

SENATE BILL 697

D4

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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

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 15, 2019

CHAPTER _____

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; providing that a child conceived by means of
7 assisted reproduction after the death of the mother’s spouse and using the genetic
8 material of the mother’s spouse is the legitimate child of both spouses under certain
9 circumstances; establishing the circumstances under which a child is the child of an
10 individual who did not give birth to the child; establishing a certain rebuttable
11 presumption regarding the parentage of a child born to parents who have not
12 participated in a marriage ceremony with each other; providing that an individual
13 who is the presumed parent of a child under certain provisions of law shall be
14 considered to be the child’s parent for certain purposes, under certain circumstances;
15 establishing rules regarding the rebuttal of a certain presumption of parentage;
16 specifying that the property of an illegitimate person passes in accordance with
17 certain rules except under certain circumstances; specifying the individuals and
18 agencies that may be ordered by a court to conduct a certain investigation in a certain
19 adoption proceeding; establishing certain rules and procedures specific to an
20 independent adoption by an individual who is the spouse of the prospective adoptee’s
21 mother at the time of the prospective adoptee’s birth or who, together with the
22 prospective adoptee’s mother, consented to the conception of the prospective adoptee
23 by means of assisted reproduction in a certain manner; requiring a certain petitioner
24 to submit certain documentation in an adoption proceeding under this Act;

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 prohibiting a court from requiring a certain investigation or hearing in ruling on a
 2 petition for adoption under this Act, except under certain circumstances; requiring a
 3 court to enter an order for adoption under this Act on making certain findings;
 4 providing that an order for adoption granted under this Act is confirmation of
 5 parentage established under certain provisions of law; prohibiting this Act from
 6 being construed to require a certain individual to adopt a certain child; providing
 7 that certain presumptions of parentage apply in a certain paternity action; requiring
 8 unmarried parents to be provided an opportunity to execute a certain affidavit of
 9 parentage in a certain manner; altering rules and requirements for a certain
 10 affidavit of parentage; specifying that, if a child's mother was married at the time of
 11 either the conception or birth or between conception and birth, the name of the
 12 mother's spouse shall be entered on the child's birth certificate as the child's other
 13 parent; providing that any information in a certain certificate that relates to a parent
 14 who did not give birth to a child is prima facie evidence except under certain
 15 circumstances; prohibiting this Act from being interpreted to overturn or to alter in
 16 any way a certain holding by the Court of Appeals of Maryland; prohibiting this Act
 17 from being interpreted to authorize or prohibit a certain agreement; providing for
 18 the establishment of the parentage of a child conceived in accordance with a certain
 19 agreement that is found to be unenforceable under the laws of the State; defining
 20 certain terms; altering certain terms; making certain conforming and stylistic
 21 changes; and generally relating to parentage and adoption.

22 BY repealing
 23 Article – Estates and Trusts
 24 Section 1–201
 25 Annotated Code of Maryland
 26 (2017 Replacement Volume and 2018 Supplement)

27 BY adding to
 28 Article – Estates and Trusts
 29 Section 1–201, 1–201.1, and 1–208.1
 30 Annotated Code of Maryland
 31 (2017 Replacement Volume and 2018 Supplement)

32 BY repealing and reenacting, with amendments,
 33 Article – Estates and Trusts
 34 Section 1–206, 1–208, and ~~1–208~~ 3–108
 35 Annotated Code of Maryland
 36 (2017 Replacement Volume and 2018 Supplement)

37 BY repealing and reenacting, with amendments,
 38 Article – Family Law
 39 Section 5–3B–01, 5–3B–16, 5–3B–17, 5–1001, 5–1005, 5–1027, and 5–1028
 40 Annotated Code of Maryland
 41 (2012 Replacement Volume and 2018 Supplement)

42 BY adding to

1 Article – Family Law
 2 Section 5–3B–27
 3 Annotated Code of Maryland
 4 (2012 Replacement Volume and 2018 Supplement)

5 BY repealing and reenacting, with amendments,
 6 Article – Health – General
 7 Section 4–201, 4–208, 4–211(a), (c), (e), and (h), and 4–223
 8 Annotated Code of Maryland
 9 (2015 Replacement Volume and 2018 Supplement)

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

12 **Article – Estates and Trusts**

13 [1–201.

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

17 **1–201.**

18 **(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS**
 19 **INDICATED.**

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

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

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

26 **1–201.1.**

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

30 1–206.

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

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

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

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

9 **(3) A CHILD CONCEIVED BY MEANS OF ASSISTED REPRODUCTION**
 10 **AFTER THE DEATH OF THE MOTHER’S SPOUSE AND USING THE GENETIC MATERIAL**
 11 **OF THE MOTHER’S SPOUSE IS THE LEGITIMATE CHILD OF BOTH SPOUSES IF THE**
 12 **CHILD QUALIFIES AS A CHILD OF THE MOTHER’S SPOUSE UNDER § 1–205(A)(2) OF**
 13 **THIS SUBTITLE.**

14 1–208.

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

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

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

24 **(2) THE ~~INDIVIDUAL~~ PARENT AND THE CHILD’S MOTHER CONSENTED**
 25 **TO THE CONCEPTION OF THE CHILD BY MEANS OF ASSISTED REPRODUCTION WITH**
 26 **THE SHARED EXPRESS INTENT TO BE THE PARENTS OF THE CHILD, SUBJECT TO THE**
 27 **CONDITIONS UNDER § 1–205(A)(2) OF THIS SUBTITLE IF THE CHILD IS CONCEIVED**
 28 **AFTER THE DEATH OF THE PARENT.**

29 **(c) THERE IS A REBUTTABLE PRESUMPTION THAT A CHILD BORN TO**
 30 **PARENTS WHO HAVE NOT PARTICIPATED IN A MARRIAGE CEREMONY WITH EACH**
 31 **OTHER IS THE CHILD OF AN INDIVIDUAL WHO DID NOT GIVE BIRTH TO THE CHILD IF**
 32 **THE INDIVIDUAL:**

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

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

5 ~~[(4)]~~ **(3)** Has subsequently married the mother and has acknowledged
6 himself **OR HERSELF**, orally or in writing, to be [the father] **A PARENT OF THE CHILD**.

7 **1-208.1.**

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

13 **(B)** **(1)** **EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, A**
14 **PRESUMPTION OF PARENTAGE UNDER THIS SUBTITLE MAY BE REBUTTED ONLY IF A**
15 **COURT OF COMPETENT JURISDICTION DETERMINES IN A WRITTEN ORDER THAT IT**
16 **IS IN THE BEST INTEREST OF THE CHILD TO RECEIVE AND CONSIDER EVIDENCE**
17 **THAT COULD REBUT THE PRESUMPTION.**

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

20 **(I)** **CONCLUSIVELY ESTABLISHES THAT THE PRESUMED**
21 **PARENT IS A PARENT OF THE CHILD FOR ALL PURPOSES; AND**

22 **(II)** **MAY BE MODIFIED OR SET ASIDE ONLY ON THE BASIS OF**
23 **FRAUD, MISTAKE, OR IRREGULARITY.**

24 **(C)** **AN INDIVIDUAL WHO IS THE PUTATIVE FATHER OF A CHILD IN A**
25 **PROCEEDING UNDER TITLE 5, SUBTITLE 10 OF THE FAMILY LAW ARTICLE MAY**
26 **OBTAIN AND USE EVIDENCE OF BLOOD OR GENETIC TESTING IN THE PROCEEDING**
27 **TO THE EXTENT AUTHORIZED UNDER TITLE 5, SUBTITLE 10 OF THE FAMILY LAW**
28 **ARTICLE TO REBUT A PRESUMPTION OF PARENTAGE UNDER § 1-208(C)(1) OR (2) OF**
29 **THIS SUBTITLE, REGARDLESS OF WHETHER IT IS IN THE BEST INTEREST OF THE**
30 **CHILD.**

31 **(D)** **SUBJECT TO SUBSECTIONS (B) AND (C) OF THIS SECTION, A**
32 **PRESUMPTION OF PARENTAGE UNDER THIS SUBTITLE MAY BE REBUTTED BY:**

33 **(1)** **EVIDENCE OF BLOOD OR GENETIC TESTING;**

1 **(2) TESTIMONY OF THE MOTHER, THE PRESUMED PARENT, OR**
2 **ANOTHER INDIVIDUAL, THAT THE PRESUMED PARENT DID NOT HAVE ACCESS TO THE**
3 **MOTHER AT THE TIME OF CONCEPTION; OR**

4 **(3) ANY OTHER COMPETENT EVIDENCE THAT THE PRESUMED**
5 **PARENT IS NOT THE FATHER OF THE CHILD.**

6 3-108.

7 Property of an illegitimate person passes in accordance with the usual rules of
8 intestate succession, except that the father or his relations can inherit only if the person is
9 treated as the child of the father pursuant to § 1-205(A)(2) OR § 1-208 of this article.

10 **Article – Family Law**

11 5-3B-01.

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

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

15 (c) **“Identifying information”** means information that reveals the identity or
16 location of an individual.

17 (d) **“MOTHER” HAS THE MEANING STATED IN § 5-1001 OF THIS TITLE.**

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

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

21 (ii) is the mother; **OR**

22 **(iii) IS A PARENT OR IS PRESUMED TO BE A PARENT UNDER**
23 **TITLE 1, SUBTITLE 2 OF THE ESTATES AND TRUSTS ARTICLE.**

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

26 [[d)] (f) **“Prospective adoptee”** means an individual who is the subject of a
27 petition for adoption under this subtitle.

28 5-3B-16.

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

5 (b) Before ruling on a nonconsensual adoption petition under §§ 5-3B-20(2) and
6 5-3B-22 of this subtitle, a court shall order **A COURT INVESTIGATOR OR** an appropriate
7 [agency] **CHILD PLACEMENT AGENCY ~~OR LOCAL DEPARTMENT~~** to investigate and
8 submit a report that includes summaries of:

9 (1) the prospective adoptee's emotional ties with and feelings toward the
10 prospective adoptee's parents, the prospective adoptee's siblings, and others who may affect
11 the prospective adoptee's best interests significantly; and

12 (2) the prospective adoptee's adjustment to:

13 (i) community;

14 (ii) home; and

15 (iii) school.

16 5-3B-17.

17 **[A] EXCEPT AS PROVIDED IN § 5-3B-27 OF THIS SUBTITLE, A court shall hold a**
18 hearing before entering an order for adoption under this subtitle.

19 **5-3B-27.**

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

21 **(I) AN INDIVIDUAL WHO IS THE SPOUSE OF THE PROSPECTIVE**
22 **ADOPTEE'S MOTHER AT THE TIME OF THE PROSPECTIVE ADOPTEE'S CONCEPTION**
23 **OR BIRTH; OR**

24 **(II) AN INDIVIDUAL WHO, TOGETHER WITH THE PROSPECTIVE**
25 **ADOPTEE'S MOTHER, CONSENTED TO THE CONCEPTION OF THE PROSPECTIVE**
26 **ADOPTEE BY MEANS OF ASSISTED REPRODUCTION WITH THE SHARED EXPRESS**
27 **INTENT OF BEING PARENTS OF THE PROSPECTIVE ADOPTEE.**

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

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

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

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

9 (2) A COPY OF THE PROSPECTIVE ADOPTEE'S BIRTH CERTIFICATE;
10 AND

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

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

19 (2) THE COURT MAY HOLD A HEARING TO DETERMINE WHETHER
20 THERE ARE ADDITIONAL INDIVIDUALS WHO MAY BE ENTITLED TO NOTICE OR WHOSE
21 CONSENT MAY BE REQUIRED UNDER THIS SUBTITLE IF THE COURT IS NOT SATISFIED
22 FROM THE PLEADINGS THAT THE APPROPRIATE NOTICE OR CONSENT HAS BEEN
23 PROVIDED.

24 (D) THE COURT SHALL ENTER AN ORDER FOR ADOPTION UNDER THIS
25 SECTION ON FINDING THAT:

26 (1) (I) THE PETITIONER WAS MARRIED TO THE PROSPECTIVE
27 ADOPTEE'S MOTHER AT THE TIME OF THE PROSPECTIVE ADOPTEE'S BIRTH; OR

28 (II) THE PETITIONER AND THE PROSPECTIVE ADOPTEE'S
29 MOTHER CONSENT TO THE CONCEPTION OF THE CHILD BY MEANS OF ASSISTED
30 REPRODUCTION WITH THE SHARED EXPRESS INTENT TO BE PARENTS OF THE CHILD;
31 ~~AND~~

32 (2) EACH OF THE PROSPECTIVE ADOPTEE'S LIVING PARENTS, AS
33 DEFINED IN § 5-3B-01 OF THIS SUBTITLE, HAS CONSENTED TO THE ADOPTION:

1 (I) IN WRITING; OR

2 (II) BY FAILURE TO FILE TIMELY NOTICE OF OBJECTION AFTER
3 BEING SERVED WITH A SHOW-CAUSE ORDER IN ACCORDANCE WITH THIS SUBTITLE;
4 AND

5 (3) THE ADOPTION IS IN THE BEST INTEREST OF THE CHILD.

6 (E) (1) AN ORDER FOR ADOPTION GRANTED UNDER THIS SECTION IS
7 CONFIRMATION OF PARENTAGE ESTABLISHED UNDER § 1-206(B) OR § 1-208(B)(2)
8 OF THE ESTATES AND TRUSTS ARTICLE.

9 (2) THIS SECTION MAY NOT BE CONSTRUED TO REQUIRE AN
10 INDIVIDUAL WHO IS A PARENT OF A CHILD UNDER ~~§ 1-206(B)~~ § 1-206 OR
11 ~~§ 1-208(B)(2)~~ § 1-208 OF THE ESTATES AND TRUST ARTICLE TO ADOPT THE CHILD.

12 (3) UNLESS A PROSPECTIVE ADOPTEE'S LIVING PARENT CONSENTS
13 TO THE TERMINATION OF THE PARENT'S PARENTAL DUTIES, OBLIGATIONS, OR
14 RIGHTS, AN ORDER FOR ADOPTION GRANTED UNDER THIS SECTION DOES NOT
15 TERMINATE THE PARENTAL DUTIES, OBLIGATIONS, OR RIGHTS.

16 5-1001.

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

18 (b) "Administration" means the Child Support Administration of the Department.

19 (C) "ALLEGED FATHER" MEANS AN INDIVIDUAL WHO IS ALLEGED, BY
20 HIMSELF OR BY ANOTHER PARTY, TO BE THE FATHER OF A CHILD IN A PROCEEDING
21 UNDER THIS SUBTITLE.

22 (D) (1) "ASSISTED REPRODUCTION" MEANS A METHOD OF CAUSING
23 PREGNANCY OTHER THAN SEXUAL INTERCOURSE.

24 (2) "ASSISTED REPRODUCTION" INCLUDES:

25 (I) INTRAUTERINE OR INTRACERVICAL INSEMINATION;

26 (II) DONATION OF GAMETES;

27 (III) DONATION OF EMBRYOS;

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

29 AND

1 (V) INTRACYTOPLASMIC SPERM INJECTION.

2 [(c)] (E) "Complaint" means a bill or petition in equity filed in a paternity
3 proceeding.

4 (F) (1) "FATHER" MEANS AN INDIVIDUAL, REGARDLESS OF GENDER,
5 WHOSE SPERM FERTILIZES AN OVUM, RESULTING IN THE BIRTH OF A CHILD.

6 (2) "FATHER" DOES NOT INCLUDE A GAMETE DONOR, UNLESS:

7 (I) THE GAMETE DONOR AND THE CHILD'S MOTHER AGREE IN
8 WRITING THAT THE GAMETE DONOR WILL BE A PARENT OF THE CHILD; OR

9 (II) AT THE TIME OF THE CHILD'S CONCEPTION, THE GAMETE
10 DONOR IS MARRIED TO THE CHILD'S MOTHER.

11 (G) (1) "GAMETE DONOR" MEANS AN INDIVIDUAL WHO PROVIDES, WITH
12 OR WITHOUT CONSIDERATION, SPERM OR AN OVUM INTENDED FOR USE IN ASSISTED
13 REPRODUCTION.

14 (2) "GAMETE DONOR" DOES NOT INCLUDE THE MOTHER OF A CHILD
15 CONCEIVED BY MEANS OF ASSISTED REPRODUCTION USING THE MOTHER'S OVUM.

16 (H) "MOTHER" MEANS AN INDIVIDUAL, REGARDLESS OF GENDER, WHO
17 GIVES BIRTH TO A CHILD UNLESS PARENTAGE IS OTHERWISE ESTABLISHED.

18 (I) "PUTATIVE FATHER" MEANS:

19 (1) AN ALLEGED FATHER OF A CHILD WHO HAS NO PARENT OR
20 PRESUMED PARENT UNDER TITLE 1, SUBTITLE 2 OF THE ESTATES AND TRUSTS
21 ARTICLE, OTHER THAN THE CHILD'S MOTHER; OR

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

24 5-1005.

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

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

29 5-1027.

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

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

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

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

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

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

16 (C) THE PROVISIONS OF TITLE 1, SUBTITLE 2 OF THE ESTATES AND TRUSTS
17 ARTICLE REGARDING PRESUMPTIONS OF PARENTAGE APPLY IN AN ACTION UNDER
18 THIS SUBTITLE.

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

20 5–1028.

21 (a) [An unmarried father and mother] **UNMARRIED PARENTS** shall be provided
22 an opportunity to execute an affidavit of parentage in the manner provided under § 4–208
23 of the Health – General Article.

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

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

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

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

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

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

2 (v) the signatures of the [father and the mother] PARENTS of the
3 child attesting, under penalty of perjury, that the information provided on the affidavit is
4 true and correct;

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

7 1. THE MOTHER'S cosignatory is the only possible father OF
8 THE CHILD; OR

9 2. THE MOTHER AND THE MOTHER'S COSIGNATORY
10 CONSENTED TO THE CONCEPTION OF THE CHILD BY MEANS OF ASSISTED
11 REPRODUCTION WITH THE SHARED INTENT TO BE THE PARENTS OF THE CHILD;

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

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

15 2. THE INDIVIDUAL AND THE CHILD'S MOTHER
16 CONSENTED TO THE CONCEPTION OF THE CHILD BY MEANS OF ASSISTED
17 REPRODUCTION WITH THE SHARED INTENT TO BE THE PARENTS OF THE CHILD; and

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

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

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

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

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

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

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

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

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

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

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

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

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

15 Article – Health – General

16 4–201.

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

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

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

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

23 (e) (1) “Dead body” means:

24 (i) A dead human body; or

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

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

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

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

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

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

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

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

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

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

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

17 (i) Any inpatient or outpatient medical, surgical, or diagnostic care
18 or treatment; or

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

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

21 (1) An individual who is:

22 (i) A physician licensed under Title 14 of the Health Occupations
23 Article;

24 (ii) A psychologist licensed under Title 18 of the Health Occupations
25 Article;

26 (iii) A registered nurse licensed and certified to practice as a nurse
27 practitioner, nurse psychotherapist, or clinical nurse specialist under Title 8 of the Health
28 Occupations Article;

29 (iv) A licensed certified social worker—clinical licensed under Title 19
30 of the Health Occupations Article; or

1 (2) An individual who:

2 (i) Is licensed to practice a profession listed in item (1) of this
3 subsection in another state; and

4 (ii) Meets the requirements under the Health Occupations Article to
5 qualify for a license to practice the profession in this State.

6 **[(m)] (N)** “Live birth” means the complete expulsion or extraction of a product of
7 human conception from the mother, regardless of the period of gestation, if, after the
8 expulsion or extraction, it breathes or shows any other evidence of life, such as heart beat,
9 pulsation of the umbilical cord, or definite movement of voluntary muscle, whether or not
10 the umbilical cord is cut or the placenta is attached.

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

13 **[(n)] (P)** “Mortician” means a funeral director, mortician, or other person who is
14 authorized to make final disposition of a body.

15 **[(o)] (Q)** “Nurse midwife” means an individual certified to practice as a nurse
16 midwife under Title 8 of the Health Occupations Article.

17 **[(p)] (R)** “Physician” means a person authorized or licensed to practice medicine
18 or osteopathy pursuant to the laws of this State.

19 **[(q)] (S)** “Physician assistant” means an individual who is licensed under Title
20 15 of the Health Occupations Article to practice medicine with physician supervision.

21 **[(r)] (T)** “Registration” means acceptance by the Secretary and incorporation in
22 the records of the Department of any certificate, report, or other record of birth, death, fetal
23 death, adoption, marriage, divorce, or dissolution or annulment of marriage for which this
24 subtitle provides.

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

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

31 4–208.

32 (a) (1) Within 5 calendar days after a birth occurs in an institution, or en route
33 to the institution, or outside an institution with an attending clinician, the administrative

1 head of the institution or a designee of the administrative head, or the attending clinician
2 or a designee of the attending clinician, shall:

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

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

6 (iii) File the certificate.

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

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

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

18 (i) Provide an opportunity for the child's [mother and the father]
19 **PARENTS** to complete a standardized affidavit of parentage recognizing parentage of the
20 child on the standardized form provided by the Department of Human Services under §
21 5-1028 of the Family Law Article;

22 (ii) Furnish to the mother written information prepared by the Child
23 Support Administration concerning the benefits of having the [paternity] **PARENTAGE** of
24 [her] **THE** child established, including the availability of child support enforcement
25 services; and

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

30 (5) An institution, the administrative head of the institution, the designee
31 of the administrative head of an institution, an employee of an institution, the attending
32 clinician, and the designee of the attending clinician may not be held liable in any cause of
33 action arising out of the establishment of [paternity] **PARENTAGE**.

34 (6) If the child's mother was not married at the time of either conception or
35 birth or between conception and birth, the name of the [father] **CHILD'S OTHER PARENT**

1 may not be entered on the certificate without an affidavit of [paternity] PARENTAGE as
2 authorized by § 5–1028 of the Family Law Article signed by the mother and the person to
3 be named on the certificate as the [father] OTHER PARENT.

4 (7) IF THE CHILD’S MOTHER WAS MARRIED AT THE TIME OF EITHER
5 THE CONCEPTION OR BIRTH OR BETWEEN CONCEPTION AND BIRTH, THE NAME OF
6 THE MOTHER’S SPOUSE SHALL BE ENTERED ON THE CERTIFICATE AS THE CHILD’S
7 OTHER PARENT.

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

12 [(8)] (9) If the [father] PARENT WHO DID NOT GIVE BIRTH TO THE
13 CHILD is not named on the certificate of birth, no other information about [the father]
14 THAT PARENT shall be entered on the certificate.

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

19 (1) The attending individual.

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

22 (3) In the absence [of the father and the] OR inability of [the mother]
23 EITHER PARENT, the individual in charge of the premises where the birth occurred.

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

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

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

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

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

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

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

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

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

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

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

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

21 (ii) The Child Support Administration may use the Social Security
22 numbers of the parents to:

23 1. Locate a parent;

24 2. Establish [paternity] **PARENTAGE**; and

25 3. Establish and enforce a child support order under Title 10,
26 Subtitle 1 of the Family Law Article.

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

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

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

3 4-211.

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

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

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

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

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

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

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

18 2. The mother of the individual has consented by affidavit to
19 the acknowledgment.

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

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

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

27 (3) The [father of] PARENT WHO DID NOT GIVE BIRTH TO the individual
28 acknowledged himself OR HERSELF by affidavit to be [the father] A PARENT OF THE
29 INDIVIDUAL and the mother of the individual has consented by affidavit to the
30 acknowledgment.

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

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

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

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

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

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

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

16 (1) Each decree of adoption;

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

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

21 4-223.

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

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

29 (2) If the [alleged father is not the husband of the mother and paternity is
30 contested] **PARENTAGE OF THE CHILD IS CONTESTED, AND THE PARENT WHO DID NOT**
31 **GIVE BIRTH TO THE CHILD IS A PUTATIVE FATHER AS DEFINED IN § 5-1001 OF THE**
32 **FAMILY LAW ARTICLE**, the information that relates to the [father of a child] **PUTATIVE**
33 **FATHER** is not evidence in any proceeding adverse to the interests of the [alleged]

1 PUTATIVE father or [his] THE PUTATIVE FATHER’S heirs, next of kin, devisees, legatees,
 2 or other successors in interest.

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

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

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

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

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

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

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

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

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

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.