

MAINE STATE LEGISLATURE

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130th MAINE LEGISLATURE

SECOND REGULAR SESSION-2022

Legislative Document

No. 1958

H.P. 1458

House of Representatives, February 4, 2022

An Act To Amend the Maine Parentage Act with Regard to Presumed Parentage

Reported by Representative HARNETT of Gardiner for the Family Law Advisory Commission pursuant to the Maine Revised Statutes, Title 19-A, section 354, subsection 2.

Received by the Clerk of the House on February 2, 2022. Referred to the Committee on Judiciary pursuant to Joint Rule 308.2 and ordered printed.

A handwritten signature in cursive script that reads "R(t) B. Hunt".

ROBERT B. HUNT
Clerk

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

2 **Sec. 1. 19-A MRSA §1832, sub-§1**, as enacted by PL 2015, c. 296, Pt. A, §1 and
3 affected by Pt. D, §1, is amended to read:

4 **1. Acknowledged father parent.** "Acknowledged father parent" means a ~~man~~ person
5 who has established parentage under subchapter 3.

6 **Sec. 2. 19-A MRSA §1881, sub-§4**, as enacted by PL 2015, c. 296, Pt. A, §1 and
7 affected by Pt. D, §1, is amended to read:

8 **4. Rebuttal or challenge of presumption.** A presumption established under this
9 subchapter may be rebutted or challenged only by a court determination of parentage
10 pursuant to section 1882 or a valid denial of parentage under subchapter 3.

11 **Sec. 3. 19-A MRSA §1882**, as enacted by PL 2015, c. 296, Pt. A, §1 and affected
12 by Pt. D, §1, is amended to read:

13 **§1882. Challenge to ~~presumed parent~~ presumption of parentage**

14 **1. Two-year limitation.** Except as provided in subsection 2, a proceeding to challenge
15 the parentage of an individual whose parentage is presumed under section 1881 must be
16 commenced not later than 2 years after the birth of the child; otherwise the presumption
17 cannot be rebutted. If such a proceeding is commenced within 2 years by a presumed
18 parent, by the woman who gave birth to the child or by a 3rd party with a claim of parentage,
19 the following apply.

20 A. If the presumed parent is also identified under section 1904 as a genetic parent of
21 the child, the court shall adjudicate the presumed parent to be a parent of the child.

22 B. If the presumed parent is not identified under section 1904 as a genetic parent of
23 the child and the genetic parent is not a donor under section 1922, the court shall
24 adjudicate the parentage of the child in accordance with the factors in section 1912,
25 subsection 2, consistent with section 1901, subsection 2, section 1915, subsection 2
26 and this chapter. Challenges regarding the parentage of a child conceived through
27 assisted reproduction must be resolved under subchapter 7.

28 **2. Later than 2 years.** A proceeding to challenge the parentage of an individual whose
29 parentage is presumed under section 1881 may not be commenced, and the presumption of
30 parentage under section 1881 cannot be rebutted, more than 2 years after the birth of the
31 child except in the following situations.

32 A. A presumed parent under section 1881, subsection 1 who is not the genetic parent
33 of a child and who could not reasonably have known about the birth of the child may
34 commence a proceeding under this subsection within 2 years after learning of the
35 child's birth.

36 B. An alleged genetic parent who did not know of the potential genetic parentage of a
37 child, and who could not reasonably have known on account of material
38 misrepresentation or concealment, may commence a proceeding under this subsection
39 within 2 years after discovering the potential genetic parentage. If the individual is
40 adjudicated to be the genetic parent of the child, the court may not disestablish a
41 presumed parent and, consistent with section 1853, subsection 2, the court shall

1 determine parental rights and responsibilities of the parents in accordance with section
2 1653.

3 C. ~~A mother~~ The woman who gave birth or a presumed parent under section 1881,
4 subsection 3 disputing the validity of the presumption may commence a proceeding
5 under this subsection at any time.

6 **Sec. 4. 19-A MRSA §1901**, as enacted by PL 2015, c. 296, Pt. A, §1 and affected
7 by Pt. D, §1, is repealed and the following enacted in its place:

8 **§1901. Scope of subchapter**

9 **1. Scope.** This subchapter governs procedures and requirements of genetic testing and
10 genetic testing results of an individual to determine parentage and adjudication of parentage
11 based on genetic testing, whether the individual voluntarily submits to testing or is tested
12 pursuant to an order of the court or the department.

13 **2. Genetic testing.** Genetic testing may not be used to challenge the parentage of a
14 person who is a parent by operation of law under subchapter 7 or 8 or to establish the
15 parentage of a person who is a donor.

16 **Sec. 5. 19-A MRSA §1911, sub-§3**, as enacted by PL 2015, c. 296, Pt. A, §1 and
17 affected by Pt. D, §1, is amended to read:

18 **3. No presumed, acknowledged or adjudicated parent.** ~~The department~~ A child
19 support enforcement agency may seek an order for genetic testing only if there is no
20 presumed parent, acknowledged ~~father~~ parent, adjudicated parent or intended parent who
21 consented to assisted reproduction pursuant to this chapter. Genetic testing may not be
22 ordered if the person who is the subject of the request for order is a donor.

23 **Sec. 6. 19-A MRSA §1912**, as enacted by PL 2015, c. 296, Pt. A, §1 and affected
24 by Pt. D, §1, is amended by amending the section headnote to read:

25 **§1912. Authority to deny requested order for genetic testing or admission of test**
26 **results or to consider other factors when adjudicating parentage**

27 **Sec. 7. 19-A MRSA §1912, sub-§2**, as enacted by PL 2015, c. 296, Pt. A, §1 and
28 affected by Pt. D, §1, is amended to read:

29 **2. Factors.** In determining whether to deny a motion seeking an order for genetic
30 testing under this chapter or a request for admission of such test results at trial, or in an
31 adjudication of parentage pursuant to section 1882 or 1915, the court shall consider the best
32 interest of the child, including the following factors, if relevant:

33 A. The length of time between the proceeding to adjudicate parentage and the time
34 that a parent was placed on notice that genetic parentage is at issue;

35 B. The length of time during which the parent has assumed a parental role for the child;

36 C. The facts surrounding discovery that genetic parentage is at issue;

37 D. The nature of the relationship between the child and the parent;

38 E. The age of the child;

39 F. Any adverse effect on the child that may result if parentage is successfully
40 disproved;

- 1 G. The nature of the relationship between the child and any alleged parent;
2 H. The extent to which the passage of time reduces the chances of establishing the
3 parentage of another person and a child support obligation in favor of the child; and
4 I. Factors in addition to those in paragraphs A to H, including factors set forth in
5 section 1653, subsection 3, that may affect the equities arising from the disruption of
6 the relationship between the child and the parent or the chance of other adverse effect
7 to the child.

8 **Sec. 8. 19-A MRSA §1913, sub-§3,** as enacted by PL 2015, c. 296, Pt. A, §1 and
9 affected by Pt. D, §1, is amended to read:

10 **3. Results inadmissible; exceptions.** If a child has a presumed parent, acknowledged
11 ~~father~~ parent or adjudicated parent, the results of genetic testing are admissible to adjudicate
12 parentage only:

13 A. With the consent of each person who is a parent of the child under this chapter,
14 unless the court otherwise orders under section 1912; or

15 B. Pursuant to an order of the court under section 1911.

16 **Sec. 9. 19-A MRSA §1915,** as enacted by PL 2015, c. 296, Pt. A, §1 and affected
17 by Pt. D, §1, is amended by amending the section headnote to read:

18 **§1915. Adjudication of parentage based on genetic testing; multiple claims of**
19 **parentage**

20 **Sec. 10. 19-A MRSA §1915, sub-§1, ¶A,** as enacted by PL 2015, c. 296, Pt. A,
21 §1 and affected by Pt. D, §1, is amended by amending subparagraph (2) to read:

22 (2) If genetic testing results pursuant to section 1904 identify a person as the
23 genetic parent of a child, the court ~~shall find that person to be the genetic parent~~
24 ~~and~~ may adjudicate the person as the child's parent, unless otherwise provided by
25 this chapter.

26 **Sec. 11. 19-A MRSA §1915, sub-§1-A** is enacted to read:

27 **1-A. Adjudication of multiple claims of parentage.** In a proceeding to adjudicate
28 parentage based on a claim of, or challenge by, a genetic parent who is not a donor or
29 involving a genetic parent who is not a donor that also involves a challenge to an
30 acknowledged parent under subchapter 3 or a presumed parent under subchapter 4, the
31 court shall adjudicate parentage based on the factors set forth in section 1912, subsection
32 2.

33 **Sec. 12. 19-A MRSA §3051, sub-§2, ¶F,** as corrected by RR 2015, c. 2, §10, is
34 amended to read:

35 F. An acknowledged ~~father~~ parent of the child as provided in chapter 61, subchapter
36 3;

37 SUMMARY

38 This bill is a recommendation of the Family Law Advisory Commission.

1 This bill provides clarification and guidance for challenges to existing legal
2 presumptions of parentage in the Maine Parentage Act, including cross-references to "best
3 interest of the child" factors already found in existing statutes.