

JAN 22 2021

A BILL FOR AN ACT

RELATING TO PARENTAGE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that existing parentage
2 laws reflect outdated, cisheteronormative concepts of families,
3 parenthood, and parental rights.

4 Accordingly, the purpose of this Act is to amend the
5 Uniform Parentage Act to allow non-gestational partners of any
6 gender identity to voluntarily establish parentage at the time
7 of a child's birth.

8 SECTION 2. Section 584-3.5, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "**§584-3.5 Expedited process of ~~[paternity-]~~ parentage.**

11 (a) To expedite the establishment of ~~[paternity-]~~ parentage,
12 each public and private birthing hospital or center and the
13 department of health shall provide unwed parents of any gender
14 identity the opportunity to voluntarily acknowledge the
15 ~~[paternity]~~ parentage of a child during the period immediately
16 prior to or following the child's birth. The voluntary
17 acknowledgment of ~~[paternity]~~ parentage shall be in writing and



1 shall consist of a single form signed under oath by both the
2 ~~[natural mother and the natural father]~~ gestational parent and
3 the non-gestational parent and signed by a witness. The
4 voluntary acknowledgment of [~~paternity~~] parentage form shall
5 include the social security number of each parent. Prior to the
6 signing of the voluntary acknowledgment of [~~paternity~~] parentage
7 form, designated staff members of such facilities shall provide
8 to both the [~~mother~~] gestational parent and the [~~alleged~~
9 ~~father,~~] intended non-gestational parent, if [~~he is~~] the parents
10 are present at the facility:

- 11 (1) Written materials regarding [~~paternity~~] the
12 establishment[+] of parentage;
- 13 (2) Forms necessary to voluntarily acknowledge
14 [~~paternity,~~] parentage; and
- 15 (3) Oral, video, or audio, and written descriptions of the
16 alternatives to, the legal consequences of, and the
17 rights and responsibilities of acknowledging
18 [~~paternity,~~] parentage, including, if one parent is a
19 minor, any right afforded due to minority status.

20 The completed voluntary acknowledgment forms shall clearly
21 identify the name and position of the staff member who provides



1 information to the parents regarding [~~paternity~~] the
2 establishment[~~;~~] of parentage. The provision by designated
3 staff members of the facility of the information required by
4 this section shall not constitute the unauthorized practice of
5 law. Each facility shall send to the department of health the
6 original acknowledgment of [~~paternity~~] parentage containing the
7 social security numbers, if available, of both parents, with the
8 information required by the department of health so that the
9 birth certificate issued includes the name of the [~~legal father~~]
10 non-gestational parent of the child, which shall be promptly
11 recorded by the department of health.

12 (b) The child support enforcement agency shall:

13 (1) Provide to any person or facility the necessary:

14 (A) Materials and forms and a written description of
15 the rights and responsibilities related to
16 voluntary acknowledgment of [~~paternity;~~]
17 parentage; and

18 (B) Training, guidance, and written instructions
19 regarding voluntary acknowledgment of
20 [~~paternity;~~] parentage;



1 (2) Annually assess each facility's [~~paternity~~] parentage
2 establishment program; and

3 (3) Determine if a voluntary acknowledgment has been filed
4 with the department of health whenever it receives an
5 application for [~~paternity~~] parentage establishment
6 services.

7 (c) Notwithstanding sections 338-17.7 and 338-18(b), the
8 department of health shall disclose to the child support
9 enforcement agency, upon request, all voluntary acknowledgment
10 of [~~paternity~~] parentage forms on file with the department of
11 health.

12 (d) As used in this section:

13 "Agency" means the child support enforcement agency.

14 "Birthing center" means any [~~facility outside a hospital~~]
15 independent or hospital-affiliated facility that provides
16 maternity and perinatal health services.

17 "Birthing hospital" means any hospital with licensed
18 obstetric-care units, any hospital licensed to provide obstetric
19 services, or any licensed birthing center associated with a
20 hospital.



1 "Facility" means a birthing hospital [~~or~~ a], birthing
2 center[-], or home.

3 "Gender identity" means a person's internal sense of being
4 male, female, a gender different from the gender assigned at
5 birth, a transgender person, or neither male nor female.

6 "Gestational parent" means the partner, of any gender
7 identity, in a married or unmarried relationship who gives birth
8 to the child.

9 "Non-gestational parent" means the partner, of any gender
10 identity, in a married or unmarried relationship with the
11 gestational parent who establishes their co-parentage of the
12 child with the consent of the gestational parent; provided that
13 neither partner is legally married to another person at the time
14 of the child's birth.

15 "Parentage" means a gender-neutral understanding of
16 maternity and paternity.

17 (e) The signed voluntary acknowledgment of [~~paternity~~]
18 parentage shall constitute a legal finding of [~~paternity,~~]
19 parentage, subject to the right of any signatory to rescind the
20 acknowledgment:

21 (1) Within sixty days of signature; or



1 (2) Before the date of an administrative or judicial
2 proceeding relating to the child, including a
3 proceeding to establish a support order to which the
4 signatory is a party,
5 whichever is sooner.

6 (f) Following the sixty-day period referred to in
7 subsection (e), a signed voluntary acknowledgment of [~~paternity~~]
8 parentage may be challenged in court only on the basis of fraud,
9 duress, or material mistake of fact, with the burden of proof
10 upon the challenger. The legal responsibilities of any
11 signatory arising from the acknowledgment, including child
12 support obligations, shall not be suspended during the
13 challenge, except for good cause shown.

14 (g) The courts and office of child support hearings of
15 this State shall give full faith and credit to affidavits for
16 the voluntary acknowledgment of [~~paternity~~] parentage signed in
17 any other state and these affidavits shall constitute legal
18 findings of paternity subject to subsections (e) and (f).

19 (h) Judicial and administrative proceedings shall not be
20 required or permitted to ratify an unchallenged acknowledgment
21 of [~~paternity-~~] parentage."



1 SECTION 3. Section 584-8.5, Hawaii Revised Statutes, is
2 amended to read as follows:

3 " ~~{f}~~§584-8.5 ~~{f}— Paternity~~ Parentage determinations from
4 other states and territories. ~~{f} Paternity~~ Parentage
5 determinations from other states and territories, whether
6 established through voluntary acknowledgment or through
7 administrative or judicial processes, shall be treated the same
8 as a ~~{f} paternity~~ parentage adjudication in this State."

9 SECTION 4. Statutory material to be repealed is bracketed
10 and stricken. New statutory material is underscored.

11 SECTION 5. This Act shall take effect upon its approval.

12

INTRODUCED BY: Rosely H. Baker



S.B. NO. 618

Report Title:

Uniform Parentage Act; Expedited Process of Parentage

Description:

Amends the Uniform Parentage Act to allow non-gestational partners to voluntarily establish parentage of a child during the period immediately prior to or following the birth of the child. Requires the State to recognize parentage determinations from other states and territories.

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