

ALL IN THE FAMILY

Legal blog on all aspects of Family Law and Divorce in Massachusetts and Rhode Island

The Massachusetts Parentage Act is Here: Learn What It Means for Families

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Massachusetts is no longer the only state in New England without protections for parentage. The Massachusetts legislature passed the Massachusetts Parentage Act (the "MPA") late yesterday, and the bill is expected to be signed by Governor Healy, who has been a vocal supporter. The Massachusetts Parentage Act updates Massachusetts' antiquated laws on parentage and provides legal protections for all families, including LGBTQ+ families.

What exactly are those legal protections and how do they impact families? Chapter 209C of the Massachusetts General Laws previously governed matters relating to children "born out of wedlock." The MPA changes the title of this chapter to "Nonmarital children and parentage of children." The purpose of this change is to eliminate outdated and non-inclusive language in the statute, including replacing the word "paternity" with the word "parentage," and to address the establishment of legal parentage regardless of the circumstances surrounding birth, including establishing parentage through assisted reproduction, surrogacy, and de facto parentage.

The MPA also updates Chapter 209C by inserting a definition section at Section 1A. Some of the definitions codified in the MPA include: assisted reproduction, donor, genetic surrogate, parent, intended parent, and presumed parent. These definitions summarize the ways legal parentage can be established and have been updated to be inclusive.

The MPA allows for "presumed parents," people who are presumed to be a parent of a child unless the presumption is overcome and "intended parents," people who manifest an intent to be legally bound as a parent of a child resulting from assisted reproduction, to execute Voluntary Acknowledgments of Parentage (VAP) and allows for more than two people to sign as legal parents. The execution of a VAP is an administrative way to establish legal parentage without having to undertake legal proceedings to do so. The MPA also updates Massachusetts law to reflect federal requirements that a VAP is the equivalent of a judgment of legal parentage and that Massachusetts courts give full faith and credit to VAPs from other states.

The MPA goes on to add 20 new Sections to General Laws Chapter 209C. These sections address the following:

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1. Section 25 codifies the status of de facto parent, which was recognized by Massachusetts courts in 1999. A de facto parent is a person who is not biologically related to a child but establishes a parent-child relationship through their conduct. Under the MPA, a child could have an unlimited number of parents, so long as each person meets the de facto parent requirements laid out in the statute at 209C Section 25.
2. Section 26 provides guidance to courts on how to resolve competing claims of parentage.
3. Section 27 allows for the establishment of parentage of children born through assisted reproduction.
4. Sections 28A-28Q add provisions for the establishment of parentage of children born through surrogacy agreements.

The MPA was enacted to recognize and protect non-traditional families, extend the definition of parent to include those who previously may not have been recognized as a legal parent notwithstanding that the person acted in all respects as a parent, represents a sweeping overhaul of Massachusetts parentage law, and will no doubt continue to have an impact on the Courts and litigants for years to come.

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