

SENATE BILL 60

D4

8lr0702

(PRE-FILED)

By: **Senator Smith**

Requested: September 27, 2017

Introduced and read first time: January 10, 2018

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Family Law – Same-Sex Couples – Marital Presumption and Expedited Second**
3 **Parent Adoption**

4 FOR the purpose of providing that a child conceived by artificial insemination of a married
5 woman with the consent of her spouse is the legitimate child of both spouses for all
6 purposes; providing that the consent of the woman's spouse is presumed;
7 establishing certain rules and procedures specific to an independent adoption by an
8 individual who is the spouse of the prospective adoptee's parent at the time of the
9 prospective adoptee's birth; requiring a certain petitioner to submit certain
10 documentation in an adoption proceeding under this Act; prohibiting a court from
11 requiring a certain investigation or hearing in ruling on a petition for adoption under
12 this Act, except under certain circumstances; requiring a court to enter an order for
13 adoption under this Act on making certain findings; specifying that, if a child's
14 mother is married to a woman at the time of the child's birth, both women's names
15 shall be entered on the certificate of birth; making stylistic changes; and generally
16 relating to adoptions and the parental rights of same-sex couples.

17 BY repealing and reenacting, with amendments,

18 Article – Estates and Trusts

19 Section 1–206

20 Annotated Code of Maryland

21 (2017 Replacement Volume)

22 BY repealing and reenacting, with amendments,

23 Article – Family Law

24 Section 5–3B–16 and 5–3B–17

25 Annotated Code of Maryland

26 (2012 Replacement Volume and 2017 Supplement)

27 BY adding to

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Article – Family Law
2 Section 5–3B–27
3 Annotated Code of Maryland
4 (2012 Replacement Volume and 2017 Supplement)

5 BY repealing and reenacting, with amendments,
6 Article – Health – General
7 Section 4–208
8 Annotated Code of Maryland
9 (2015 Replacement Volume and 2017 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 1–206.

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

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

19 (b) (1) A child conceived by artificial insemination of a married woman with
20 the consent of her [husband] **SPOUSE** is the legitimate child of both [of them] **SPOUSES**
21 for all purposes.

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

23 **Article – Family Law**

24 5–3B–16.

25 (a) [Before] **EXCEPT AS PROVIDED IN § 5–3B–27 OF THIS SUBTITLE, BEFORE**
26 ruling on a consensual adoption petition under § 5–3B–20(1) of this subtitle, a court may
27 order any investigation that the court considers necessary.

28 (b) Before ruling on a nonconsensual adoption petition under §§ 5–3B–20(2) and
29 5–3B–22 of this subtitle, a court shall order an appropriate agency to investigate and
30 submit a report that includes summaries of:

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

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

2 (i) community;

3 (ii) home; and

4 (iii) school.

5 5-3B-17.

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

8 **5-3B-27.**

9 (A) (1) THIS SECTION APPLIES ONLY TO AN ADOPTION BY AN INDIVIDUAL
10 WHO IS THE SPOUSE OF THE PROSPECTIVE ADOPTEE'S PARENT AT THE TIME OF THE
11 PROSPECTIVE ADOPTEE'S BIRTH.

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

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

16 (1) A COPY OF THE PETITIONER'S AND PROSPECTIVE ADOPTEE'S
17 PARENT'S MARRIAGE CERTIFICATE;

18 (2) A COPY OF THE PROSPECTIVE ADOPTEE'S BIRTH CERTIFICATE;
19 AND

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

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

28 (2) THE COURT MAY HOLD A HEARING TO DETERMINE WHETHER
29 THERE ARE ADDITIONAL INDIVIDUALS WHO MAY BE ENTITLED TO NOTICE OR WHOSE

1 CONSENT MAY BE REQUIRED UNDER THIS SUBTITLE, IF THE COURT IS NOT
2 SATISFIED FROM THE PLEADINGS THAT THE APPROPRIATE NOTICE OR CONSENT
3 HAS BEEN PROVIDED.

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

6 (1) THE PETITIONER WAS MARRIED TO THE PROSPECTIVE ADOPTEE'S
7 PARENT AT THE TIME OF THE PROSPECTIVE ADOPTEE'S BIRTH; AND

8 (2) EACH OF THE PROSPECTIVE ADOPTEE'S LIVING PARENTS HAS
9 CONSENTED TO THE ADOPTION:

10 (I) IN WRITING; OR

11 (II) BY FAILURE TO FILE TIMELY NOTICE OF OBJECTION AFTER
12 BEING SERVED WITH A SHOW-CAUSE ORDER IN ACCORDANCE WITH THIS SUBTITLE.

13 **Article – Health – General**

14 4–208.

15 (a) (1) Within 5 calendar days after a birth occurs in an institution, or en route
16 to the institution, or outside an institution with an attending clinician, the administrative
17 head of the institution or a designee of the administrative head, or the attending clinician
18 or a designee of the attending clinician, shall:

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

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

22 (iii) File the certificate.

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

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

29 (4) On the birth of a child to an unmarried woman in an institution or
30 outside an institution with an attending clinician, the administrative head of the
31 institution or the designee of the administrative head, or the attending clinician or the
32 designee of the attending clinician, shall:

1 (i) Provide an opportunity for the child's mother and the father to
2 complete a standardized affidavit of parentage recognizing parentage of the child on the
3 standardized form provided by the Department of Human Services under § 5-1028 of the
4 Family Law Article;

5 (ii) Furnish to the mother written information prepared by the Child
6 Support Administration concerning the benefits of having the paternity of her child
7 established, including the availability of child support enforcement services; and

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

12 (5) An institution, the administrative head of the institution, the designee
13 of the administrative head of an institution, an employee of an institution, the attending
14 clinician, and the designee of the attending clinician may not be held liable in any cause of
15 action arising out of the establishment of paternity.

16 (6) If the child's mother was not married at the time of either conception or
17 birth or between conception and birth, the name of the father may not be entered on the
18 certificate without an affidavit of paternity as authorized by § 5-1028 of the Family Law
19 Article signed by the mother and the person to be named on the certificate as the father.

20 (7) In any case in which paternity of a child is determined by a court of
21 competent jurisdiction, the name of the father and surname of the child shall be entered on
22 the certificate of birth in accordance with the finding and order of the court.

23 (8) If the father is not named on the certificate of birth, no other
24 information about the father shall be entered on the certificate.

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

29 (1) The attending individual.

30 (2) In the absence of an attending individual, the father or mother.

31 (3) In the absence of the father and the inability of the mother, the
32 individual in charge of the premises where the birth occurred.

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

