 1861  
12 must:

13           A. Be in a record;

14           B. Be signed, or otherwise authenticated, under penalty of perjury by the ~~woman~~  
15 giving person who gave birth to the child, other than a gestational carrier, and by the  
16 man person seeking to establish his paternity parentage of the child;

17           C. State that:

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

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

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

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

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

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

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

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

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

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

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

11 **Sec. 6. 19-A MRSA §1863, first ¶**, as enacted by PL 2015, c. 296, Pt. A, §1 and  
12 affected by Pt. D, §1, is amended to read:

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

16 **Sec. 7. 19-A MRSA §1863, sub-§1**, as enacted by PL 2015, c. 296, Pt. A, §1 and  
17 affected by Pt. D, §1, is amended to read:

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

20 **Sec. 8. 19-A MRSA §1863, sub-§3, ¶A**, as enacted by PL 2015, c. 296, Pt. A, §1  
21 and affected by Pt. D, §1, is amended to read:

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

25 **Sec. 9. 19-A MRSA §1864**, as enacted by PL 2015, c. 296, Pt. A, §1 and affected  
26 by Pt. D, §1, is amended to read:

27 **§1864. Filing of an acknowledgment of paternity and related parentage or denial of**  
28 **parentage**

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

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

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

1           **Sec. 10. 19-A MRSA §1865**, as enacted by PL 2015, c. 296, Pt. A, §1 and  
2 affected by Pt. D, §1, is amended to read:

3           **§1865. Equivalent to adjudication**

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

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

14           **Sec. 11. 19-A MRSA §1866**, as enacted by PL 2015, c. 296, Pt. A, §1 and  
15 affected by Pt. D, §1, is amended to read:

16           **§1866. No filing fee**

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

19           **Sec. 12. 19-A MRSA §1867**, as enacted by PL 2015, c. 296, Pt. A, §1 and  
20 affected by Pt. D, §1, is amended to read:

21           **§1867. Proceeding for rescission**

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

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

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

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

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

36           **3. Notice.** If an acknowledgment of parentage is rescinded under this section, any  
37 associated denial of parentage becomes invalid, and the Office of Data, Research and  
38 Vital Statistics shall notify the person who gave birth to the child and any person who  
39 signed a denial of parentage of the child that the acknowledgment of parentage has been

1 rescinded. Failure to give notice required by this section does not affect the validity of  
2 the rescission.

3 **Sec. 13. 19-A MRSA §1868**, as corrected by RR 2015, c. 1, §13, is amended to  
4 read:

5 **§1868. Challenge to acknowledgment**

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

9 A. On the basis of fraud, duress, coercion, threat of harm or material mistake of fact;  
10 and

11 B. Within 2 years after the acknowledgment or denial is filed with the State Registrar  
12 of Vital Statistics.

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

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

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

27 **Sec. 14. 19-A MRSA §1869**, as enacted by PL 2015, c. 296, Pt. A, §1 and  
28 affected by Pt. D, §1, is amended to read:

29 **§1869. Procedure for rescission or challenge**

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

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

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



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

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

6 **5. Amendment to birth record.** At the conclusion of a proceeding under section  
7 1867 or 1868 to rescind or challenge an acknowledgment of paternity parentage or denial  
8 of parentage, the court shall order the State Registrar of Vital Statistics to amend the birth  
9 record of the child, if appropriate.

10 **Sec. 15. 19-A MRSA §1870**, as enacted by PL 2015, c. 296, Pt. A, §1 and  
11 affected by Pt. D, §1, is amended to read:

12 **§1870. Ratification not permitted**

13 A court or administrative agency conducting a judicial or administrative proceeding  
14 may not ratify an unchallenged acknowledgment of paternity parentage under section  
15 1861.

16 **Sec. 16. 19-A MRSA §1871**, as enacted by PL 2015, c. 296, Pt. A, §1 and  
17 affected by Pt. D, §1, is amended to read:

18 **§1871. Forms for acknowledgment and denial of paternity parentage**

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

23 **Sec. 17. 19-A MRSA §1872**, as enacted by PL 2015, c. 296, Pt. A, §1 and  
24 affected by Pt. D, §1, is amended to read:

25 **§1872. Release of information**

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

29 **Sec. 18. 19-A MRSA §1924, sub-§3**, as enacted by PL 2015, c. 296, Pt. A, §1  
30 and affected by Pt. D, §1, is amended to read:

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

35 **Sec. 19. 19-A MRSA c. 61, sub-c. 9** is enacted to read:

36 **SUBCHAPTER 9**

1 **INFORMATION ABOUT DONOR**

2 **§1951. Definitions**

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

5 **1. Donor.** "Donor" has the same meaning as in section 1832, subsection 5 but does  
6 not include a person described in section 1922, subsection 2.

7 **2. Identifying information.** "Identifying information" means:

8 A. The full name of a donor;

9 B. The date of birth of a donor; and

10 C. The permanent and, if different, current address of a donor at the time of  
11 donation.

12 **3. Medical history.** "Medical history" means information regarding any:

13 A. Present illness of a donor;

14 B. Past illness of a donor; and

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

16 **§1952. Applicability**

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

18 **§1953. Collection of information**

19 **1. Collection of information from donor.** A gamete bank or fertility clinic  
20 operating in this State shall collect from a donor the donor's identifying information and  
21 medical history at the time of the donation.

22 **2. Collection of information when gametes from another gamete bank or**  
23 **fertility clinic.** A gamete bank or fertility clinic operating in this State pursuant to  
24 federal law that receives the gametes of a donor collected by another gamete bank or  
25 fertility clinic shall collect and retain the donor's identifying information, telephone  
26 number, e-mail address and medical history from the gamete bank or fertility clinic from  
27 which it received the gametes and shall collect and retain information to identify the  
28 gamete bank or fertility clinic from which it received the gametes, including the name,  
29 address, telephone number and e-mail address of that gamete bank or fertility clinic.

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

33 **§1954. Declaration regarding identity disclosure**

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

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

1           B. Obtain a declaration pursuant to subsection 2 from the donor regarding identity  
2           disclosure.

3           **2. Declaration by donor.** A gamete bank or fertility clinic operating in this State  
4           shall obtain from a donor a signed declaration, attested under oath that either:

5           A. States that the donor agrees to disclose the donor's identity to a person conceived  
6           by assisted reproduction with the donor's gametes on request once the person has  
7           attained 18 years of age; or

8           B. States that the donor does not agree presently to disclose the donor's identity to a  
9           person conceived by assisted reproduction with the donor's gametes.

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

14          **§1955. Disclosure of identifying information and medical history**

15          **1. Identifying information upon request; notify donor.** On request of a person  
16          conceived by assisted reproduction who has attained 18 years of age, a gamete bank or  
17          fertility clinic operating in this State that collected, stored or released for use the gametes  
18          used in the assisted reproduction shall make a good faith effort to provide the person with  
19          identifying information of the donor who provided the gametes, unless the donor signed  
20          and did not withdraw a declaration under section 1954, subsection 2, paragraph B. If the  
21          donor signed and did not withdraw the declaration under section 1954, subsection 2,  
22          paragraph B, the gamete bank or fertility clinic shall make a good faith effort to notify the  
23          donor, who may elect under section 1954, subsection 3 to withdraw the donor's  
24          declaration.

25          **2. Nonidentifying medical history upon request.** Regardless of whether a donor  
26          signed a declaration under section 1954, subsection 2, paragraph B, on request by a  
27          person conceived by assisted reproduction who has attained 18 years of age or, if the  
28          person is a minor, by a parent or guardian of the minor, a gamete bank or fertility clinic  
29          operating in this State that collected the gametes used in the assisted reproduction shall  
30          make a good faith effort to provide the person or, if the person is a minor, the parent or  
31          guardian of the minor access to nonidentifying medical history of the donor.

32          **3. Identification of gamete bank or fertility clinic.** On request of a person  
33          conceived by assisted reproduction who has attained 18 years of age, a gamete bank or  
34          fertility clinic operating in this State that received the gametes used in assisted  
35          reproduction from another gamete bank or fertility clinic shall disclose the name, address,  
36          telephone number and e-mail address of the gamete bank or fertility clinic from which it  
37          received the gametes.

38          **§1956. Record keeping**

39          **1. Identifying information about donor.** A gamete bank or fertility clinic  
40          operating in this State that collects gametes for use in assisted reproduction shall collect  
41          and maintain identifying information and medical history about each gamete donor. The  
42          gamete bank or fertility clinic shall collect and maintain records of gamete screening and

1 testing and comply with reporting requirements in accordance with federal law and  
2 applicable laws of this State.

3 **2. Identifying information about gamete bank or fertility clinic.** A gamete bank  
4 or fertility clinic operating in this State that receives gametes from another gamete bank  
5 or fertility clinic shall maintain the name, address, telephone number and e-mail address  
6 of the gamete bank or fertility clinic from which it received the gametes.

7 **Sec. 20. 19-A MRSA §3016, sub-§10,** as enacted by PL 2003, c. 436, §25, is  
8 amended to read:

9 **10. Voluntary acknowledgment admissible.** A voluntary acknowledgment of  
10 ~~paternity~~ parentage, certified as a true copy, is admissible to establish parentage of the  
11 child.

12 **Sec. 21. Effective date.** This Act takes effect January 1, 2021.'

### 13 SUMMARY

14 This amendment is the majority report of the Joint Standing Committee on Judiciary.  
15 It replaces the bill, which is a concept draft.

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

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

22 The amendment adds a new subchapter 9 to the Maine Parentage Act to apply to the  
23 collection and sharing of information about donors who donate gametes used in assisted  
24 reproduction. It requires gamete banks and fertility clinics to collect information from  
25 donors and requires a donor to sign a declaration allowing the sharing of identifying  
26 information about the donor or prohibiting the sharing of identifying information about  
27 the donor. A person conceived by assisted reproduction who has attained 18 years of age  
28 or, if the person is a minor, the parent or guardian may request identifying information  
29 about the donor from the gamete bank or fertility clinic. If the donor signed a declaration  
30 prohibiting the sharing of identifying information about the donor, the gamete bank or  
31 fertility clinic may share only nonidentifying information. If the donor did not agree to  
32 the sharing of identifying information, the gamete bank or fertility clinic must make a  
33 good faith effort to contact the donor, who may then authorize the sharing of the  
34 information. Otherwise, the gamete bank or fertility clinic may share the identifying  
35 information upon request. The person or, if the person is a minor, the parent or guardian  
36 may request nonidentifying information about the donor, and the gamete bank or fertility  
37 clinic is required to make a good faith effort to provide the information.



# 129th MAINE LEGISLATURE

LD 1291

LR 1220(02)

**An Act To Update the Maine Parentage Act**

**Fiscal Note for Bill as Amended by Committee Amendment " "**

**Committee: Judiciary**

**Fiscal Note Required: No**

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## **Fiscal Note**

No fiscal impact