

SENATE JUDICIARY COMMITTEE
Senator Thomas Umberg, Chair
2021-2022 Regular Session

AB 1926 (Choi)
Version: May 16, 2022
Hearing Date: May 31, 2022
Fiscal: Yes
Urgency: No
AWM

SUBJECT

Voluntary declaration of parentage

DIGEST

This bill permits a person authorized to execute a voluntary declaration of parentage via electronic signature, and establishes related procedures and requirements relating to the electronic voluntary declaration of parentage form, to take effect on January 1, 2024.

EXECUTIVE SUMMARY

The Family Code provides several avenues through which a person can be established as the legal parent of a child. Since the 1990s, a person who is either (1) identified by the unmarried mother as the only possible genetic parent of the child, or (2) the intended parent of a child conceived through assisted reproduction can establish parentage through a voluntary declaration of a parentage. The declaration – currently available only as a four-part paper form – must be executed while the mother is still at the hospital after giving birth and witnessed or notarized. The form is then transmitted to the Department of Child Support Services (DCSS), which transmits it to the local child support agency (LCSA) to establish parentage. According to the author and sponsor of the bill, the use of a paper form causes slowdowns in the processing of forms and long delays to correct forms that may inadvertently contain incorrect information.

This bill is intended to streamline the voluntary declaration of parentage process by requiring, beginning January 1, 2024, a person to be able to execute a voluntary declaration of parentage electronically. The bill contains safeguards for accuracy and against fraud in the form of viability standards for the form, and the one-year implementation delay is intended to give DCSS sufficient time to comply with the bill's requirements.

This bill is sponsored by the Child Support Directors Association and is supported by the California Association of Certified Family Law Specialists, the Executive Committee

of the Family Law Section of the California Lawyers Association, the County of San Joaquin, and Los Angeles Dependency Lawyers, Inc. There is no known opposition.

PROPOSED CHANGES TO THE LAW

Existing law:

- 1) Establishes the Uniform Parentage Act (UPA), which sets forth the methods and procedures to establish the parentage of a child and the rights and obligations of parents. (Fam. Code, div. 12, pt. 3, §§ 7600 et seq.)
- 2) Defines “natural parent” as a nonadoptive parent established under the UPA, whether biologically related to the child or not. (Fam. Code, § 7601(a).)
- 3) Provides that the UPA does not preclude a finding that a child has a parent and child relationship with more than two parents. (Fam. Code, § 7601(c).)
- 4) Establishes a procedure to establish parentage through execution of a voluntary declaration of parentage executed before an unmarried mother or mother who gave birth to a child conceived through assisted reproduction leaves the hospital, for either:
 - a) The person identified by the woman as the only possible genetic parent other than the woman who gave birth; or
 - b) The intended parent of a child conceived through assisted reproduction. (Fam. Code, §§ 7571, 7573.)
- 5) Requires voluntary declaration of parentage to be made in a record signed by the woman who gave birth to the child and by the person voluntarily declaring parentage, and that the signatures shall be attested by a notary or witnessed. (Fam. Code, § 7573.)
- 6) Provides that a completed voluntary declaration of parentage that has been filed with the DCSS is equivalent to a judgment of parentage of the child and confers on the declarant all rights and duties of a parent, unless:
 - a) Either parent, within 60 days of the date of execution, files a rescission form with DCSS. (Fam. Code, §§ 7573, 7575.)
 - b) The declaration is deemed void for other specified reasons. (Fam. Code, §§ 7573, 7573.5)
- 7) Provides that, after the 60-day rescission window closes, a signatory of a voluntary declaration of parentage may, within two years from the date of executing the declaration, commence a proceeding to challenge the declaration on the basis of fraud, duress, or material mistake of fact. (Fam. Code, § 7576.)

- 8) Requires the DCSS, in consultation with the State Department of Health Care Services, the California Association of Hospitals and Health Systems,¹ and other affected health provider organizations to work cooperatively to develop written materials to assist providers and parents in complying with the voluntary declaration of parentage provisions, and requires DCSS to periodically update those materials. (Fam. Code, § 7572.)

This bill:

- 1) Permits, beginning on January 1, 2024, a person authorized to execute a voluntary declaration of parentage to sign the declaration using an electronic signature, if the electronic signature meets all of the following requirements:
 - a) The electronic signature is unique to the person using it;
 - b) The electronic signature is capable of independent verification;
 - c) The electronic signature is under the sole control of the person using it;
 - d) The electronic signature is linked to data in such a manner that makes evident any tampering or subsequent change or modification to the record; and
 - e) If the linked data are changed, the electronic signature is invalidated.
- 2) Provides, beginning January 1, 2024, that the required voluntary declaration of parentage form provided to unmarried mothers or mothers who conceived through assisted reproduction prior to leaving the hospital can be made available in printed or electronic copy.
- 3) Requires, beginning January 1, 2024, that health clinics, pediatric offices, Head Start programs, childcare centers, social services providers, prisons, and schools forward completed voluntary declarations of parentage to DCSS within 20 days of the date the declaration was signed.
- 4) Requires, beginning January 1, 2024, DCSS to make the declaration of parentage form available in both paper and electronic versions, and provides that the electronic version may be in a form that allows data to be electronically transmitted to DCSS, the signatories, and the local child support agency in lieu of mailing or delivering in a paper form.
- 5) Requires DCSS, in preparing the written materials for parents to assist with the voluntary declaration of parentage provisions, to consult with the Child Support Directors Association in addition to the existing groups, and corrects the reference to the California Association of Hospitals and Health Systems to its current name, the California Hospital Association.

¹ Now the California Hospital Association.

COMMENTS

1. Author's statement

According to the author:

AB 1926 would require a court to give full faith and credit to a voluntary declaration of parentage signed electronically by one or both parents if those signatures have been witnessed. This bill would additionally provide that a voluntary declaration of parentage is void if it was electronically signed by one or both parents contrary to existing law prohibiting electronic signatures.

2. This bill permits a person authorized to execute a voluntary declaration of parentage with an electronic signature, provided certain conditions are met

The UPA, passed in 1975, extends the parent and child relationship equally to every child and to every parent, regardless of the marital status of the parents.² The UPA defines “parent and child relationship” as “the legal relationship existing between a child and the child’s natural or adoptive parents incident to which the law confers or imposes rights, privileges, duties, and obligations.”³ Legal parenthood can be established in a number of different ways. For example, a child is conclusively presumed to be the child of spouses who were cohabitating at the time of conception,⁴ and a person who receives a child into their home and holds the child out as their own is also presumed a parent of the child.⁵

Relevant to this bill is the establishment of parentage through the execution of a voluntary declaration of parentage.⁶ Two categories of persons are authorized to establish parentage through voluntary declaration: (1) a person identified by the unmarried mother as the only possible genetic parent of the child, or (2) the intended parent of a child conceived through assisted reproduction.⁷ The procedure provides a 60-day window to rescind the declaration and, after that, a two-year window in which the declarant can challenge the establishment of parentage on the grounds of fraud, duress, or material mistake of fact.⁸

Under current law, the voluntary declaration of parentage is a paper form that must be completed and signed in person. This bill, effective January 1, 2024, requires DCSS to develop an electronic version of the declaration of parentage and recognizes properly executed electronic forms as validly establishing the parentage of the signatories. To

² See Fam. Code, div. 12, pt. 3, §§ 7600 et seq.

³ *Id.*, § 7601.

⁴ *Id.*, § 7540.

⁵ *Id.*, § 7611.

⁶ *Id.*, § 7573.

⁷ *Id.*, §§ 7571, 7573.

⁸ *Id.*, §§ 7573, 7575, 7576.

safeguard the accuracy of the document and prevent fraud, the bill requires that the electronic signatures of parents and their witnesses adhere to certain viability standards.

3. Arguments in support

According to the sponsor of the bill, the Child Support Directors Association:

This bill would allow California’s Voluntary Declaration of Parentage form (VDOP) to be completed and submitted to the state electronically. The VDOP is required by 45 CFR § 303.5 and in current practice is a four-part paper based form. More than 133,000 of these paper forms are annually printed and shipped to birthing hospitals where they are signed, witnessed, and mailed back to DCSS. They are manually processed and made accessible to LCSAs [(local child support agencies)] for the important work of establishing a child’s parentage.

Often the forms arrive at LCSAs in batches collected over months. This creates an uneven workload and leads to delays in processing. Moreover, about ten percent of forms submitted contain errors – often correct information in the wrong field. At best, these errors delay processing and at worst invalidate the form. A digital version with electronic transmittal would effectively eliminate the chance for errors and allow a nearly real-time database.

SUPPORT

Child Support Directors Association (sponsor)
California Association of Certified Family Law Specialists
California Lawyers Association, Executive Committee of the Family Law Section
County of San Joaquin
Los Angeles Dependency Lawyers, Inc.

OPPOSITION

None known

RELATED LEGISLATION

Pending Legislation: AB 2495 (Patterson, 2022) makes multiple changes to adoption and family law in California, including changing rules for determining whether an embryo donor is an intended parent, clarifying rules regarding not concealing a prospective adoptive child from the adoption agency, clarifying who can file for an adoption and when, and expanding venue options for step-parent adoptions and readoptions of children adopted in other countries. AB 2495 is pending before the Senate Judiciary Committee.

Prior Legislation:

AB 2344 (Ammiano, Ch. 636, Stats. 2014) authorized an intended parent to use a specified form to demonstrate their intent to be the legal parent of a child conceived through assisted reproduction.

SB 274 (Leno, Ch. 564, Stats. 2013) modified the UPA to, among other things, define a “natural parent” as a nonadoptive parent whether or not biologically related to the child and state that the UPA does not preclude a finding that a child has a parent-child relationship with more than two parents.

PRIOR VOTES:

Assembly Floor (Ayes 68, Noes 0)

Assembly Appropriations Committee (Ayes 13, Noes 0)

Assembly Judiciary Committee (Ayes 9, Noes 0)
