

Testimony in Support of LD 222

“An Act to Update the Maine Parentage Act

Senator Carney, Representative Harnett, and distinguished members of the Joint Standing Committee on the Judiciary. I am Assistant Attorney General Debby Willis, Chief of the Child Support Division in the Office of the Attorney General. My client is the state’s child support enforcement program. I am here at the request of the Family Law Advisory Commission (“FLAC”), to which I am an advisor. I helped draft this proposed amendment.

The Maine Family Law Advisory Commission (“FLAC”) hereby reports to the Maine Legislature, Joint Standing Committee on Judiciary, on LD 222, “An Act to Update the Maine Parentage Act.” FLAC drafted text for this bill, though it did not introduce or originate this LD. For the reasons set forth below, FLAC supports this bill. FLAC sent a Report to the Committee. My testimony follows the outline of that Report.

The Maine Parentage Act (MPA) was enacted in 2015 and took effect in July of 2016. At that time FLAC was directed by the Judiciary Committee to study the Uniform Parentage Act of 2002 and suggest language for Maine. Then only minor amendments were made to Maine’s voluntary acknowledgment of paternity statute, at my request, out of concern the changes might impede compliance with federal child support regulations regarding the establishment of paternity. We now have guidance from the federal office of child support that it will not.

The Uniform Parentage Act was created by the Uniform Law Commission, a non-partisan organization established in 1892 that prepares model legislation for states to consider in order to promote uniformity, clarity, and stability in critical areas of state law across the country. In 2017 the Uniform Law Commission revised the Uniform Parentage Act. In 2019, Rep. Barbara Cardone introduced LD 1291, the precursor to LD 222, as a concept bill so that certain portions of the revised Uniform Parentage Act of 2017 could be considered for potential adoption in Maine.

In addition, one of Maine's commissioners on the Uniform Law Commission asked FLAC to review the new Uniform Parentage Act of 2017, and to study the section regarding “voluntary acknowledgment.” The administrative mechanism called voluntary acknowledgment of *paternity* is already part of Maine law, but the new version of the Uniform Parentage Act expands acknowledgment to be of *parentage*. The change ensures that more people would have access to this simple, administrative route to establishing parentage.

FLAC reviewed the 2017 UPA and drafted proposed amendments to the MPA to expand the voluntary acknowledgment of *parentage* mechanism so that it is not limited to biological fathers. Rather, the acknowledgment process should be available to more persons who already have parentage rights under the MPA law.

An "acknowledgment" is done on a voluntary basis using forms available from the Maine DHHS that can be submitted at the hospital, a town office, or DHHS to establish that the person

is a legal parent of a child. The mother who gave birth to the child must also sign the form. This form serves as an official acknowledgment that the parents are legally responsible to support the child until at least the age of 18. It is a simple, inexpensive procedure that, in certain circumstances, can be used instead of going to court and seeking a court order.

This administrative mechanism has been part of Maine law for many years. It is equivalent to adjudication by a court and is recognized in all states. At present, however, the acknowledgment form can be submitted in Maine only by a man who wishes to establish paternity and state under oath that he is the biological father.

The voluntary acknowledgment procedure already exists because it is required by federal law to facilitate collection of child support. It is a relatively straightforward procedure that should be available to more parents, including mothers and fathers, to establish that they are the legal parents of a child.

The proposed amendments to Subchapter 3 of the MPA would allow certain other parents to submit the acknowledgment form voluntarily too as a way to establish parentage, without having to go to court. The form could still be used by men to declare that they are the biological fathers, but the acknowledgment procedure would be opened up a genetic parent of a child, not just a genetic father; a presumed parent of a child (an unmarried partner or spouse of the parent who gave birth); and parents who use assisted reproduction technology to get pregnant and create a family.

It is important to note that the proposed amendments in LD 222 would not change or expand the scope of legal parentage under Maine law. That is already determined by the MPA. The proposed amendments would simply make the voluntary acknowledgment forms available to parents other than the biological father.

The 2017 version of the Uniform Parentage Act also added a new section that is not presently part of Maine law, and LD 222 would add this new section to the MPA as Subsection 9. This would assist children conceived with the aid of assisted reproduction technology to obtain information about their donors.

The proposed amendments to the MPA would require fertility clinics or gamete banks operating in Maine to collect and maintain information about donors, as well as information about fertility clinics or gamete banks when gametes used here were collected outside of Maine. The information would include a donor's name, date of birth, address, and medical history, as well as the identity of the gamete bank or fertility clinic if gametes were received from out of state. The donor could choose whether the donor's identity can be disclosed to a child conceived by assisted reproduction with the donor's gametes once the child turns 18 years of age.

The proposed new Subchapter 9 would also require that fertility clinics or gamete banks operating in Maine make a good faith effort to provide the information upon request of a child conceived by assisted reproduction once the child attains the age of 18.

These requirements would not apply to people who are providing gametes for a spouse or have a written agreement to be a parent of the resulting child with the person who gives birth to the child.

By passing these amendments regarding acknowledgments and donor information, Maine will move toward greater consistency and uniformity in family law with other states. Given how frequently families move from state to state, it is helpful to have commonalities in family law.

For the reasons set forth above, FLAC supports passage of LD 222.

Thank you. I would be happy to answer any questions you have and will be available for the work session.

Sincerely,

Debby Willis, Esq.