



WHY YOUR STATE SHOULD ADOPT THE UNIFORM PARENTAGE ACT (2017)

The Uniform Parentage Act (2017) (UPA (2017)) provides states with rules for determining parentage of a child. In 1973, the Uniform Law Commissioners completed the first Uniform Parentage Act (UPA (1973)). The ULC revised UPA (1973) in 2000 and 2002 (UPA (2002)). UPA (2017) updates the UPA in response to the Supreme Court's decision in *Obergefell v. Hodges* (2015). UPA (2017) also addresses other developments in society, technology, and the law since 2002. Some important reasons why your state should adopt the UPA (2017) include:

- **UPA (2017) provides clarity for and reduces unnecessary litigation regarding children born to same-sex couples.** UPA (2002) used gendered terms and its provisions presumed that couples consist of one man and one woman. As a result, the provisions did not provide clear guidance about their application to children born to same-sex couples. UPA (2017) provides needed clarity for this group of children and their families.
- **UPA (2017) cures potential constitutional infirmity in existing state law.** In *Obergefell*, the United States Supreme Court held that laws barring marriage between two people of the same sex are unconstitutional. In *Pavan v. Smith* (2017), the Court reaffirmed that conclusion applies to rules regarding children born to same-sex spouses. After these decisions, state parentage laws that treat same-sex couples differently than different-sex couples are likely unconstitutional. By adopting UPA (2017), states can avoid litigation over these issues and uphold constitutional protections.
- **UPA (2017) clarifies and codifies state law related to de facto parentage.** Most states extend at least some parental rights to people who, while not biological parents, have functioned as parents with the consent of the child's legal parent. States recognize such people under a variety of equitable doctrines or extend rights to such people through broad third-party custody and visitation statutes. UPA (2017) codifies the recognition of de facto parents in a uniform statutory scheme. This is consistent with the current trend and is consistent with a core purpose of the UPA, which is to protect established parent-child relationships. At the same time, however, UPA (2017) erects safeguards to ensure that these provisions do not result in unwarranted or unjustified litigation.
- **UPA (2017) complies with federal laws tied to subsidies and financial incentives for states.** A state's receipt of federal subsidies for its child-support enforcement program is contingent on compliance with Title IV-D requirements. The federal Office of Child Support and Enforcement (OCSE) worked with the UPA (2017) Drafting Committee to ensure that the updates in UPA (2017) comply with all federal requirements. UPA (2017) also adds a new provision that precludes the establishment of a parent-child relationship by the perpetrator of a sexual assault that resulted in the conception of the child. This provision complies with a law that the U.S. Congress adopted in 2015 – the Rape Survivor Child Custody Act. This federal statute provides financial incentives for states enacting provisions such as the one provided for in UPA (2017).
- **UPA (2017) improves the surrogacy provisions of the UPA to reflect developments in modern science, law, and culture.** Much has changed in surrogacy practice since the UPA (2002) was approved. UPA (2017) makes the act's surrogacy provisions consistent with current practice and recently adopted statutes in several states.
- **UPA (2017) addresses the right of children born through assisted reproductive technology to access medical and identifying information regarding any gamete providers.** UPA (2017) requires a gamete bank or fertility clinic licensed in the enacting state to disclose the identity of a gamete donor on request of a child conceived by assisted reproduction who attains 18 years of age. It also requires the gamete bank or fertility clinic to disclose nonidentifying medical history information regarding the gamete donor on request of a child conceived by assisted reproduction who attains 18 years of age or, if the child is a minor, of a parent or guardian of the child.

For further information about UPA (2017), please contact ULC Special Counsel Libby Snyder at (312) 450-6619 or lsnyder@uniformlaws.org.

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Jamie Pedersen
Uniform Law Commission Drafting Committee
Co-Chair for the Uniform Parentage Act revision

Dear Jamie,

On behalf of the American Academy of Adoption and Assisted Reproduction ("Academy"), we write this letter in support of the work that your committee has done to revise the Uniform Parentage Act.

As an organization dedicated to ethical and legally secure family building practices, we are pleased to see revisions to the Act ensuring that children born of collaborative reproduction are afforded the same rights and protections as are children born without the assistance of a third party. We are further impressed by the extent to which the revised Uniform Parentage Act respects and recognizes the rights of all participants in the family building process. The revisions provide a path for children of same sex and single parents, children born through surrogacy, and children born through gamete donation to be recognized as the legal children of their parents while providing ethical and legally sound ways for gamete donors and gestational and traditional surrogates to be recognized as participants in the process, rather than legal parents.

We are confident that these revisions help to address the legal challenges and opportunities that modern medicine has brought to family building, and appreciate the opportunity to have participated in the process as observers to the drafting committee. As an organization of over 400 domestic and international attorneys focusing on family building, we wish you all the best at the final reading and passage of these revisions.

Sincerely,

Deb Guston

Debra Guston
President:



Peggy Swain
Director of ART



Nidhi Desai
Deputy Director
of ART

June 22, 2017

Jamie Pedersen
Uniform Law Commission
Drafting Committee Co-Chair for the Uniform Parentage Act Revision
Vice President and General Counsel
McKinstry Co., LLC
5005 Third Ave. S.
Seattle, WA 98134

Dear Jamie,

Thank you and your committee for the work you have done to revise the Uniform Parentage Act. NAPHSIS was pleased to provide technical assistance to the committee through our representative and observer, Molly Crawford, State Registrar Minnesota Department of Health, Office of Vital Records.

Vital records plays an important role in collecting data about births that is essential to public health, documenting identities, and documenting legal parentage. We are often challenged by the speed of social change and interpreting the laws that govern our work. Families are more complex than ever before and the demand for identity documents is higher than ever.

The Uniform Parentage Act is important to our work. It provides a framework for all jurisdictions and helps guide vital records offices in their work with others to assure that birth records are timely, accurate, and complete. NAPHSIS appreciates the thoughtful updates that the committee has put forward. The revisions help to flesh out how we document same-sex parents, parents involved in surrogacy as well as legal parentage on birth certificates. The revisions also help address the further challenges presented by our mobile society for situations that cross jurisdictional boundaries—where the place of one's birth and where the birth record exists differs from where a surrogate contract is executed or where parentage is established or changed.

On behalf of our members and the vital records community which includes all 50 states, the five territories, New York City, and the District of Columbia, NAPHSIS is proud to support the 2017 revisions to the Uniform Parentage Act. We wish you and the Commission success in the final reading next month in San Diego.

Sincerely,

Elizabeth W. Saadi

Elizabeth W. Saadi, PhD
President of the Board of Directors



Shawna Webster, CAE
Executive Director



NATIONAL CENTER FOR LESBIAN RIGHTS



July 7, 2017

Commissioner Jamie Pedersen
Uniform Law Commission
Drafting Committee Co-Chair for the Uniform Parentage Act Revision
Vice President and General Counsel
McKinstry Co., LLC
5005 Third Ave. S.
Seattle, WA 98134

Dear Commissioner Pedersen,

The National Center for Lesbian Rights, Lambda Legal, the ACLU Lesbian Gay Bisexual Transgender & HIV Project, and GLBT Legal Advocates and Defenders are pleased to support the revised Uniform Parentage Act. Our organizations are the national and regional LGBT legal organizations that advance the rights of lesbian, gay, bisexual, and transgender people through litigation, legislative and policy advocacy, and public education.

Our organizations believe that the revised Uniform Parentage Act represents an important improvement in the UPA and strongly support its adoption by the Uniform Law Commission and enactment by states. After the U.S. Supreme Court decision in *Obergefell v. Hodges*, every state must allow same-sex couples to marry and must give same-sex spouses the same "constellation of benefits" provided to different-sex spouses. This includes the parentage protections in the UPA. The current draft of the revised UPA makes these protections equally applicable to same-sex parents and their children.

The National Center for Lesbian Rights (NCLR) is a national non-profit law firm that advancing the civil and human rights of lesbian, gay, bisexual, and transgender people and their families. NCLR has been pleased over the past year to participate as an observer in the Uniform Law Commission's project to revise the UPA. We are grateful for the opportunity to lend our expertise to reforming the law in this area.

Lambda Legal is a national organization committed to achieving full recognition of the civil rights of lesbians, gay men, bisexuals, transgender people and everyone living with HIV through impact litigation, education and public policy work. The ACLU Lesbian Gay Bisexual Transgender & HIV Project seeks to create a just society for all LGBT people and people living with HIV regardless of race or income. Through litigation, lobbying, public education, and organizing, we work to build a country where our communities can live openly without discrimination and enjoy equal rights, personal autonomy, and freedom of expression and association. Through strategic litigation, public policy advocacy, and education, GLBTQ Legal Advocates & Defenders (GLAD) works in New England and nationally to create a just society

free of discrimination based on gender identity and expression, HIV status, and sexual orientation. GLAD regularly advocates on behalf of GLBTQ parents, children, and their families.

Thank you for your work on this important revision.

Sincerely,

National Center for Lesbian Rights
Lambda Legal
The ACLU Lesbian Gay Bisexual Transgender & HIV Project
GLBT Legal Advocates and Defenders



The Society for Assisted Reproductive Technology

June 22, 2017

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KELLEY JEFFERSON

Dear Jamie,

Thank you and your committee for the work you have done to revise and update the Uniform Parentage Act. The Society for Assisted Reproductive Technology (SART) was pleased to provide assistance to the committee through our representative and observer, Susan Crockin, JD, a member of the SART Executive Council, a practicing ART attorney, and an adjunct professor of law in the field of ART law.

The Society for Assisted Reproductive Technology is the primary organization of professionals dedicated to the medical practice of assisted reproductive technologies (ART) in the United States. A mission of our organization is to help establish and maintain the standards for ART medical practice to better serve our members and our patients.

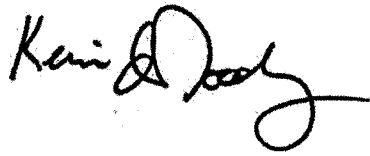
SART has been pleased over the past year to participate as an observer in the Uniform Law Commission's project to revise the Uniform Parentage Act (UPA). We believe that UPA 2017 represents a material improvement in the UPA and support its adoption by the Uniform Law Commission and enactment by states. We especially appreciate the revisions to Article 7 (Assisted Reproduction) and Article 8 (Surrogacy) and the inclusion of the new Article 9 (Information about Donor). We believe that these changes will bring the UPA up to date in a rapidly changing area, providing improved and balanced protections to all participants in the assisted reproduction process.

Setting the Standards for ART

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We appreciated the invitation and opportunity to lend our expertise to reforming the law in this area, and we wish you and the Commission success in the final reading at next month's meeting in San Diego.

Sincerely,

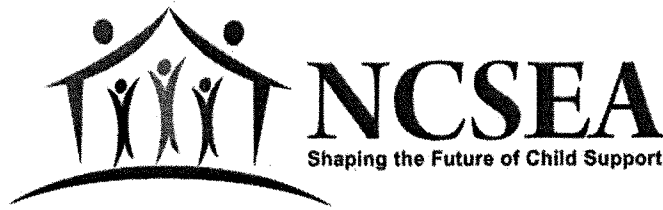
A handwritten signature in black ink that reads "Kevin J. Doody". The signature is written in a cursive style with a long, sweeping tail on the letter "y".

Kevin J. Doody, MD

President, SART

Setting the Standards for ART

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Resolution Endorsing Uniform Parentage Act (2017)

Background

Parentage establishment provides the legal basis for establishing and enforcing child support, and has been an integral part of the Title IV-D child support program since its inception in 1975. The National Conference of Commissioners on Uniform State Laws, now the Uniform Law Commission, approved the original Uniform Parentage Act (UPA) in 1973 to provide states with model parentage establishment legislation that precluded discrimination against children born to unmarried parents.

In 2017, the Uniform Law Commission enacted a new UPA to provide states with uniform model parentage establishment legislation that ensures equal treatment of children born to same-sex parents. The Uniform Parentage Act (2017) requires an intended parent of a child conceived by assisted reproduction and an individual who acknowledges parentage for a child to be legally responsible for that child, regardless of gender or genetic tie. It also avoids the potential constitutional infirmity of gender-specific paternity laws following *Obergefell v. Hodges*, 135 S. Ct. 2584 (2015), and *Pavan v. Smith*, 137 S. Ct. 2075 (2017), while meeting state law requirements of Title IV-D of the Social Security Act. Both the American Bar Association and the Eastern Regional Interstate Child Support Association have endorsed UPA (2017).

The National Child Support Enforcement Association (NCSEA) advocates for sound national public policy on the rights of all children to financial support from their parents regardless of gender or family structure. NCSEA believes that UPA (2017) provides states with a comprehensive and constitutional uniform law for parentage establishment that will benefit the children born to or raised in all families.

THEREFORE, NCSEA resolves to urge states to enact UPA (2017) to:

1. Ensure all parents financially support their children;
2. Eliminate constitutional infirmity in paternity laws that predate *Obergefell* and *Pavan*;
3. Protect children from protracted, harmful litigation by eliminating uncertainty in parentage establishment laws; and
4. Reduce the differences in state parentage laws that make it difficult for child support agencies to establish and enforce support obligations for children across state lines.

Adopted by the Board of Directors of NCSEA on the 26th day of April, 2018