

AN ACT

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

*Codification
District of
Columbia
Official Code*

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To amend the Vital Records Act of 1981 to permit the domestic partner of a mother to be included on a birth certificate as a parent to the child, and to modify the rules for the preparation and filing of a birth certificate to include consent to parent through artificial insemination; to amend Title 16 of the District of Columbia Official Code to provide the court with the authority to waive an adoption home study where the prospective adoptee is the domestic partner of the natural parent, to provide that a child born to parents in a domestic partnership be treated for all legal purposes as a child born in wedlock, to clarify that a child's legitimate relationship to its' parents is not dependent upon the parents being married or in a domestic partnership, to specify the means for establishing a mother-child relationship and the means for establishing a father-child relationship, to provide a presumption that the domestic partner of a woman who bears a child is a parent of the child, to provide that a presumption of parentage may be overcome in a proceeding instituted in the Superior Court of the District of Columbia, to provide the Superior Court of the District of Columbia with the ability to determine parentage when a child has both a presumed parent as well as a parent established through a voluntary acknowledgment of paternity, to clarify the parentage of a child born through donor insemination, to clarify that the District of Columbia shall give full faith and credit to determinations of parentage made by other states, to clarify that the Registrar of Vital Records shall provide certain materials to any person seeking to file or amend a birth certificate that does not include the name of 2 parents, to permit a person whose parentage of a child is to be adjudicated to initiate a proceeding to establish parentage, to establish time limits under which a proceeding may be brought to establish parentage where a child has no presumed parent, to establish time limits under which a proceeding may be brought to rebut a presumption of parentage, to exclude the requirement that the court order genetic testing in a proceeding in which the child was conceived through artificial insemination and the donor is not a parent or where a child has a presumed parent and no proceeding to rebut the presumption was filed within the statutorily prescribed time frames, to prescribe circumstances under which the IV-D agency shall require genetic testing where a child does not have a presumed parent, to clarify parentage following a genetic test result when a child has a presumed parent as well as

when a child does not have a presumed parent, and to permit a new birth certificate when a consent to parent a child born by artificial insemination is submitted to the Registrar of Vital Records; to amend the Health Care Benefits Expansion Act of 1992 to clarify the process for recognizing relationships established under the laws of other jurisdictions as domestic partnerships in the District; to amend the Parental Leave Act of 1984 to include domestic partners within the definition of parents; and to amend An Act To establish a code of law for the District of Columbia to clarify that domestic partners may hold real and personal property as tenants by the entirety.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Domestic Partnership Judicial Determination of Parentage Amendment Act of 2009”.

Sec. 2. The Vital Records Act of 1981, effective October 8, 1981 (D.C. Law 4-34; D.C. Official Code § 7-201 *et seq.*), is amended as follows:

(a) Section 2 (D.C. Official Code § 7-201) is amended as follows:

Amend § 7-201

(1) Redesignate paragraph (4A) as paragraph (4C).

(2) New paragraphs (4A) and (4B) are added to read as follows:

“(4A) “Domestic partner” shall have the same meaning as provided in section 2(3) of the Health Care Benefits Expansion Act of 1992, effective June 11, 1992 (D.C. Law 9-114; D.C. Official Code § 32-701(3)), but shall exclude a domestic partner who is the parent, grandparent, sibling, child, grandchild, niece, nephew, aunt, or uncle of a woman who gives birth to a child.

“(4B) “Domestic partnership” shall have the same meaning as provided in section 2(4) of the Health Care Benefits Expansion Act of 1992, effective June 11, 1992 (D.C. Law 9-114; D.C. Official Code § 32-701(4)), but shall exclude a domestic partnership where a domestic partner is the parent, grandparent, sibling, child, grandchild, niece, nephew, aunt, or uncle of a woman who gives birth to a child.”.

(b) Section 6 (D.C. Official Code § 7-205) is amended as follows:

Amend § 7-205

(1) Subsection (c)(3) is amended to read as follows:

“(3) The mother, the father, the spouse or domestic partner of the mother, or, in the absence of the father or the spouse or domestic partner of the mother, and the inability of the mother, the person in charge of the premises where the birth occurred.”.

(2) Subsection (e) is amended as follows:

(A) Paragraph (2) is amended as follows:

(i) Strike the word “husband” and insert the word “spouse” in its place.

(ii) Strike the phrase “the father” and insert the phrase “a parent”

in its place.

(B) A new paragraph (2A) is added to read as follows:

“(2A) If the mother was in a domestic partnership at the time of either conception or birth, or between conception and birth, the name of the domestic partner of the mother shall be entered on the certificate as a parent of the child, unless parentage has been determined otherwise by the Court pursuant to D.C. Official Code § 16-909;”.

(C) Paragraph (3) is amended to read as follows:

“(3) If the mother was not married or in a domestic partnership at the time of either conception or birth, or between conception and birth, the name of the other parent shall only be entered on the certificate if:

“(A) The parents have signed a voluntary acknowledgment of paternity pursuant to D.C. Official Code § 16-909.1(a)(1) or pursuant to the laws and procedures of another state in which the voluntary acknowledgment was signed;

“(B) The parents have signed a consent to parent a child born by artificial insemination pursuant to D.C. Official Code § 16-909(e) and paragraph (3A) of this subsection; or

“(C) A court or administrative agency of competent jurisdiction has adjudicated as the other parent the person to be named as the other parent on the certificate.”.

(D) A new paragraph (3A) is added to read as follows:

“(3A) For the purposes of the certificate, the consent to parent a child born by artificial insemination pursuant to § 16-909(e) shall be on a form prescribed and furnished by the Registrar that:

“(A) Acknowledges consent by the mother and the intended parent to the insemination with the intent to be a parent of the child:

“(B) Is signed under oath (which may include signature in the presence of a notary);

“(C) Includes written notice that legal consequences, rights, and responsibilities as a parent arise from signing the consent; and

“(D) Contains the full names, social security numbers, and dates of birth of the parents and child, the addresses of the parents, the birthplace of the child, and a statement indicating that both parents understand the rights, responsibilities, and consequences of signing the affidavit;”.

(E) Paragraph (5) is amended to read as follows:

“(5) The surname of the child shall be the surname of a parent whose name appears on the child’s birth certificate, or both surnames recorded in any order or in hyphenated or unhyphenated form, or any surname to which either parent has a familial connection. If the chosen surname is not that of a parent, or a combination of all or part of both surnames, either or both parents shall provide an affidavit stating that the chosen surname was or is the surname of

a past or current relative or has some other clearly stated familial connection. Submission of an affidavit containing false information shall be punishable under section 26.”.

Sec. 3. Title 16 of the District of Columbia Official Code is amended as follows:

(a) Section 16-308 is amended to read as follows:

Amend § 16-308

“§ 16-308. Investigations when prospective adoptee is adult or petitioner is spouse or domestic partner of natural parent.

“(a) The court may dispense with the investigation, report, and interlocutory decree provided for by this chapter when:

“(1) The prospective adoptee is an adult; or

“(2) The petitioner is a spouse or domestic partner of the natural parent of the prospective adoptee and the natural parents consents to the adoption or joins in the petition for adoption.

“(b) In the circumstances specified in subsection (a)(2) of this section, the petition need not contain the information concerning race and religion specified by § 16-305(4) and (5).

“(c) For the purposes of this section, the term “domestic partner” shall have the same meaning as provided in § 32-701(3), but shall exclude a domestic partner who is the parent, grandparent, sibling, child, grandchild, niece, nephew, aunt, or uncle of the natural parent.”.

(b) Section 16-907 is amended by adding a new subsection (c) to read as follows:

Amend § 16-907

“(c) A child born to parents in a domestic partnership shall be treated for all legal purposes as a child born in wedlock. For the purposes of this subsection, the term “domestic partnership” shall have the same meaning as provided in § 32-701(4), but shall exclude a domestic partnership where a domestic partner is the parent, grandparent, sibling, child, grandchild, niece, nephew, aunt, or uncle of a woman who gives birth to a child.”.

(c) Section 16-908 is amended to read as follows:

Amend § 16-908

“§ 16-908. Relationship not dependent on marriage or domestic partnership.

“A child is the legitimate child of any parent under which a parent-child relationship is established pursuant to § 16-909, and is the legitimate relative of its parents’ relatives by blood or adoption and entitled to all rights, privileges, duties, and obligations under the laws of the District of Columbia.”.

(d) Section 16-909 is amended as follows:

Amend § 16-909

(1) The heading is amended by striking the phrase “mother and father” and inserting the word “parents” in its place.

(2) Subsection (a) is amended as follows:

(A) The lead-in language is amended to read as follows:

“(a) A father-child relationship is established by an adjudication of a man’s parentage, by operation of subsection (e) of this section, or by an un rebutted presumption under this subsection. There shall be a presumption that a man is the father of a child.”.

(B) Paragraph (1) is amended to read as follows:

“(1) if he and the child's mother are or have been married, or in a domestic partnership, at the time of either conception or birth, or between conception and birth, and the child is born during the marriage or domestic partnership, or within 300 days after the termination of marital cohabitation by reason of death, annulment, divorce, or separation ordered by a court, or within 300 days after the termination of the domestic partnership pursuant to § 32-702(d); or”.

(3) A new subsection (a-1) is added to read as follows:

“(a-1)(1) A mother-child relationship is established by a woman having given birth to a child, by an adjudication of a woman's parentage, by operation of subsection (e) of this section, or by an un rebutted presumption under paragraph (2) of this subsection.

“(2) For a child born to a mother in a domestic partnership, there shall be a presumption that the female domestic partner of the child's mother is a parent of the child if the mother and the mother's domestic partner are or have been in a domestic partnership at the time of either conception or birth, or between conception and birth, and the child is born during the domestic partnership, or within 300 days after the termination of the domestic partnership pursuant to § 32-702(d).”.

(4) Subsection (b) is amended to read as follows:

“(b)(1) A presumption created by subsection (a)(1) through (4) of this section may be overcome upon proof by clear and convincing evidence, in a proceeding instituted within the time provided in § 16-2342(c) or (d), that the presumed parent is not the child's genetic parent. The Court shall try the question of parentage, and may determine that the presumed parent is the child's parent, notwithstanding evidence that the presumed parent is not the child's genetic parent, after giving due consideration to:

“(A) Whether the conduct of the mother or the presumed parent should preclude that party from denying parentage;

“(B) The child's interests; and

“(C) The duration and stability of the relationship between the child, the presumed parent, and the genetic parent.

“(2) If questioned, the presumption created by subsection (a-1)(2) that a child born to the mother is the child of the mother's female domestic partner may be overcome pursuant to paragraph (1) of this subsection or upon proof by clear and convincing evidence that the presumed parent did not hold herself out as a parent of the child.

“(3) Notwithstanding any other provision in this title, when a child has both a presumed parent and a parent established by a voluntary acknowledgment of paternity, pursuant to § 16-909.01(a)(1), the Court shall determine parentage after giving due consideration to the child's interests and the duration and stability of the relationship between the child, the presumed parent, and the acknowledged parent.”.

(5) Subsection (b-1) is amended as follows:

(A) The lead-in language is amended by striking the phrase “A conclusive presumption of paternity” and inserting the phrase “When a child has no presumed parent under subsection (a)(1) through (4) of this section or under subsection (a-1)(2) of this section, a conclusive presumption of parentage” in its place.

(B) Paragraph (1) is amended by striking the phrase “putative father is the father of the child” and inserting the phrase “person is the genetic parent of the child” in its place.

(6) Subsection (c)(2) is amended by striking the word “By” and inserting the phrase “When a child has no presumed parent under subsection (a)(1) through (4) of this section or under subsection (a-1)(2) of this section, by” in its place.

(7) New subsections (e) and (f) are added to read as follows:

“(e)(1) A person who consents to the artificial insemination of a woman as provided in subparagraph (A) or (B) of this paragraph with the intent to be the parent of her child, is conclusively established as a parent of the resulting child.

“(A) Consent by a woman, and a person who intends to be a parent of a child born to the woman by artificial insemination, shall be in writing signed by the woman and the intended parent.

“(B) Failure of a person to sign a consent required by subparagraph (A) of this paragraph, before or after the birth of the child, shall not preclude a finding of intent to be a parent of the child if the woman and the person resided together in the same household with the child and openly held the child out as their own.

“(2) Notwithstanding any other provision in this title, genetic test results shall not establish parentage of a semen donor unless:

“(A) The donor of semen is the spouse or domestic partner of the child’s mother; or

“(B) The donor and the child’s mother agree in writing that said donor shall be a parent.

“(f) For the purposes of this section, the term:

“(1) “Domestic partner” shall have the same meaning as provided in § 32-701(3), but shall exclude a domestic partner who is the parent, grandparent, sibling, child, grandchild, niece, nephew, aunt, or uncle of a woman who gives birth to a child.

“(2) “Domestic partnership” shall have the same meaning as provided in § 32-701(4), but shall exclude a domestic partnership where a domestic partner is the parent, grandparent, sibling, child, grandchild, niece, nephew, aunt, or uncle of a woman who gives birth to a child.”.

(e) Section 16-909.01 is amended as follows:

(1) Subsection (b) is amended by striking the phrase “An acknowledgment” and inserting the phrase “When a child has no presumed parent under § 16-909(a)(1) through (4) or § 16-909(a-1)(2), an acknowledgment” in its place.

Amend
§ 16-909.01

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(2) Subsection (d) is amended by striking the phrase “In the absence” and inserting the phrase “If a child has a presumed parent, in the absence” in its place.

(f) Section 16-909.02 is amended as follows:

Amend
§ 16-909.02

(1) The heading is amended by striking the word “paternity” and inserting the word “parentage” in its place.

(2) Strike the word “paternity” and insert the word “parentage” in its place.

(g) Section 16-909.04(a) is amended by striking the phrase “a father’s name” and inserting the phrase “the names of 2 parents” in its place.

Amend
§ 16-909.04

(h) Section 16-2342 is amended as follows:

Amend
§ 16-2342

(1) Subsection (a) is amended as follows:

(A) Strike the word “establish” and insert the word “determine” in its place.

(B) Strike the phrase “District of Columbia,” and insert the phrase “District of Columbia, a person whose parentage of the child is to be adjudicated,” in its place.

(2) Subsection (b) is amended as follows:

(A) Strike the phrase “Proceedings over which the Division has jurisdiction under D.C. Official Code, sec. 11-1101(3) and (11) to establish” and insert the phrase “A proceeding to determine” in its place.

(B) Strike the phrase “support of a child” and insert the phrase “support of a child with no presumed parent under § 16-909(a)(1) through (4) or § 16-909(a-1)(2)” in its place.

(C) Strike the last sentence.

(3) New subsections (c) and (d) are added to read as follows:

“(c) Except as otherwise provided in subsection (d) of this section, a proceeding to rebut the presumption of parentage of a child having a presumed parent under § 16-909(a)(1) through (4) or § 16-909(a-1)(2) shall be commenced not later than 2 years after the birth of the child, after which time the presumption becomes conclusive.

“(d) A proceeding seeking to disprove the parent-child relationship between a child and the child’s presumed parent under § 16-909(a)(1) through (4) or § 16-909(a-1)(2) may be maintained at any time if the court determines that the presumed parent did not live with the child’s mother during the 300 days before the birth of the child and never openly held out the child as his or her own.”

(i) Section 16-2342.01(a)(1) is amended by striking the phrase “paternity,” and inserting the phrase “paternity, consistent with § 16-909.01(b),” in its place.

Amend
§ 16-2342.01

(j) Section 16-2343 is amended as follows:

Amend
§ 16-2343

(1) Subsection (a) is amended as follows:

(A) Paragraph (3) is amended by striking the word “or” at the end.

(B) Paragraph (4) is amended to read as follows:

“(4) The child was conceived through artificial insemination and the donor is not a parent pursuant to § 16-909(e)(2); or”.

(C) A new paragraph (5) is added to read as follows:

“(5) The child has a presumed parent under § 16-909(a) (1) through (4) or § 16-909(a-1)(2) and no proceeding to rebut the presumption was filed within the time provided in § 16-2342(c) or (d).”.

(2) Subsection (a-1) is amended as follows:

(A) Paragraph (1) is amended by striking the phrase “The IV-D agency” and inserting the phrase “When a child does not have a presumed parent under § 16-909(a)(1) through (4) or § 16-909(a-1)(2), the IV-D agency” in its place.

(B) Paragraph (2) is amended by striking the phrase “In all other cases” and inserting the phrase “In all other cases in which a child does not have a presumed parent under § 16-909(a)(1) through (4) or § 16-909(a-1)(2)” in its place.

(k) Section 16-2343.01(e) is amended to read as follows:

Amend
§ 16-2343.01

“(e)(1) When a child has no presumed parent under § 16-909(a)(1) through (4) or under § 16-909(a-1)(2) and a genetic test result indicates a 99% probability that the putative father is the father of the child, if the genetic test is of the type generally acknowledged as reliable by accreditation bodies designated by the Secretary of the U.S. Department of Health and Human Services and is performed by a laboratory approved by such body, there is a conclusive presumption of paternity and the Court shall enter a judgment finding the parentage of the child consistent with such result, upon the submission of the result and a certifying affidavit from the laboratory, subject to the determination of any objection properly filed pursuant to subsection (b) of this section.

“(2) When a child has a presumed parent under § 16-909(a)(1) through (4) or under § 16-909(a-1)(2) and a genetic test result indicates a 99% probability that the putative father is the father of the child, if the genetic test is of the type generally acknowledged as reliable by accreditation bodies designated by the Secretary of the U.S. Department of Health and Human Services and is performed by a laboratory approved by such body, the Court shall determine parentage giving due consideration to the child’s interests and the duration and stability of the relationship between the child, the presumed parent, and the putative parent.”.

(1) Section 16-2343.03 is amended as follows:

Amend
§ 16-2343.03

(1) Strike the phrase “putative father” wherever it appears and insert the word “respondent” in its place.

(2) Strike the word “paternity” wherever it appears and insert the word “parentage” in its place.

(3) Strike the word “he” and insert the phrase “the respondent” in its place.

(m) Section 16-2343.04 is amended by striking the word “paternity” and inserting the word “parentage” in its place.

Amend
§ 16-2343.04

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(n) Section 16-2345 is amended as follows:

**Amend
§ 16-2345**

(1) The heading is amended by striking the word “natural”.

(2) Subsection (a) is amended by striking the phrase “the requirements of section 16-909.01(a)(2) are submitted to the Registrar,” and inserting the phrase “the requirements of section 16-909.01(a)(2) are submitted to the Registrar, or when a consent to parent a child born by artificial insemination pursuant to § 16-909(e)(1)(A) and § 7-205(e)(3A)), is submitted to the Registrar,” in its place.

(o) Section 16-2346 is amended as follows:

**Amend
§ 16-2346**

(1) Strike the phrase “born out of wedlock”.

(2) Strike the phrase “father and mother” and insert the word “parents” in its place.

(p) Section 16-2349 is amended as follows:

**Amend
§ 16-2349**

(1) The heading is amended by striking the word “paternity” and inserting the word “parentage” in its place.

(2) Strike the phrase “mother, father,” and insert the word “parents” in its place.

(3) Strike the word “paternity” and insert the word “parentage” in its place.

(q) Section 16-2349.01 is amended by striking the word “paternity” wherever it appears and inserting the word “parentage” in its place.

**Amend
§ 16-2349.01**

Sec. 4. Section 3(i) of the Health Care Benefits Expansion Act of 1992, effective June 11, 1992 (D.C. Law 9-114; D.C. Official Code § 32-702(i)), is amended to read as follows:

**Amend
§ 32-702**

“(i)(1) Except as provided in paragraph (2) of this subsection, relationships established in accordance with the laws of other jurisdictions, other than marriages, that are substantially similar to domestic partnerships established by this act, as certified by the Mayor, shall be recognized as domestic partnerships in the District. The Mayor shall establish and maintain a certified list of jurisdictions so recognized. The Mayor shall broadly construe the term “substantially similar” to maximize the recognition of relationships from other jurisdictions as domestic partnerships in the District.

“(2) If the Mayor has not yet certified, pursuant to paragraph (1) of this subsection, that the laws of a jurisdiction permit the establishment of relationships substantially similar to domestic partnerships established by this act, and if the laws of that jurisdiction prescribe that the relationship, regardless of the term or phrase used to refer to the relationship, has all the rights and responsibilities of marriage under the laws of that jurisdiction, the relationship shall be recognized as a domestic partnership in the District and the Mayor shall include that jurisdiction in the certified list required under paragraph (1) of this subsection.”.

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Sec. 5. Section 2 of the Parental Leave Act of 1984, effective August 17, 1984 (D.C. Law 10-146; D.C. Official Code § 32-1201), is amended as follows:

**Amend
§ 32-1201**

(a) Paragraph 2(E) is amended by striking the phrase “married to” and inserting the phrase “married to, or in a domestic partnership with,” in its place.

(b) A new paragraph (5) is added to read as follows:

“(5) “Domestic partnership” shall have the same meaning as provided in section 2(4) of the Health Care Benefits Expansion Act of 1992, effective June 11, 1992 (D.C. Law 9-114; D.C. Official Code § 32-701(4)).”.

Sec. 6. An Act To establish a code of law for the District of Columbia, approved March 3, 1901 (31 Stat. 1189; codified in scattered sections of the D.C. Official Code), is amended as follows:

(a) Section 1031 (D.C. Official Code § 42-516) is amended by adding a new subsection (c) to read as follows:

**Amend
§ 42-516**

“(c) A tenancy by the entirety may be created in any conveyance of real property to spouses or to domestic partners as that term is defined in section 2(3) of the Health Care Benefits Expansion Act of 1992, effective June 11, 1992 (D.C. Law 9-114; D.C. Official Code § 32-701(3)).”.

(b) Section 1154 (D.C. Official Code § 46-601) is amended as follows:

**Amend
§ 46-601**

(1) Subsection (c) is amended as follows:

(A) Strike the word “spouses” and insert the phrase “spouses, or the domestic partners,” in its place.

(B) Strike the word “marriage” and insert the phrase “marriage or domestic partnership” in its place.

(2) A new subsection (d) is added to read as follows:

“(d) A tenancy by the entirety may be created in any conveyance of personal property to spouses or to domestic partners.”.

Sec. 7. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code §1-206.02(c)(3)).

Sec. 8. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December

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24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

Chairman
Council of the District of Columbia

Mayor
District of Columbia