

MAINE STATE LEGISLATURE

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Amendment Name: Amendment CB (H-833) (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 the following persons may sign an acknowledgment of paternity with intent parentage to establish paternity parentage of a child:

1. Woman who gave birth. The woman who gave birth to the child and who is not a gestational carrier;

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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 who gave birth to the child, other than a gestational carrier, and by the ~~man~~
16 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 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 who gave birth and the ~~putative father~~ acknowledging parent must be
35 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 of parentage;
27 ~~as provided in section 1864; and 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 woman 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 minority report of the Joint Standing Committee on Judiciary.
15 It replaces the bill, which is a concept draft.

16 The only difference from the majority report is that it retains the terminology of
17 "woman" who gave birth rather than making it gender neutral.

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

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

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



129th MAINE LEGISLATURE

LD 1291

LR 1220(03)

An Act To Update the Maine Parentage Act

Fiscal Note for Bill as Amended by Committee Amendment " "

Committee: Judiciary

Fiscal Note Required: No

Fiscal Note

No fiscal impact