

SENATE BILL 697

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9lr0427
CF HB 519

By: **Senators Smith, Kagan, Carter, Guzzone, Lee, Waldstreicher, Washington, and Zucker**

Introduced and read first time: February 4, 2019

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Family Law – Parentage and Adoption**

3 FOR the purpose of providing that a child conceived by means of assisted reproduction
4 during the marriage of the child’s mother with the consent of the mother’s spouse is
5 the legitimate child of both spouses for all purposes; providing that the consent of
6 the mother’s spouse is presumed; establishing the circumstances under which a child
7 is the child of an individual who did not give birth to the child; establishing a certain
8 rebuttable presumption regarding the parentage of a child born to parents who have
9 not participated in a marriage ceremony with each other; providing that an
10 individual who is the presumed parent of a child under certain provisions of law shall
11 be considered to be the child’s parent for certain purposes, under certain
12 circumstances; establishing rules regarding the rebuttal of a certain presumption of
13 parentage; specifying the individuals and agencies that may be ordered by a court to
14 conduct a certain investigation in a certain adoption proceeding; establishing certain
15 rules and procedures specific to an independent adoption by an individual who is the
16 spouse of the prospective adoptee’s mother at the time of the prospective adoptee’s
17 birth or who, together with the prospective adoptee’s mother, consented to the
18 conception of the prospective adoptee by means of assisted reproduction in a certain
19 manner; requiring a certain petitioner to submit certain documentation in an
20 adoption proceeding under this Act; prohibiting a court from requiring a certain
21 investigation or hearing in ruling on a petition for adoption under this Act, except
22 under certain circumstances; requiring a court to enter an order for adoption under
23 this Act on making certain findings; providing that an order for adoption granted
24 under this Act is confirmation of parentage established under certain provisions of
25 law; prohibiting this Act from being construed to require a certain individual to adopt
26 a certain child; providing that certain presumptions of parentage apply in a certain
27 paternity action; requiring unmarried parents to be provided an opportunity to
28 execute a certain affidavit of parentage in a certain manner; altering rules and
29 requirements for a certain affidavit of parentage; specifying that, if a child’s mother
30 was married at the time of either the conception or birth or between conception and

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 birth, the name of the mother's spouse shall be entered on the child's birth certificate
2 as the child's other parent; providing that any information in a certain certificate
3 that relates to a parent who did not give birth to a child is prima facie evidence except
4 under certain circumstances; prohibiting this Act from being interpreted to overturn
5 or to alter in any way a certain holding by the Court of Appeals of Maryland;
6 prohibiting this Act from being interpreted to authorize or prohibit a certain
7 agreement; providing for the establishment of the parentage of a child conceived in
8 accordance with a certain agreement that is found to be unenforceable under the
9 laws of the State; defining certain terms; altering certain terms; making certain
10 conforming and stylistic changes; and generally relating to parentage and adoption.

11 BY repealing

12 Article – Estates and Trusts
13 Section 1–201
14 Annotated Code of Maryland
15 (2017 Replacement Volume and 2018 Supplement)

16 BY adding to

17 Article – Estates and Trusts
18 Section 1–201, 1–201.1, and 1–208.1
19 Annotated Code of Maryland
20 (2017 Replacement Volume and 2018 Supplement)

21 BY repealing and reenacting, with amendments,

22 Article – Estates and Trusts
23 Section 1–206 and 1–208
24 Annotated Code of Maryland
25 (2017 Replacement Volume and 2018 Supplement)

26 BY repealing and reenacting, with amendments,

27 Article – Family Law
28 Section 5–3B–01, 5–3B–16, 5–3B–17, 5–1001, 5–1005, 5–1027, and 5–1028
29 Annotated Code of Maryland
30 (2012 Replacement Volume and 2018 Supplement)

31 BY adding to

32 Article – Family Law
33 Section 5–3B–27
34 Annotated Code of Maryland
35 (2012 Replacement Volume and 2018 Supplement)

36 BY repealing and reenacting, with amendments,

37 Article – Health – General
38 Section 4–201, 4–208, 4–211(a), (c), (e), and (h), and 4–223
39 Annotated Code of Maryland
40 (2015 Replacement Volume and 2018 Supplement)

1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
2 That the Laws of Maryland read as follows:

3 **Article – Estates and Trusts**

4 [1–201.

5 In the absence of express language to the contrary, the rules of construction
6 contained in this subtitle shall be applied in construing all provisions of the estates of
7 decedents law and the terms of a will.]

8 **1–201.**

9 **(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS**
10 **INDICATED.**

11 **(B) “ASSISTED REPRODUCTION” HAS THE MEANING STATED IN § 5–1001 OF**
12 **THE FAMILY LAW ARTICLE.**

13 **(C) “FATHER” HAS THE MEANING STATED IN § 5–1001 OF THE FAMILY LAW**
14 **ARTICLE.**

15 **(D) “MOTHER” HAS THE MEANING STATED IN § 5–1001 OF THE FAMILY LAW**
16 **ARTICLE.**

17 **1–201.1.**

18 **IN THE ABSENCE OF EXPRESS LANGUAGE TO THE CONTRARY, THE RULES OF**
19 **CONSTRUCTION CONTAINED IN THIS SUBTITLE SHALL BE APPLIED IN CONSTRUING**
20 **ALL PROVISIONS OF THE ESTATES OF DECEDENTS LAW AND THE TERMS OF A WILL.**

21 1–206.

22 (a) **(1)** A child born or conceived during a marriage is presumed to be the
23 legitimate child of both spouses.

24 **(2)** Except as provided in § 1–207 of this subtitle, a child born at any time
25 after [his] **THE CHILD’S** parents have participated in a marriage ceremony with each other,
26 even if the marriage is invalid, is presumed to be the legitimate child of both parents.

27 (b) **(1)** A child conceived [by artificial insemination of a married woman] **BY**
28 **MEANS OF ASSISTED REPRODUCTION DURING THE MARRIAGE OF THE CHILD’S**
29 **MOTHER** with the consent of [her husband] **THE MOTHER’S SPOUSE** is the legitimate
30 child of both [of them] **SPOUSES** for all purposes.

1 **(2)** Consent of the [husband] **MOTHER'S SPOUSE** is presumed.

2 1-208.

3 (a) A child born to parents who have not participated in a marriage ceremony
4 with each other [shall be considered to be] **IS** the child of [his] **THE CHILD'S** mother.

5 (b) A child born to parents who have not participated in a marriage ceremony
6 with each other [shall be considered to be] **IS** the child of [his father only if the father] **AN**
7 **INDIVIDUAL WHO DID NOT GIVE BIRTH TO THE CHILD IF:**

8 (1) [Has] **THE INDIVIDUAL HAS** been judicially determined to be the
9 **CHILD'S** father in an action brought under [the statutes relating to paternity proceedings]
10 **TITLE 5, SUBTITLE 10 OF THE FAMILY LAW ARTICLE, AND THAT DETERMINATION**
11 **HAS NOT BEEN MODIFIED OR SET ASIDE; OR**

12 **(2) THE INDIVIDUAL AND THE CHILD'S MOTHER CONSENTED TO THE**
13 **CONCEPTION OF THE CHILD BY MEANS OF ASSISTED REPRODUCTION WITH THE**
14 **SHARED EXPRESS INTENT TO BE THE PARENTS OF THE CHILD.**

15 **(C) THERE IS A REBUTTABLE PRESUMPTION THAT A CHILD BORN TO**
16 **PARENTS WHO HAVE NOT PARTICIPATED IN A MARRIAGE CEREMONY WITH EACH**
17 **OTHER IS THE CHILD OF AN INDIVIDUAL WHO DID NOT GIVE BIRTH TO THE CHILD IF**
18 **THE INDIVIDUAL:**

19 **[(2)] (1)** Has acknowledged himself **OR HERSELF**, in writing, to be [the
20 father] **A PARENT OF THE CHILD;**

21 **[(3)] (2)** Has openly and notoriously recognized the child to be [his] **THE**
22 **INDIVIDUAL'S** child; or

23 **[(4)] (3)** Has subsequently married the mother and has acknowledged
24 himself **OR HERSELF**, orally or in writing, to be [the father] **A PARENT OF THE CHILD.**

25 **1-208.1.**

26 **(A) AN INDIVIDUAL WHO IS THE PRESUMED PARENT OF A CHILD UNDER**
27 **THIS SUBTITLE SHALL BE CONSIDERED TO BE THE CHILD'S PARENT FOR ALL**
28 **PURPOSES, INCLUDING INHERITANCE, CUSTODY AND VISITATION, SUPPORT**
29 **OBLIGATIONS, AND CHILD IN NEED OF ASSISTANCE PROCEEDINGS, UNLESS THE**
30 **PRESUMPTION OF PARENTAGE IS REBUTTED IN ACCORDANCE WITH THIS SECTION.**

31 **(B) (1) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, A**
32 **PRESUMPTION OF PARENTAGE UNDER THIS SUBTITLE MAY BE REBUTTED ONLY IF A**

1 COURT OF COMPETENT JURISDICTION DETERMINES IN A WRITTEN ORDER THAT IT
2 IS IN THE BEST INTEREST OF THE CHILD TO RECEIVE AND CONSIDER EVIDENCE
3 THAT COULD REBUT THE PRESUMPTION.

4 (2) A WRITTEN ORDER THAT IT IS NOT IN THE BEST INTEREST OF THE
5 CHILD TO REBUT A PRESUMPTION OF PARENTAGE:

6 (i) CONCLUSIVELY ESTABLISHES THAT THE PRESUMED
7 PARENT IS A PARENT OF THE CHILD FOR ALL PURPOSES; AND

8 (ii) MAY BE MODIFIED OR SET ASIDE ONLY ON THE BASIS OF
9 FRAUD, MISTAKE, OR IRREGULARITY.

10 (c) AN INDIVIDUAL WHO IS THE PUTATIVE FATHER OF A CHILD IN A
11 PROCEEDING UNDER TITLE 5, SUBTITLE 10 OF THE FAMILY LAW ARTICLE MAY
12 OBTAIN AND USE EVIDENCE OF BLOOD OR GENETIC TESTING IN THE PROCEEDING
13 TO THE EXTENT AUTHORIZED UNDER TITLE 5, SUBTITLE 10 OF THE FAMILY LAW
14 ARTICLE TO REBUT A PRESUMPTION OF PARENTAGE UNDER § 1-208(C)(1) OR (2) OF
15 THIS SUBTITLE, REGARDLESS OF WHETHER IT IS IN THE BEST INTEREST OF THE
16 CHILD.

17 (d) SUBJECT TO SUBSECTIONS (b) AND (c) OF THIS SECTION, A
18 PRESUMPTION OF PARENTAGE UNDER THIS SUBTITLE MAY BE REBUTTED BY:

19 (1) EVIDENCE OF BLOOD OR GENETIC TESTING;

20 (2) TESTIMONY OF THE MOTHER, THE PRESUMED PARENT, OR
21 ANOTHER INDIVIDUAL, THAT THE PRESUMED PARENT DID NOT HAVE ACCESS TO THE
22 MOTHER AT THE TIME OF CONCEPTION; OR

23 (3) ANY OTHER COMPETENT EVIDENCE THAT THE PRESUMED
24 PARENT IS NOT THE FATHER OF THE CHILD.

25 Article – Family Law

26 5-3B-01.

27 (a) In this subtitle the following words have the meanings indicated.

28 (b) “ASSISTED REPRODUCTION” HAS THE MEANING STATED IN § 5-1001 OF
29 THIS TITLE.

30 (c) “Identifying information” means information that reveals the identity or
31 location of an individual.

1 (D) “MOTHER” HAS THE MEANING STATED IN § 5–1001 OF THIS TITLE.

2 [(c)] (E) (1) “Parent” means an individual who, at any time before a court
3 enters an order for adoption under this subtitle:

4 (i) meets a criterion in § 5–3B–05(a) of this subtitle; [or]

5 (ii) is the mother; OR

6 (III) IS A PARENT OR IS PRESUMED TO BE A PARENT UNDER
7 TITLE 1, SUBTITLE 2 OF THE ESTATES AND TRUSTS ARTICLE.

8 (2) “Parent” does not include an individual whom a court has adjudicated
9 not to be a father or mother.

10 [(d)] (F) “Prospective adoptee” means an individual who is the subject of a
11 petition for adoption under this subtitle.

12 5–3B–16.

13 (a) [Before] EXCEPT AS PROVIDED IN § 5–3B–27 OF THIS SUBTITLE, BEFORE
14 ruling on a consensual adoption petition under § 5–3B–20(1) of this subtitle, a court may
15 order A COURT INVESTIGATOR, CHILD PLACEMENT AGENCY, OR LOCAL DEPARTMENT
16 TO CONDUCT any investigation that the court considers necessary.

17 (b) Before ruling on a nonconsensual adoption petition under §§ 5–3B–20(2) and
18 5–3B–22 of this subtitle, a court shall order an appropriate [agency] CHILD PLACEMENT
19 AGENCY OR LOCAL DEPARTMENT to investigate and submit a report that includes
20 summaries of:

21 (1) the prospective adoptee’s emotional ties with and feelings toward the
22 prospective adoptee’s parents, the prospective adoptee’s siblings, and others who may affect
23 the prospective adoptee’s best interests significantly; and

24 (2) the prospective adoptee’s adjustment to:

25 (i) community;

26 (ii) home; and

27 (iii) school.

28 5–3B–17.

29 [A] EXCEPT AS PROVIDED IN § 5–3B–27 OF THIS SUBTITLE, A court shall hold a

1 hearing before entering an order for adoption under this subtitle.

2 **5-3B-27.**

3 (A) (1) THIS SECTION APPLIES ONLY TO AN ADOPTION BY:

4 (I) AN INDIVIDUAL WHO IS THE SPOUSE OF THE PROSPECTIVE
5 ADOPTEE'S MOTHER AT THE TIME OF THE PROSPECTIVE ADOPTEE'S CONCEPTION
6 OR BIRTH; OR

7 (II) AN INDIVIDUAL WHO, TOGETHER WITH THE PROSPECTIVE
8 ADOPTEE'S MOTHER, CONSENTED TO THE CONCEPTION OF THE PROSPECTIVE
9 ADOPTEE BY MEANS OF ASSISTED REPRODUCTION WITH THE SHARED EXPRESS
10 INTENT OF BEING PARENTS OF THE PROSPECTIVE ADOPTEE.

11 (2) THIS SECTION DOES NOT APPLY TO A NONCONSENSUAL ADOPTION
12 UNDER § 5-3B-22 OF THIS SUBTITLE.

13 (B) IN A PROCEEDING UNDER THIS SECTION, THE PETITIONER SHALL FILE,
14 TOGETHER WITH THE PETITION FOR ADOPTION:

15 (1) (I) FOR AN ADOPTION DESCRIBED IN SUBSECTION (A)(1)(I) OF
16 THIS SECTION, A COPY OF THE PETITIONER'S AND PROSPECTIVE ADOPTEE'S
17 MOTHER'S MARRIAGE CERTIFICATE; OR

18 (II) FOR AN ADOPTION DESCRIBED IN SUBSECTION (A)(1)(II) OF
19 THIS SECTION, EVIDENCE OF THE PARTIES' SHARED EXPRESS INTENT TO BECOME
20 PARENTS OF THE CHILD BY MEANS OF ASSISTED REPRODUCTION, INCLUDING A
21 COPY OF ANY WRITTEN AGREEMENT CONSENTING TO THE CONCEPTION OF THE
22 PROSPECTIVE ADOPTEE BY MEANS OF ASSISTED REPRODUCTION;

23 (2) A COPY OF THE PROSPECTIVE ADOPTEE'S BIRTH CERTIFICATE;
24 AND

25 (3) A STATEMENT EXPLAINING THE CIRCUMSTANCES OF THE
26 PROSPECTIVE ADOPTEE'S CONCEPTION IN DETAIL SUFFICIENT TO IDENTIFY ANY
27 INDIVIDUAL WHO MAY BE ENTITLED TO NOTICE OR WHOSE CONSENT MAY BE
28 REQUIRED UNDER THIS SUBTITLE.

29 (C) (1) IN RULING ON A PETITION FOR ADOPTION UNDER THIS SECTION,
30 THE COURT MAY NOT REQUIRE AN INVESTIGATION UNDER § 5-3B-16 OF THIS
31 SUBTITLE OR A HEARING UNDER § 5-3B-17 OF THIS SUBTITLE, EXCEPT FOR GOOD
32 CAUSE.

1 **(2) THE COURT MAY HOLD A HEARING TO DETERMINE WHETHER**
2 **THERE ARE ADDITIONAL INDIVIDUALS WHO MAY BE ENTITLED TO NOTICE OR WHOSE**
3 **CONSENT MAY BE REQUIRED UNDER THIS SUBTITLE IF THE COURT IS NOT SATISFIED**
4 **FROM THE PLEADINGS THAT THE APPROPRIATE NOTICE OR CONSENT HAS BEEN**
5 **PROVIDED.**

6 **(D) THE COURT SHALL ENTER AN ORDER FOR ADOPTION UNDER THIS**
7 **SECTION ON FINDING THAT:**

8 **(1) (I) THE PETITIONER WAS MARRIED TO THE PROSPECTIVE**
9 **ADOPTEE’S MOTHER AT THE TIME OF THE PROSPECTIVE ADOPTEE’S BIRTH; OR**

10 **(II) THE PETITIONER AND THE PROSPECTIVE ADOPTEE’S**
11 **MOTHER CONSENT TO THE CONCEPTION OF THE CHILD BY MEANS OF ASSISTED**
12 **REPRODUCTION WITH THE SHARED EXPRESS INTENT TO BE PARENTS OF THE CHILD;**
13 **AND**

14 **(2) EACH OF THE PROSPECTIVE ADOPTEE’S LIVING PARENTS, AS**
15 **DEFINED IN § 5–3B–01 OF THIS SUBTITLE, HAS CONSENTED TO THE ADOPTION:**

16 **(I) IN WRITING; OR**

17 **(II) BY FAILURE TO FILE TIMELY NOTICE OF OBJECTION AFTER**
18 **BEING SERVED WITH A SHOW–CAUSE ORDER IN ACCORDANCE WITH THIS SUBTITLE.**

19 **(E) (1) AN ORDER FOR ADOPTION GRANTED UNDER THIS SECTION IS**
20 **CONFIRMATION OF PARENTAGE ESTABLISHED UNDER § 1–206(B) OR § 1–208(B)(2)**
21 **OF THE ESTATES AND TRUSTS ARTICLE.**

22 **(2) THIS SECTION MAY NOT BE CONSTRUED TO REQUIRE AN**
23 **INDIVIDUAL WHO IS A PARENT OF A CHILD UNDER § 1–206(B) OR § 1–208(B)(2) OF**
24 **THE ESTATES AND TRUST ARTICLE TO ADOPT THE CHILD.**

25 5–1001.

26 (a) In this subtitle the following words have the meanings indicated.

27 (b) “Administration” means the Child Support Administration of the Department.

28 **(C) “ALLEGED FATHER” MEANS AN INDIVIDUAL WHO IS ALLEGED, BY**
29 **HIMSELF OR BY ANOTHER PARTY, TO BE THE FATHER OF A CHILD IN A PROCEEDING**
30 **UNDER THIS SUBTITLE.**

1 **(D) (1) “ASSISTED REPRODUCTION” MEANS A METHOD OF CAUSING**
2 **PREGNANCY OTHER THAN SEXUAL INTERCOURSE.**

3 **(2) “ASSISTED REPRODUCTION” INCLUDES:**

4 **(I) INTRAUTERINE OR INTRACERVICAL INSEMINATION;**

5 **(II) DONATION OF GAMETES;**

6 **(III) DONATION OF EMBRYOS;**

7 **(IV) IN-VITRO FERTILIZATION AND TRANSFER OF EMBRYOS;**

8 **AND**

9 **(V) INTRACYTOPLASMIC SPERM INJECTION.**

10 **[(c)] (E) “Complaint” means a bill or petition in equity filed in a paternity**
11 **proceeding.**

12 **(F) (1) “FATHER” MEANS AN INDIVIDUAL, REGARDLESS OF GENDER,**
13 **WHOSE SPERM FERTILIZES AN OVUM, RESULTING IN THE BIRTH OF A CHILD.**

14 **(2) “FATHER” DOES NOT INCLUDE A GAMETE DONOR, UNLESS:**

15 **(I) THE GAMETE DONOR AND THE CHILD’S MOTHER AGREE IN**
16 **WRITING THAT THE GAMETE DONOR WILL BE A PARENT OF THE CHILD; OR**

17 **(II) AT THE TIME OF THE CHILD’S CONCEPTION, THE GAMETE**
18 **DONOR IS MARRIED TO THE CHILD’S MOTHER.**

19 **(G) (1) “GAMETE DONOR” MEANS AN INDIVIDUAL WHO PROVIDES, WITH**
20 **OR WITHOUT CONSIDERATION, SPERM OR AN OVUM INTENDED FOR USE IN ASSISTED**
21 **REPRODUCTION.**

22 **(2) “GAMETE DONOR” DOES NOT INCLUDE THE MOTHER OF A CHILD**
23 **CONCEIVED BY MEANS OF ASSISTED REPRODUCTION USING THE MOTHER’S OVUM.**

24 **(H) “MOTHER” MEANS AN INDIVIDUAL, REGARDLESS OF GENDER, WHO**
25 **GIVES BIRTH TO A CHILD.**

26 **(I) “PUTATIVE FATHER” MEANS:**

27 **(1) AN ALLEGED FATHER OF A CHILD WHO HAS NO PARENT OR**
28 **PRESUMED PARENT UNDER TITLE 1, SUBTITLE 2 OF THE ESTATES AND TRUSTS**

1 **ARTICLE, OTHER THAN THE CHILD'S MOTHER; OR**

2 **(2) AN ALLEGED FATHER WHO IS PRESUMED TO BE THE PARENT OF A**
3 **CHILD UNDER § 1-208(C)(1) OR (2) OF THE ESTATES AND TRUSTS ARTICLE.**

4 5-1005.

5 (a) An equity court may determine the legitimacy of a child pursuant to [§ 1-208]
6 **TITLE 1, SUBTITLE 2** of the Estates and Trusts Article.

7 (b) This section does not limit paternity proceedings under this subtitle except
8 after the legitimation of a child under this section.

9 5-1027.

10 (a) At the trial, the burden is on the complainant to establish by a preponderance
11 of the evidence that the alleged father is the father of the child.

12 (b) Both the mother and the alleged father are competent to testify at the trial.

13 [(c) (1) There is a rebuttable presumption that the child is the legitimate child
14 of the man to whom its mother was married at the time of conception.

15 (2) The presumption set forth in this subsection may be rebutted by the
16 testimony of a person other than the mother or her husband.

17 (3) If the court determines that the presumption set forth in this subsection
18 has been rebutted by testimony of a person other than the mother or her husband, it is not
19 necessary to establish nonaccess of the husband to rebut the presumption set forth in this
20 subsection.

21 (4) If the court determines that the presumption set forth in this subsection
22 has been rebutted by testimony of a person other than the mother or her husband, both the
23 mother and her husband are competent to testify as to the nonaccess of the husband at the
24 time of conception.]

25 **(C) THE PROVISIONS OF TITLE 1, SUBTITLE 2 OF THE ESTATES AND TRUSTS**
26 **ARTICLE REGARDING PRESUMPTIONS OF PARENTAGE APPLY IN AN ACTION UNDER**
27 **THIS SUBTITLE.**

28 (d) The alleged father may not be compelled to give evidence at the trial.

29 5-1028.

30 (a) [An unmarried father and mother] **UNMARRIED PARENTS** shall be provided
31 an opportunity to execute an affidavit of parentage in the manner provided under § 4-208

1 of the Health – General Article.

2 (b) The affidavit shall be completed on a standardized form developed by the
3 Department.

4 (c) (1) The completed affidavit of parentage form shall contain:

5 (i) in ten point boldface type a statement that the affidavit is a legal
6 document and constitutes a legal finding of **[paternity] PARENTAGE;**

7 (ii) the full name and the place and date of birth of the child;

8 (iii) the full name of the attesting **[father of] PARENT WHO DID NOT**
9 **GIVE BIRTH TO** the child;

10 (iv) the full name of the attesting mother of the child;

11 (v) the signatures of the **[father and the mother] PARENTS** of the
12 child attesting, under penalty of perjury, that the information provided on the affidavit is
13 true and correct;

14 (vi) a statement by the mother consenting to the assertion of
15 **[paternity] PARENTAGE** and acknowledging that **[her]:**

16 **1. THE MOTHER’S** cosignatory is the only possible father **OF**
17 **THE CHILD; OR**

18 **2. THE MOTHER AND THE MOTHER’S COSIGNATORY**
19 **CONSENTED TO THE CONCEPTION OF THE CHILD BY MEANS OF ASSISTED**
20 **REPRODUCTION WITH THE SHARED INTENT TO BE THE PARENTS OF THE CHILD;**

21 (vii) a statement by the **[father] INDIVIDUAL WHO DID NOT GIVE**
22 **BIRTH TO THE CHILD** that **[he]:**

23 **1. THE INDIVIDUAL** is the **[natural] father** of the child; **OR**

24 **2. THE INDIVIDUAL AND THE CHILD’S MOTHER**
25 **CONSENTED TO THE CONCEPTION OF THE CHILD BY MEANS OF ASSISTED**
26 **REPRODUCTION WITH THE SHARED INTENT TO BE THE PARENTS OF THE CHILD; and**

27 (viii) the Social Security numbers provided by each of the parents.

28 (2) Before completing an affidavit of parentage form, the unmarried
29 **[mother and the father] PARENTS** shall be advised orally and in writing of the legal
30 consequences of executing the affidavit and of the benefit of seeking legal counsel.

1 (d) (1) An executed affidavit of parentage constitutes a legal finding of
2 [paternity] **PARENTAGE**, subject to the right of any signatory to rescind the affidavit:

3 (i) in writing within 60 days after execution of the affidavit; or

4 (ii) in a judicial proceeding relating to the child:

5 1. in which the signatory is a party; and

6 2. that occurs before the expiration of the 60-day period.

7 (2) (i) After the expiration of the 60-day period, an executed affidavit
8 of parentage may be challenged in court only on the basis of fraud, duress, or material
9 mistake of fact.

10 (ii) The burden of proof shall be on the challenger to show fraud,
11 duress, or material mistake of fact.

12 (iii) The legal responsibilities of any signatory arising from the
13 affidavit, including child support obligations, may not be suspended during the challenge,
14 except for good cause shown.

15 (e) The Administration shall prepare written information to be furnished to
16 unmarried mothers under § 4-208 of the Health – General Article concerning the benefits
17 of having the [paternity] **PARENTAGE** of their children established, including the
18 availability of child support enforcement services.

19 (f) The Department shall make the standardized affidavit forms available to all
20 hospitals in the State.

21 (g) The Secretary, in consultation with the Maryland Department of Health and
22 the Maryland Hospital Association, shall adopt regulations governing the provisions of this
23 section and § 4-208 of the Health – General Article.

24 **Article – Health – General**

25 4-201.

26 (a) In this subtitle the following words have the meanings indicated.

27 (b) “Attending clinician” means the physician, nurse midwife, or direct-entry
28 midwife in charge of a birth outside an institution.

29 (c) “Attending physician” means the physician in charge of the patient’s care for
30 the illness or condition which resulted in death.

1 (d) “County registrar” means the registrar of vital records for a county.

2 (e) (1) “Dead body” means:

3 (i) A dead human body; or

4 (ii) Parts or bones of a human body if, from their condition, an
5 individual reasonably may conclude that death has occurred.

6 (2) “Dead body” does not include an amputated part.

7 (f) “Direct–entry midwife” means an individual licensed to practice direct–entry
8 midwifery under Title 8, Subtitle 6C of the Health Occupations Article.

9 (g) **“FATHER” HAS THE MEANING STATED IN § 5–1001 OF THE FAMILY LAW**
10 **ARTICLE.**

11 (H) “Fetal death” means death of a product of human conception, before its
12 complete expulsion or extraction from the mother, regardless of the duration of the
13 pregnancy, as indicated by the fact that, after the expulsion or extraction, the fetus does
14 not breathe or show any other evidence of life, such as heart beat, pulsation of the umbilical
15 cord, or definite movement of voluntary muscle.

16 [(h)] (I) “File” means to present for registration any certificate, report, or other
17 record including records transmitted by approved electronic media, including facsimile, of
18 birth, death, fetal death, adoption, marriage, or divorce for which this subtitle provides and
19 to have the Secretary accept the record.

20 [(i)] (J) “Filing date” means the date a vital record is accepted for registration
21 by the Secretary.

22 [(j)] (K) “Final disposition” means the burial, cremation, or other final
23 disposition of a body or fetus.

24 [(k)] (L) “Institution” means any public or private establishment:

25 (1) To which individuals are committed by law; or

26 (2) That provides to 2 or more unrelated individuals:

27 (i) Any inpatient or outpatient medical, surgical, or diagnostic care
28 or treatment; or

29 (ii) Any nursing, custodial, or domiciliary care.

30 [(l)] (M) “Licensed health care practitioner” means:

- 1 (1) An individual who is:
- 2 (i) A physician licensed under Title 14 of the Health Occupations
3 Article;
- 4 (ii) A psychologist licensed under Title 18 of the Health Occupations
5 Article;
- 6 (iii) A registered nurse licensed and certified to practice as a nurse
7 practitioner, nurse psychotherapist, or clinical nurse specialist under Title 8 of the Health
8 Occupations Article;
- 9 (iv) A licensed certified social worker—clinical licensed under Title 19
10 of the Health Occupations Article; or
- 11 (2) An individual who:
- 12 (i) Is licensed to practice a profession listed in item (1) of this
13 subsection in another state; and
- 14 (ii) Meets the requirements under the Health Occupations Article to
15 qualify for a license to practice the profession in this State.
- 16 **[(m)] (N)** “Live birth” means the complete expulsion or extraction of a product of
17 human conception from the mother, regardless of the period of gestation, if, after the
18 expulsion or extraction, it breathes or shows any other evidence of life, such as heart beat,
19 pulsation of the umbilical cord, or definite movement of voluntary muscle, whether or not
20 the umbilical cord is cut or the placenta is attached.
- 21 **(O)** **“MOTHER” HAS THE MEANING STATED IN § 5–1001 OF THE FAMILY LAW**
22 **ARTICLE.**
- 23 **[(n)] (P)** “Mortician” means a funeral director, mortician, or other person who is
24 authorized to make final disposition of a body.
- 25 **[(o)] (Q)** “Nurse midwife” means an individual certified to practice as a nurse
26 midwife under Title 8 of the Health Occupations Article.
- 27 **[(p)] (R)** “Physician” means a person authorized or licensed to practice medicine
28 or osteopathy pursuant to the laws of this State.
- 29 **[(q)] (S)** “Physician assistant” means an individual who is licensed under Title
30 15 of the Health Occupations Article to practice medicine with physician supervision.
- 31 **[(r)] (T)** “Registration” means acceptance by the Secretary and incorporation in

1 the records of the Department of any certificate, report, or other record of birth, death, fetal
2 death, adoption, marriage, divorce, or dissolution or annulment of marriage for which this
3 subtitle provides.

4 **[(s)] (U)** “Vital record” means a certificate or report of birth, death, fetal death,
5 marriage, divorce, dissolution or annulment of marriage, adoption, or adjudication of
6 paternity that is required by law to be filed with the Secretary.

7 **[(t)] (V)** “Vital statistics” means the data derived from certificates and reports
8 of birth, death, fetal death, marriage, divorce, dissolution or annulment of marriage, and
9 reports related to any of these certificates and reports.

10 4–208.

11 (a) (1) Within 5 calendar days after a birth occurs in an institution, or en route
12 to the institution, or outside an institution with an attending clinician, the administrative
13 head of the institution or a designee of the administrative head, or the attending clinician
14 or a designee of the attending clinician, shall:

15 (i) Prepare, on the form that the Secretary provides, a certificate of
16 birth;

17 (ii) Secure each signature that is required on the certificate; and

18 (iii) File the certificate.

19 (2) The attending physician, physician assistant, nurse practitioner, nurse
20 midwife, or attending clinician shall provide the date of birth and medical information that
21 are required on the certificate within 5 calendar days after the birth.

22 (3) The results of the universal hearing screening of newborns shall be
23 incorporated into the supplemental information required by the Department to be
24 submitted as a part of the birth event.

25 (4) **[On the birth of a child to an unmarried woman] WHEN AN**
26 **INDIVIDUAL WHO IS NOT MARRIED GIVES BIRTH TO A CHILD** in an institution or outside
27 an institution with an attending clinician, the administrative head of the institution or the
28 designee of the administrative head, or the attending clinician or the designee of the
29 attending clinician, shall:

30 (i) Provide an opportunity for the child’s **[mother and the father]**
31 **PARENTS** to complete a standardized affidavit of parentage recognizing parentage of the
32 child on the standardized form provided by the Department of Human Services under §
33 5–1028 of the Family Law Article;

34 (ii) Furnish to the mother written information prepared by the Child

1 Support Administration concerning the benefits of having the [paternity] PARENTAGE of
2 [her] THE child established, including the availability of child support enforcement
3 services; and

4 (iii) Forward the completed affidavit to the Maryland Department of
5 Health, Division of Vital Records. The Maryland Department of Health, Division of Vital
6 Records shall make the affidavits available to the parents, guardian of the child, or a child
7 support enforcement agency upon request.

8 (5) An institution, the administrative head of the institution, the designee
9 of the administrative head of an institution, an employee of an institution, the attending
10 clinician, and the designee of the attending clinician may not be held liable in any cause of
11 action arising out of the establishment of [paternity] PARENTAGE.

12 (6) If the child's mother was not married at the time of either conception or
13 birth or between conception and birth, the name of the [father] CHILD'S OTHER PARENT
14 may not be entered on the certificate without an affidavit of [paternity] PARENTAGE as
15 authorized by § 5-1028 of the Family Law Article signed by the mother and the person to
16 be named on the certificate as the [father] OTHER PARENT.

17 (7) **IF THE CHILD'S MOTHER WAS MARRIED AT THE TIME OF EITHER**
18 **THE CONCEPTION OR BIRTH OR BETWEEN CONCEPTION AND BIRTH, THE NAME OF**
19 **THE MOTHER'S SPOUSE SHALL BE ENTERED ON THE CERTIFICATE AS THE CHILD'S**
20 **OTHER PARENT.**

21 (8) In any case in which [paternity] PARENTAGE of a child is determined
22 by a court of competent jurisdiction, the name of the [father] PARENT WHO DID NOT GIVE
23 BIRTH TO THE CHILD and surname of the child shall be entered on the certificate of birth
24 in accordance with the finding and order of the court.

25 ~~(8)~~ (9) If the [father] PARENT WHO DID NOT GIVE BIRTH TO THE
26 CHILD is not named on the certificate of birth, no other information about [the father]
27 THAT PARENT shall be entered on the certificate.

28 (b) Within 5 calendar days after a birth occurs outside an institution without an
29 attending clinician, the birth shall be verified by the Secretary and a certificate of birth
30 shall be prepared, on the form that the Secretary provides, and filed by one of the following,
31 in the indicated order of priority:

32 (1) The attending individual.

33 (2) In the absence of an attending individual, [the father or mother]
34 EITHER PARENT OF THE CHILD.

35 (3) In the absence [of the father and the] OR inability of [the mother]

1 **EITHER PARENT**, the individual in charge of the premises where the birth occurred.

2 (c) (1) When a birth occurs on a common carrier within the United States and
3 the child is first removed from the carrier in this State, the birth shall be registered in this
4 State, and the place where the child is first removed shall be considered the place of birth.

5 [(d)] (2) When a birth occurs on a common carrier while in international waters,
6 air space, or in a foreign country and the child is first removed from the carrier in this
7 State, the birth shall be registered in this State but the certificate shall show the actual
8 place of birth insofar as can be determined.

9 [(e)] (3) The certificate shall be filed within 5 calendar days after the child is
10 removed from the carrier.

11 [(f)] (D) (1) Each parent shall provide his or her own Social Security number
12 on the form provided by the Secretary under this section.

13 (2) (i) If the [father] **PARENT WHO DID NOT GIVE BIRTH TO THE**
14 **CHILD** is not available to provide [his] **THE PARENT'S** Social Security number on the form
15 provided under paragraph (1) of this subsection, the [father] **PARENT** shall provide [his]
16 **THE PARENT'S** Social Security number on a form provided by the Secretary for this
17 purpose.

18 (ii) The form provided under this paragraph shall:

19 1. State that the form is for the purpose of providing the
20 Social Security numbers of parents, to be included on the portion of the form that remains
21 in the official birth record;

22 2. Contain a specific reference to this subtitle; and

23 3. State that the [father's] **PARENT'S** Social Security
24 number shall be provided under penalty of perjury.

25 (3) The Social Security number as provided by each parent shall be
26 recorded on the portion of the form provided by the Secretary which remains in the official
27 birth record.

28 (4) The Social Security numbers of the parents may not appear on the
29 portion of the birth certificate issued as proof of birth.

30 (5) (i) The Secretary shall permit disclosure of the Social Security
31 numbers of the parents only to the Child Support Administration of the Department of
32 Human Services.

33 (ii) The Child Support Administration may use the Social Security

1 numbers of the parents to:

- 2 1. Locate a parent;
- 3 2. Establish [paternity] PARENTAGE; and
- 4 3. Establish and enforce a child support order under Title 10,
5 Subtitle 1 of the Family Law Article.

6 [(g)] (E) If, under subsection [(f)(1)] (D)(1) of this section, the [father's] Social
7 Security number **OF THE PARENT WHO DID NOT GIVE BIRTH TO THE CHILD** is not
8 entered on the form provided by the Secretary:

9 (1) Upon adjudication of [paternity] PARENTAGE, the court shall order the
10 [father] PARENT to provide [his] THE PARENT'S Social Security number to the clerk of
11 court; and

12 (2) The clerk of court shall send the [father's] PARENT'S Social Security
13 number to the Secretary, as provided under § 4-211(f) of this subtitle.

14 4-211.

15 (a) Except as provided in subsection (d) of this section, the Secretary shall make
16 a new certificate of birth for an individual if the Department receives satisfactory proof
17 that:

18 (1) The individual was born in this State; and

19 (2) Regardless of the location, one of the following has occurred:

20 (i) The previously unwed parents of the individual have married
21 each other after the birth of the individual;

22 (ii) A court of competent jurisdiction has entered an order as to the
23 parentage, legitimation, or adoption of the individual; or

24 (iii) If a [father] PARENT WHO DID NOT GIVE BIRTH TO THE
25 INDIVIDUAL is not named on an earlier certificate of birth:

26 1. The [father of] PARENT WHO DID NOT GIVE BIRTH TO
27 the individual has acknowledged himself **OR HERSELF** by affidavit to be [the father] A
28 PARENT OF THE INDIVIDUAL; and

29 2. The mother of the individual has consented by affidavit to
30 the acknowledgment.

1 (c) Except as provided in subsection (d) of this section, the Secretary may make a
2 new certificate of birth for an individual who was born outside the United States if one of
3 the following occurred in this State:

4 (1) The previously unwed parents of the individual have married each
5 other after the birth of the individual;

6 (2) A court of competent jurisdiction in this State has entered an order as
7 to parentage or legitimation; or

8 (3) The [father of] **PARENT WHO DID NOT GIVE BIRTH TO** the individual
9 acknowledged himself **OR HERSELF** by affidavit to be [the father] **A PARENT OF THE**
10 **INDIVIDUAL** and the mother of the individual has consented by affidavit to the
11 acknowledgment.

12 (e) A new certificate of birth shall be prepared on the following basis:

13 (1) The individual shall be treated as having at birth the status that later
14 is acquired or established and of which proof is submitted.

15 (2) **(I)** If the parents of the individual were not married and [paternity]
16 **PARENTAGE** is established by legal proceedings, the name of the [father] **PARENT WHO**
17 **DID NOT GIVE BIRTH TO THE INDIVIDUAL** shall be inserted.

18 **(II)** The legal proceeding should request and report to the Secretary
19 that the surname of the subject of the record be changed from that shown on the original
20 certificate, if a change is desired.

21 (3) If the individual is adopted, the name of the individual shall be that set
22 by the decree of adoption, and the adoptive parents shall be recorded as the parents of the
23 individual.

24 (4) The new certificate of birth shall contain wording that requires each
25 parent shown on the new certificate to indicate his or her own Social Security number.

26 (h) Each clerk of court shall send to the Secretary, on the form that the Secretary
27 provides, a report of:

28 (1) Each decree of adoption;

29 (2) Each adjudication of [paternity] **PARENTAGE**, including the [father's]
30 **PARENT'S** Social Security number; and

31 (3) Each revocation or amendment of any decree of adoption or
32 adjudication of paternity that the court enters.

1 4-223.

2 (a) Except as otherwise provided in this section, if a certificate of birth, death, or
3 fetal death is filed within 1 year after the event, the original or a certified copy of the
4 certificate is prima facie evidence of the facts stated in it.

5 (b) (1) **[Any] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**
6 **SUBSECTION, ANY** information in the certificate that relates to **[the father of] A PARENT**
7 **WHO DID NOT GIVE BIRTH TO** a child is prima facie evidence **[only if the alleged father is**
8 **the husband of the mother]**.

9 (2) If the **[alleged father is not the husband of the mother and paternity is**
10 **contested] PARENTAGE OF THE CHILD IS CONTESTED, AND THE PARENT WHO DID NOT**
11 **GIVE BIRTH TO THE CHILD IS A PUTATIVE FATHER AS DEFINED IN § 5-1001 OF THE**
12 **FAMILY LAW ARTICLE**, the information that relates to the **[father of a child] PUTATIVE**
13 **FATHER** is not evidence in any proceeding adverse to the interests of the **[alleged]**
14 **PUTATIVE** father or **[his] THE PUTATIVE FATHER'S** heirs, next of kin, devisees, legatees,
15 or other successors in interest.

16 (c) If a certificate or record is filed more than 1 year after the event or is amended,
17 the court or official before whom the certificate or record is offered as evidence shall
18 determine its evidentiary value.

19 SECTION 2. AND BE IF FURTHER ENACTED, That this Act may not be
20 interpreted to overturn or to alter in any way the decision by the Court of Appeals of
21 Maryland in In re: Roberto d.B., 399 Md. 267 (2007).

22 SECTION 3. AND BE IT FURTHER ENACTED, That:

23 (a) This Act may not be interpreted to authorize or prohibit an agreement
24 between two or more parties wherein the parties agree that:

25 (1) one party will become pregnant by means of assisted reproduction;

26 (2) the other party or parties are intended to be the parents of the child
27 conceived by means of assisted reproduction; and

28 (3) the party who gives birth to the child will not be a parent of the child.

29 (b) If an agreement described in subsection (a) of this section is found to be
30 unenforceable under the laws of this State, the parentage of any child conceived in
31 accordance with the agreement shall be established as provided in Title 1, Subtitle 2 of the
32 Estates and Trusts Article.

33 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
34 October 1, 2019.