

JAN 18 2019

A BILL FOR AN ACT

RELATING TO PARENTAGE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that the Hawaii supreme
2 court's majority opinion in LC v. MG and Child Support
3 Enforcement Agency, No. SCAP-16-0000837 (HAW. Oct. 4, 2018)
4 held, in part, that the Hawaii Uniform Parentage Act, chapter
5 584, Hawaii Revised Statutes, precludes a spouse from rebutting
6 the marital presumption of parentage with evidence that
7 demonstrates a clear and convincing lack of consent to the other
8 spouse's artificial insemination procedure. The legislature
9 also finds that the court's majority based this holding on
10 speculation regarding the legislature's intent in removing a
11 provision relating to artificial insemination when it adopted
12 the Uniform Parentage Act in 1973. The provision at issue
13 specifically identified a husband's written consent to his
14 wife's artificial insemination procedure as evidence relating to
15 paternity. The legislature finds that the court's majority
16 overreached in its conclusion that the legislature's removal of
17 this provision in its initial adoption of the Uniform Parentage



1 Act indicates express legislative intent to preclude any
2 evidence of non-consent to an artificial insemination procedure
3 as a rebuttal to the presumption of parentage.

4 The purpose of this Act is to clarify that evidence of an
5 alleged parent's non-consent to an artificial insemination
6 procedure that resulted in the birth of a child may be
7 considered as evidence relating to paternity in an action
8 regarding the parentage of that child.

9 SECTION 2. Section 584-12, Hawaii Revised Statutes, is
10 amended to read as follows:

11 **"§584-12 Evidence relating to paternity.** Evidence
12 relating to paternity may include:

- 13 (1) Evidence of sexual intercourse between the mother and
14 the alleged father at any possible time of conception;
- 15 (2) An expert's opinion concerning the statistical
16 probability of the alleged father's paternity based
17 upon the duration of the mother's pregnancy;
- 18 (3) Genetic test results, including blood test results,
19 weighted in accordance with evidence, if available, of
20 the statistical probability of the alleged father's
21 paternity;



1 (4) Medical or anthropological evidence relating to the
2 alleged father's paternity of the child based on tests
3 performed by experts. If a man has been identified as
4 a possible father of the child, the court may, and
5 upon request of a party shall, require the child, the
6 mother, and the man to submit to appropriate tests;

7 (5) A voluntary, written acknowledgment of paternity;

8 (6) Bills for pregnancy and childbirth, including medical
9 insurance premiums covering this period and genetic
10 testing, without the need for foundation testimony or
11 other proof of authenticity or accuracy, and these
12 bills shall constitute prima facie evidence of amounts
13 incurred for such services or for testing on behalf of
14 the child; ~~and~~

15 (7) Evidence of non-consent to an artificial insemination
16 procedure that resulted in the birth of the child; and

17 ~~[-7-]~~ (8) All other evidence relevant to the issue of
18 paternity of the child."

19 SECTION 3. This Act does not affect rights and duties that
20 matured, penalties that were incurred, and proceedings that were
21 begun before its effective date.



S.B. NO. 325

1 SECTION 4. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 5. This Act shall take effect upon its approval.

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INTRODUCED BY: Kul Khosh



S.B. NO. 325

Report Title:

Uniform Parentage Act; Artificial Insemination; Consent;
Paternity

Description:

Clarifies that evidence demonstrating an alleged parent's non-consent to an artificial insemination procedure that resulted in the birth of a child may be introduced as evidence relating to paternity.

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