

# MAINE STATE LEGISLATURE

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# 130th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2021

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Legislative Document

No. 222

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H.P. 157

House of Representatives, January 27, 2021

### An Act To Update the Maine Parentage Act

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Received by the Clerk of the House on January 25, 2021. Referred to the Committee on Judiciary pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

A handwritten signature in cursive script that reads "Robert B. Hunt".

ROBERT B. HUNT  
Clerk

Presented by Representative CARDONE of Bangor.

1 **Be it enacted by the People of the State of Maine as follows:**

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

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

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

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

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

11 **SUBCHAPTER 3**

12 **VOLUNTARY ACKNOWLEDGMENT OF PATERNITY PARENTAGE**

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

15 **§1861. Acknowledgment of paternity parentage**

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

19 **1. Person who gave birth.** A person who gave birth to the child and who is not a  
20 gestational carrier;

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

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

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

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

29 **§1862. Execution of acknowledgment of paternity parentage**

30 **1. Requirements.** An acknowledgment of paternity parentage under section 1861  
31 must:

32 A. Be in a record;

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

36 C. State that:

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

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

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

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

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

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

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

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

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

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

28 **4. Presumed parent.** ~~A man who is a presumed parent under section 1881, subsection~~  
29 ~~3 may sign or otherwise authenticate an acknowledgment of paternity in accordance with~~  
30 ~~the requirements of this subchapter.~~

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

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

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

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

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

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

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

6 **§1864. Filing of an acknowledgment of paternity and related parentage or denial of**  
7 **parentage**

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

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

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

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

21 **§1865. Equivalent to adjudication**

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

26 **2. Denial.** Except as otherwise provided in section 1867 and section 1868, subsection  
27 1, a valid denial of parentage under section 1863 filed with the State Registrar of Vital  
28 Statistics in conjunction with a valid acknowledgment of paternity parentage under section  
29 1861 is equivalent to an adjudication of the nonparentage of the presumed parent or alleged  
30 genetic parent and discharges the presumed parent or alleged genetic parent from all rights  
31 and duties of a parent.

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

34 **§1866. No filing fee**

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

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

39 **§1867. Proceeding for rescission**

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

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

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

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

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

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

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

23 **§1868. Challenge to acknowledgment**

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

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

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

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

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

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

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

6           **§1869. Procedure for rescission or challenge**

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

11           **2. Submission to personal jurisdiction.** For the purpose of rescission of or challenge  
12 to an acknowledgment of paternity parentage or denial of parentage, a signatory submits to  
13 personal jurisdiction of this State by signing the acknowledgment or denial, effective upon  
14 the filing of the document with the State Registrar of Vital Statistics pursuant to section  
15 1864.

16           **3. Suspension of legal responsibilities.** Except for good cause shown, during the  
17 pendency of a proceeding under section 1867 or 1868 to rescind or challenge an  
18 acknowledgment of paternity parentage or denial of parentage, the court may not suspend  
19 the legal responsibilities of a signatory arising from the acknowledgment, including the  
20 duty to pay child support.

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

24           **5. Amendment to birth record.** At the conclusion of a proceeding under section  
25 1867 or 1868 to rescind or challenge an acknowledgment of paternity parentage or denial  
26 of parentage, the court shall order the State Registrar of Vital Statistics to amend the birth  
27 record of the child, if appropriate.

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

30           **§1870. Ratification not permitted**

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

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

35           **§1871. Forms for acknowledgment and denial of paternity parentage**

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

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

1 **§1872. Release of information**

2 The State Registrar of Vital Statistics may release information relating to an  
3 acknowledgment of paternity parentage under section 1861 as provided in Title 22, section  
4 2706.

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

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

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

12 **SUBCHAPTER 9**

13 **INFORMATION ABOUT DONOR**

14 **§1951. Definitions**

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

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

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

20 A. The full name of a donor;

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

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

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

24 A. Present illness of a donor;

25 B. Past illness of a donor; and

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

27 **§1952. Applicability**

28 This subchapter applies only to gametes collected on or after October 1, 2021.

29 **§1953. Collection of information**

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

33 **2. Collection of information when gametes from another gamete bank or fertility**  
34 **clinic.** A gamete bank or fertility clinic operating in this State pursuant to federal law that  
35 receives the gametes of a donor collected by another gamete bank or fertility clinic shall  
36 collect and retain the donor's identifying information, telephone number, e-mail address  
37 and medical history from the gamete bank or fertility clinic from which it received the  
38 gametes and shall collect and retain information to identify the gamete bank or fertility  
39 clinic from which it received the gametes, including the name, address, telephone number  
40 and e-mail address of that gamete bank or fertility clinic.



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

4           **§1954. Declaration regarding identity disclosure**

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

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

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

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

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

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

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

22           **§1955. Disclosure of identifying information and medical history**

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

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

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

44           **§1956. Record keeping**

