

Department of Legislative Services
Maryland General Assembly
2018 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 60

(Senator Smith)

Judicial Proceedings

Family Law - Same-Sex Couples - Marital Presumption and Expedited Second
Parent Adoption

This bill establishes an expedited adoption process for an individual who is married to the prospective adoptee's parent at the time of the prospective adoptee's birth. It also clarifies existing laws regarding marital presumptions and the inclusion of names on birth certificates to incorporate same-sex marriages.

Fiscal Summary

State Effect: The bill does not materially impact the workload or finances of the Judiciary.

Local Effect: The bill does not materially impact the workload or finances of the circuit courts.

Small Business Effect: None.

Analysis

Bill Summary: In a proceeding for a consensual adoption under the bill's provisions, a petitioner must file, together with the petition for adoption (1) a copy of the petitioner's marriage certificate to the prospective adoptee's parent; (2) a copy of the prospective adoptee's birth certificate; and (3) a statement explaining the circumstances of the prospective adoptee's conception in detail sufficient to identify any individual who may be entitled to notice or whose consent may be required. The court may not require specified investigations or hearings, except for good cause. However, the court may hold a hearing to determine whether there are additional individuals who may be entitled to notice or

whose consent may be required if the court is not satisfied from the pleadings that the appropriate notice or consent has been provided.

The court must enter an order for adoption on finding that (1) the petitioner was married to the prospective adoptee's parent at the time of the prospective adoptee's birth and (2) each of the prospective adoptee's living parents has consented to the adoption in writing or by failure to file timely notice or objection, as specified.

The bill also specifies that if a child's mother is married to a woman at the time of the child's birth, both women's names must be entered on the birth certificate. It also specifies that a child conceived by artificial insemination of a married woman with the consent of her spouse is the legitimate child of both spouses for all purposes, and consent of the woman's spouse is presumed.

Current Law: The Family Law Article sets forth procedures that must be followed prior to ruling on consensual adoption petitions, including ordering any investigation that the court considers necessary. The court must also hold a hearing before entering an order for adoption.

Pursuant to the Estates and Trusts Article, a child born or conceived during a marriage is presumed to be the legitimate child of both spouses. A child born at any time after the child's parents have participated in a marriage ceremony with one another is presumed to be the legitimate child of both parents. A child conceived by artificial insemination of a married woman with the consent of her husband is the legitimate child of both individuals for all purposes, and consent of the husband is presumed.

Background: The expedited adoption procedures established by the bill are modeled after a recent California law, which allows a petitioner in a second parent adoption to bypass existing investigation and hearing requirements if the adoption is consensual and the petitioner is married to the prospective adoptee's parent at the time of the prospective adoptee's birth.

The Vital Statistics Administration of the Maryland Department of Health already enters information regarding a birth mother's spouse, regardless of the spouse's gender, on birth certificates.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Caroline, Howard, Montgomery, and Prince George's counties; Judiciary (Administrative Office of the Courts); Register of Wills; Maryland Department of Health; National Center for Lesbian Rights; Department of Legislative Services

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nb/kdm

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