

TITLE 19-A
DOMESTIC RELATIONS

PART 3
PARENTS AND CHILDREN

CHAPTER 61
MAINE PARENTAGE ACT

SUBCHAPTER 1
SHORT TITLE, SCOPE, DEFINITIONS AND GENERAL PROVISIONS

§1844. Binding effect of determination of parentage

1. **Determination binding; signatories and parties.** Except as otherwise provided in subsection 2, a determination of parentage is binding on:

A. All signatories to an acknowledgment of paternity or denial of parentage as provided in subchapter 3; and

B. All parties to an adjudication by a court acting under circumstances that satisfy the jurisdictional requirements of section 2961.

2. **Adjudication in proceeding to dissolve marriage.** In a proceeding to dissolve a marriage, the court is deemed to have made an adjudication of the parentage of a child if the court acts under circumstances that satisfy the jurisdictional requirements of section 2961 and the final order:

A. Expressly identifies a child as a "child of the marriage" or "issue of the marriage" or by similar words indicates that the parties are the parents of the child; or

B. Provides for support of the child by the parent or parents.

3. **Determination a defense.** Except as otherwise provided in this chapter, a determination of parentage may be a defense in a subsequent proceeding seeking to adjudicate parentage by an individual who was not a party to the earlier proceeding.

4. **Challenge to adjudication.** A party to an adjudication of parentage may challenge the adjudication only by appeal or in a manner otherwise consistent with the Maine Rules of Civil Procedure.

SUBCHAPTER 2
ESTABLISHMENT OF PARENTAGE

§1851. Establishment of parentage

Parentage may be established by:

1. **Birth.** Giving birth to the child, except as otherwise provided in subchapter 8;

2. **Adoption.** Adoption of the child pursuant to Title 18-C, Article 9;

3. **Acknowledgment.** An effective voluntary acknowledgment of paternity under subchapter 3;

4. **Presumption.** An unrebutted presumption of parentage under subchapter 4;

5. **De facto parentage.** An adjudication of de facto parentage, under subchapter 5;

Sec. 1
amends
§1844,
sub-§1, ¶A

Sec. 2
amends
§1851,
sub-§3

- 6. **Genetic parentage.** An adjudication of genetic parentage under subchapter 6;
- 7. **Assisted reproduction.** Consent to assisted reproduction under subchapter 7; and
- 8. **Gestational carrier agreement.** Consent to a gestational carrier agreement under subchapter 8 by the intended parent or parents.

Sec. 3 amends the name of subchapter 3

Sec. 4 amends §1861

Sec. 5 amends §1862

**SUBCHAPTER 3
VOLUNTARY ACKNOWLEDGMENT OF PATERNITY**

§1861. Acknowledgment of paternity

The woman who gives birth to a child and a man, not her spouse, claiming to be the genetic father of the child may sign an acknowledgment of paternity with intent to establish paternity.

§1862. Execution of acknowledgment of paternity

1. Requirements. An acknowledgment of paternity under section 1861 must:

- A. Be in a record;
- B. Be signed, or otherwise authenticated, under penalty of perjury by the woman giving birth and by the man seeking to establish his paternity;
- C. State that:
 - (1) There is no other presumed parent of the child or, if there is another presumed parent, state that parent's full name; and
 - (2) There is no other acknowledged father and no adjudicated parent of the child other than the woman giving birth;
- D. State whether there has been genetic testing and, if so, that the acknowledging man's claim of paternity is consistent with the results of the testing;
- E. State that the man signing the acknowledgment believes himself to be the biological father; and
- F. State that the signatories understand that the acknowledgment is the equivalent of a court determination of paternity of the child and that a challenge to the acknowledgment is permitted only under limited circumstances and is barred after 2 years.

2. Notice. Before the woman giving birth or alleged father may sign an acknowledgment of paternity under section 1861, the woman giving birth and the putative father must be given oral and written notice of the alternatives to, the legal consequences of and the rights and responsibilities that arise from signing the acknowledgment.

3. Acknowledgment voidable. An acknowledgment of paternity under section 1861 is voidable if it:

- A. States that another person is a presumed parent, unless a denial of parentage signed or otherwise authenticated by the presumed parent is filed with the State Registrar of Vital Statistics;
- B. States that another person is an acknowledged father or adjudicated parent; or
- C. Falsely denies the existence of a presumed parent, acknowledged father or adjudicated parent of the child.

4. Presumed parent. A man who is a presumed parent under section 1881, subsection 3 may sign or otherwise authenticate an acknowledgment of paternity in accordance with the requirements of this subchapter.

Sec. 6
amends
§1863, first ¶

§1863. Denial of parentage

A person presumed to be a parent under section 1881 may execute a denial of parentage only in the limited circumstances set forth in this section. A denial of parentage is valid only if:

Sec. 7
amends
§1863,
sub-§1

1. Acknowledgment. An acknowledgment of paternity signed or otherwise authenticated by another man is filed pursuant to this subchapter;

2. Under penalty of perjury. The denial is in a record and is signed or otherwise authenticated under penalty of perjury; and

Sec. 8
amends
§1863,
sub-§3, ¶A

3. Person executing. The person executing the denial has not previously:

A. Acknowledged paternity, unless the previous acknowledgment has been rescinded pursuant to section 1867 or successfully challenged pursuant to section 1868; or

B. Been adjudicated to be the parent of the child.

Sec. 9
amends
§1864

§1864. Filing of an acknowledgment of paternity and related denial of parentage

1. Acknowledgment and denial. An acknowledgment of paternity and related denial of parentage under this subchapter must be filed with the State Registrar of Vital Statistics and may be contained in a single document or may be signed in counterparts and may be filed separately or simultaneously. If the acknowledgment and denial are both necessary, neither is valid until both are filed.

2. Effective date. Subject to subsection 1, an acknowledgment of paternity or denial of parentage takes effect on the filing of the document with the State Registrar of Vital Statistics, whichever occurs later.

3. Signed by minor. An acknowledgment of paternity or denial of parentage signed by a minor is valid if it is otherwise in compliance with this chapter.

Sec. 10
amends
§1865

§1865. Equivalent to adjudication

1. Acknowledgment. Except as otherwise provided in sections 1867 and 1868, a valid acknowledgment of paternity under section 1861 filed with the State Registrar of Vital Statistics is equivalent to an adjudication of parentage of a child and confers upon the acknowledged father all of the rights and duties of a parent.

2. Denial. Except as otherwise provided in section 1867 and section 1868, subsection 1, a valid denial of parentage under section 1863 filed with the State Registrar of Vital Statistics in conjunction with a valid acknowledgment of paternity under section 1861 is equivalent to an adjudication of the nonparentage of the presumed parent and discharges the presumed parent from all rights and duties of a parent.

Sec. 11
amends
§1866

§1866. No filing fee

The State Registrar of Vital Statistics may not charge a fee for filing an acknowledgment of paternity or denial of parentage under section 1864.

Sec. 12
amends
§1867

and
enacts
new sub-
§3

§1867. Proceeding for rescission

A signatory may rescind an acknowledgment of paternity or denial of parentage under this subchapter by commencing a proceeding to rescind before the earlier of:

1. Sixty days after effective date. Sixty days after the effective date of the acknowledgment or denial, as provided in section 1864; and

2. Date of first hearing. The date of the first hearing, in a proceeding to which the signatory is a party, before a court to adjudicate an issue relating to the child, including a proceeding seeking child support.

§1868. Challenge to acknowledgment

Sec. 13
amends
§1868

And enacts
new sub-§4

1. Challenge by signatory. After the period for rescission under section 1867 has expired, a signatory of an acknowledgment of paternity or denial of parentage may commence a proceeding to challenge the acknowledgment or denial only:

A. On the basis of fraud, duress or material mistake of fact; and

B. Within 2 years after the acknowledgment or denial is filed with the State Registrar of Vital Statistics.

2. Challenge by person not a signatory. If an acknowledgment of paternity has been made in accordance with this subchapter, an individual who is neither the child nor a signatory to the acknowledgment of paternity and who seeks to challenge the validity of the acknowledgment and adjudicate parentage must commence a proceeding not later than 2 years after the effective date of the acknowledgment, as provided in section 1864, unless the individual did not know and could not reasonably have known of the individual's potential genetic parentage on account of material misrepresentation or concealment, in which case the proceeding must be commenced no later than 2 years after discovery.

3. Burden of proof. A party challenging an acknowledgment of paternity or denial of parentage pursuant to this section has the burden of proof.

§1869. Procedure for rescission or challenge

Sec. 14
amends
§1869

1. Every signatory party. Every signatory to an acknowledgment of paternity and any related denial of parentage under this subchapter must be made a party to a proceeding under section 1867 or 1868 to rescind or challenge the acknowledgment or denial.

2. Submission to personal jurisdiction. For the purpose of rescission of or challenge to an acknowledgment of paternity or denial of parentage, a signatory submits to personal jurisdiction of this State by signing the acknowledgment or denial, effective upon the filing of the document with the State Registrar of Vital Statistics pursuant to section 1864.

3. Suspension of legal responsibilities. Except for good cause shown, during the pendency of a proceeding under section 1867 or 1868 to rescind or challenge an acknowledgment of paternity or denial of parentage, the court may not suspend the legal

responsibilities of a signatory arising from the acknowledgment, including the duty to pay child support.

4. Proceeding to rescind or challenge. A proceeding under section 1867 or 1868 to rescind or challenge an acknowledgment of paternity or denial of parentage must be conducted as a proceeding to adjudicate parentage under subchapter 1.

5. Amendment to birth record. At the conclusion of a proceeding under section 1867 or 1868 to rescind or challenge an acknowledgment of paternity or denial of parentage, the court shall order the State Registrar of Vital Statistics to amend the birth record of the child, if appropriate.

§1870. Ratification not permitted

Sec. 15
amends
§1870

A court or administrative agency conducting a judicial or administrative proceeding may not ratify an unchallenged acknowledgment of paternity under section 1861.

§1871. Forms for acknowledgment and denial of paternity

Sec. 16
amends
§1871

To facilitate compliance with this subchapter, the State Registrar of Vital Statistics shall prescribe forms for the acknowledgment of paternity and the denial of parentage. A valid acknowledgment of paternity or denial of parentage is not affected by a later modification of the prescribed form.

§1872. Release of information

Sec. 17
amends
§1872

The State Registrar of Vital Statistics may release information relating to an acknowledgment of paternity under section 1861 as provided in Title 22, section 2706.

§1873. Adoption of rules

The State Registrar of Vital Statistics may adopt rules to implement this subchapter. Rules adopted pursuant to this section are routine technical rules for the purposes of Title 5, chapter 375, subchapter 2-A.

**SUBCHAPTER 7
PARENTAGE BY ASSISTED REPRODUCTION**

§1921. Scope of subchapter

This subchapter does not apply to the birth of a child conceived by means other than assisted reproduction.

§1922. Parental status of donor

1. Donor not a parent. A donor is not a parent of a child conceived through assisted reproduction.

2. Exceptions. Notwithstanding subsection 1:

A. A person who provides a gamete or gametes or an embryo or embryos to be used for assisted reproduction for the person's spouse is a parent of the resulting child; and

B. A person who provides a gamete or gametes or an embryo or embryos for assisted reproduction is a parent of the resulting child if the person has a written agreement or agreements with the person giving birth and any intended parent that the person will be a parent.

§1923. Parentage of child of assisted reproduction

A person who provides gametes for and consents to or a person who consents to assisted reproduction by a woman as provided in section 1924 with the intent to be the parent of a resulting child is a parent of the resulting child.

§1924. Consent to assisted reproduction

1. Written consent. Consent by a person who intends to be a parent of a child born through assisted reproduction must be set forth in a signed record that is executed by each intended parent and provides that the signatories consent to use of assisted reproduction to conceive a child with the intent to parent the child.

2. Lack of written consent; parentage. Failure of a person to sign a consent required by subsection 1 before or after birth of the child does not preclude a finding of parentage:

A. If consent can be proved by other means and the consenting individual resided with the child after birth and undertook to develop a parental relationship with the child; or

B. As provided in this chapter.

3. Consent form. Consent under subsection 1 executed via a consent form adopted by the Office of Data, Research and Vital Statistics must be accepted and relied upon for purposes of issuing a birth record.

Sec. 18
amends
§1924,
sub-§3

§1925. Challenge by spouse to consent

1. Challenge by spouse to consent. The spouse of a person who gives birth to a child through assisted reproduction may challenge the spouse's own parentage of the child only if:

A. The spouse did not provide gametes or embryos for the assisted reproduction;

B. The spouse did not before or after the birth of the child consent to the assisted reproduction by the person who gave birth;

C. The spouse and the person who gave birth to the child have not cohabitated since the time of the child's birth; and

D. The spouse did not openly hold out the child as the spouse's own.

§1926. Effect of dissolution of marriage or withdrawal of consent

1. Dissolution of marriage prior to transfer or implantation. If a marriage is dissolved before transfer or implantation of gametes or embryos, the former spouse is not a parent of the resulting child unless the former spouse consented in a signed record with notice to the other spouse and the woman giving birth that, if assisted reproduction were to occur after a divorce, the former spouse would be a parent of the child.

2. Withdrawal of consent prior to transfer or implantation. The consent of a person to assisted reproduction under section 1924 may be withdrawn by that person in a signed record with notice to the person giving birth and any other intended parent before transfer or implantation of gametes or embryos. A person who withdraws consent under this subsection is not a parent of the resulting child.

§1927. Parent status of deceased person

If a person who consented in a signed record under section 1924 to be a parent by assisted reproduction dies before transfer or implantation of gametes or embryos, the deceased person is not a parent of the resulting child unless the deceased person consented in a signed record that, if assisted reproduction were to occur after death, the deceased person would be a parent of the child.

§1928. Birth orders

1. Proceeding for birth order. Before or after the birth of the resulting child, a party consenting to assisted reproduction, a person who has a written agreement to be a parent pursuant to section 1922, subsection 2, paragraph B, the intended parent or parents or the person giving birth may commence a proceeding in District Court to obtain an order:

- A. Declaring that the intended parent or parents are the parent or parents of the resulting child and ordering that parental rights and responsibilities vest exclusively in the intended parent or parents immediately upon the birth of the child;
- B. Sealing the record from the public to protect the privacy of the child and the parties; or
- C. For any relief that the court determines necessary and proper.

2. State not a necessary party. Neither this State nor the State Registrar of Vital Statistics is a necessary party to a proceeding under subsection 1.

§1929. Laboratory error

If due to a laboratory error the resulting child is not genetically related to either of the intended parents, the intended parents are the parents of the child unless otherwise determined by the court.

Sec. 19
enacts new
subchapter
9

**CHAPTER 67
UNIFORM INTERSTATE FAMILY SUPPORT ACT**

**SUBCHAPTER 3
CIVIL PROVISIONS OF GENERAL APPLICATION**

§3016. Special rules of evidence and procedure

1. Physical presence not required. The physical presence of a nonresident party who is an individual in a tribunal of this State is not required for the establishment, enforcement or modification of a support order or the rendition of a judgment determining parentage of a child.

2. Admissible evidence. An affidavit, a document substantially complying with federally mandated forms or a document incorporated by reference in any of them that would not be excluded under the hearsay rule if given in person is admissible in evidence if given under penalty of perjury by a party or witness residing outside this State.

3. Copy of payment record admissible. A copy of the record of child support payments certified as a true copy of the original by the custodian of the record may be forwarded to a responding tribunal. The copy is evidence of facts asserted in it and is admissible to show whether payments were made.

4. Copies of bills admissible. Copies of bills for testing for parentage of a child and for prenatal and postnatal health care of the mother and child, furnished to the adverse party at least 10 days before trial, are admissible in evidence to prove the amount of the charges billed and that the charges were reasonable, necessary and customary.

5. No objection based on means of transmission. Documentary evidence transmitted from outside this State to a tribunal of this State by telephone, telecopier or other electronic means that does not provide an original record may not be excluded from evidence on an objection based on the means of transmission.

6. Testimony not in person. In a proceeding under this chapter, a tribunal of this State shall permit a party or witness residing outside this State to be deposed or to testify by telephone, audiovisual means or other electronic means at a designated tribunal or other location. A tribunal of this State shall cooperate with other tribunals in designating an appropriate location for the deposition or testimony.

7. Adverse inference from refusal to answer. If a party called to testify at a civil hearing refuses to answer on the ground that the testimony may be self-incriminating, the trier of fact may draw an adverse inference from the refusal.

8. No spousal privilege. A privilege against disclosure of communications between spouses does not apply in a proceeding under this chapter.

9. No familial immunity. The defense of immunity based on the relationship of husband and wife or parent and child does not apply in a proceeding under this chapter.

10. Voluntary acknowledgment admissible. A voluntary acknowledgment of paternity, certified as a true copy, is admissible to establish parentage of the child.

Sec. 20
amends
§3016,
sub-§10

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