
Councilmember Phil Mendelson

Councilmember Jack Evans

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A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

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; to amend Title 16 of the District of Columbia Official Code to provide the court with the authority to waive a 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 is 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 clarify the parentage of a child born through donor insemination, to permit a person whose parentage of a child is to be adjudicated to instigate a proceeding to establish parentage, to limit a biological parents ability to disrupt a child’s stable parental relationship with the person who is married to or in a domestic partnership with the child’s mother, and to permit a new birth certificate when a consent to parent a child born by artificial insemination is submitted to the Registrar; 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 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 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: 1

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

(1) By re-designating existing paragraph (4A) as (4C); and 3

(2) By inserting new paragraphs (4A) and (4B) to read as follows: 4

“(4A) “Domestic partner” shall have the same meaning as provided in section 2(3) of the 5
Health Care Benefits Expansion Act of 1992, effective June 11, 1992 (D.C. Law 9-114; D.C. 6
Official Code § 32-701(3)), but shall exclude a domestic partner who is the parent, grandparent, 7
sibling, child, grandchild, niece, nephew, aunt, or uncle of a woman who gives birth to a child. 8

“(4B) “Domestic partnership” shall have the same meaning as provided in section 2(4) of 9
the Health Care Benefits Expansion Act of 1992, effective June 11, 1992 (D.C. Law 9-114; D.C. 10
Official Code § 32-701(4)), but shall exclude a domestic partnership where a domestic partner is 11
the parent, grandparent, sibling, child, grandchild, niece, nephew, aunt, or uncle of a woman who 12
gives birth to a child.”. 13

(b) Section 6 (D.C. Official Code § 7-205) is amended as follows: 14

(1) Subsection (c)(3) is amended to read as follows: 15

“(3) The mother, the father, the spouse, the domestic partner, or, in the absence of 16
the father, spouse, or domestic partner and the inability of the mother, the person in charge of the 17
premises where the birth occurred.”. 18

(2) Subsection (e) is amended as follows: 19

(A) By amending paragraph (2) as follows: 20

(i) By striking the word “husband” and inserting the word “spouse” 21
in its place; and 22

(ii) By striking the phrase “the father” and inserting the phrase “a parent” in its place. 1
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(B) By inserting a new paragraph (2A) to read as follows: 3

“(2A) If the mother was in a domestic partnership at the time of either conception 4
or birth, or between conception and birth, the name of the domestic partner of the mother shall be 5
entered on the certificate as a parent of the child, unless parentage has been determined otherwise 6
by the Court pursuant to § 16-909;”. 7

(C) By amending paragraph (3) to read as follows: 8

“(3) If the mother was not married or in a domestic partnership at the time of 9
either conception or birth, or between conception and birth, the name of the other parent shall 10
only be entered on the certificate if: 11

“(A) The parents have signed a voluntary acknowledgment of paternity 12
pursuant to § 16-909.1(a)(1) (or pursuant to the laws and procedures of another state in which the 13
voluntary acknowledgment was signed); 14

“(B) The parents have signed a consent to parent a child born by artificial 15
insemination pursuant to § 16-909(f); or 16

“(C) A court or administrative agency of competent jurisdiction has 17
adjudicated as the other parent the person to be named as the other parent on the certificate.”. 18

(D) By amending paragraph (5) to read as follows: 19

“(5) The surname of the child shall be the surname of a parent whose name 20
appears on the child’s birth certificate, or both surnames recorded in any order or in hyphenated 21
or unhyphenated form, or any surname to which either parent has a familial connection. If the 22

chosen surname is not that of a parent, or a combination of all or part of both surnames, either or 1
both parents shall provide an affidavit stating that the chosen surname was or is the surname of a 2
past or current relative or has some other clearly stated familial connection. Submission of an 3
affidavit containing false information shall be punishable under section 26 of the Vital Records 4
Act of 1981, effective October 8, 1981 (D.C. Law 4-34; D.C. Official Code § 7-225).” 5

Sec. 3. Title 16 of the District of Columbia Official Code is amended as follows: 6

(a) Section 16-308 is amended as follows: 7

(1) The section title is amended by inserting after the term “spouse” the phrase “or 8
domestic partner”;

(2) By inserting after the term “spouse” the phrase “or domestic partner” wherever 10
it appears; and 11

(3) By inserting the following sentence at the end: 12

“For the purposes of this section, the term “domestic partner” has the same meaning as 13
provided in § 32-701(3).” 14

(b) Section 16-907 is amended as follows: 15

(1) Subsection (b) is amended by inserting after the phrase “married to” the phrase 16
“, or in a domestic partnership with,” wherever it appears; and 17

(2) By inserting a new subsection (c) to read as follows: 18

“(c) For purposes of this section, the term “domestic partnership” has the same meaning 19
as provided in § 32-701(4), but shall exclude a domestic partnership where a domestic partner is 20
the parent, grandparent, sibling, child, grandchild, niece, nephew, aunt, or uncle of a woman who 21
gives birth to a child.” 22

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

(1) The section title is amended by striking the phrase “marriage.” and inserting the phrase “marriage or domestic partnership.” in its place; and

(2) By amending the section to read as follows:

“A child, whether born in or out of wedlock, 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:

(1) The section title is amended by striking the phrase “mother and father” and inserting the term “parents” in its place;

(2) By striking the existing subsection (a) and inserting a new subsection (a) and (a-1) to read as follows:

“(a) A mother-child relationship is established by a woman having given birth to a child, by an adjudication of a woman’s parentage, by an un rebutted presumption under 16-909(e), or by operation of 16-909(f).

“(a-1) A father-child relationship is established by an adjudication of a man’s parentage, by an un rebutted presumption under 16-909(e), by operation of 16-909(f), or by an un rebutted presumption under this subsection. There shall be a presumption that a man is the father of a child:

“(1) If he and the child's mother are or have been married and the child is born during the marriage, or within 300 days after the termination of marital cohabitation by reason of death, annulment, divorce, or separation ordered by a court; or

“(2) If, prior to the child's birth, he and the child's mother have attempted to marry, and some form of marriage has been performed in apparent compliance with law, though such attempted marriage is or might be declared void for any reason, and the child is born during such attempted marriage, or within 300 days after the termination of such attempted marital cohabitation by reason of death, annulment, divorce, or separation ordered by a court; or

“(3) If, after the child's birth, he and the child's mother marry or attempt to marry, (with the attempt involving some form of marriage ceremony that has been performed in apparent compliance with law), though such attempted marriage is or might be declared void for any reason, and he has acknowledged the child to be his; or

“(4) If the putative father has acknowledged paternity in writing.”.

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

(A) By inserting after the phrase “section 16-909(a)(1) through (4)” the phrase “or by section 16-909(e)”;

(B) By striking the phrase “child’s father” and inserting the phrase “child’s genetic parent”; and

(C) By striking the phrase “paternity and shall determine whether the presumed father is or is not the father of the child” and inserting the phrase “parentage, giving due consideration to the child’s interests and the duration and stability of the relationship between the child and the presumed parent.”.

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

(A) By striking the phrase “A conclusive presumption” and inserting the 2
phrase “When a child has no presumed parent under section 16-909(a)(1) through (4) or under 3
16-909(e), a conclusive presumption” in its place; 4

(B) By striking the phrase “paternity” and inserting the phrase “parentage” 5
in its place; and 6

(C) Paragraph (1) is amended by striking the phrase “putative father is the 7
father of the child” and inserting the phrase “person is the genetic parent of the child” in its 8
place; 9

(5) By inserting new subsections (e), (f), and (g) to read as follows: 10

“(e)(1) For a child born to a mother in a domestic partnership, a parent-child relationship 11
is established between the child and both parents in a domestic partnership if the mother and the 12
mother’s domestic partner are or have been in a domestic partnership and the child is born during 13
the domestic partnership, or within 300 days after the termination of domestic partnership 14
pursuant to § 32-702(d), or separation ordered by the court; 15

“(2) If questioned, the presumption that a child born to one domestic partner is the 16
child of both partners may be overcome upon proof by clear and convincing evidence that: 17

“(A) The presumed parent did not intend to become a parent of the child; 18
and 19

“(B) The presumed parent did not hold himself or herself out as a parent of 20
the child. 21

“(f)(1) A person who consents to the artificial insemination of a woman as provided in 22

subparagraph (A) or (B) with the intent to be the parent of her child, is conclusively established 1
as a parent of the resulting child. 2

“(A) Consent by a woman, and a person who intends to be a parent of a 3
child born to the woman by artificial insemination must be in a writing signed by the woman and 4
the intended parent. 5

“(B) Failure of a person to sign a consent required by subparagraph (A), 6
before or after the birth of the child, does not preclude a finding of intent to be the parent of the 7
child if the woman and the person resided together in the same household with the child and 8
openly held the child out as their own. 9

“(2) A donor of semen to a person for artificial insemination, other than the 10
donor’s spouse or domestic partner, is not a parent of a child thereby conceived unless the donor 11
and the person agree in writing that said donor shall be a parent. 12

“(g) For purposes of this section, the term: 13

“(1) “Domestic partner” means the same as provided in § 32-701(3), but shall 14
exclude a domestic partner who is the parent, grandparent, sibling, child, grandchild, niece, 15
nephew, aunt, or uncle of a woman who gives birth to a child; and 16

“(2) “Domestic partnership” means the same as provided in § 32-701(4), but shall 17
exclude a domestic partnership where a domestic partner is the parent, grandparent, sibling, 18
child, grandchild, niece, nephew, aunt, or uncle of a woman who gives birth to a child.”. 19

(e) Section 16-2342(a) is amended by inserting after the phrase “District of Columbia,” 20
the phrase “a person whose parentage of the child is to be adjudicated.”. 21

(f) Section 16-2343 is amended as follows: 22

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

(A) Paragraph (3) is amended by striking the phrase “acknowledgment; or 2
” and inserting the phrase “acknowledgment;” in its place; 3

(B) Paragraph (4) is amended by striking the phrase “paternity.” and 4
inserting the phrase “paternity;” in its place; and 5

(C) By inserting new paragraphs (5) and (6) to read as follows: 6

“(5) The child was conceived through artificial insemination and the donor is not 7
a parent pursuant to section 16-909(f)(2); or 8

“(6) The child has a presumed father under section 16-909(a) (1) through (4) or a 9
presumed parent under section 16-909(e), in which case the court may deny such a motion after 10
giving due consideration to the child’s interests and the duration and stability of the relationship 11
between the child and the presumed parent.”. 12

(2) Subsection (a-1) is amended as follows: 13

(A) Paragraph (1) is amended by striking the phrase “The IV-D agency” 14
and inserting the phrase “When a child has neither a presumed father under section 16-909(a)(1) 15
through (4) nor a presumed parent under section 16-909(e), the IV-D agency” in its place; and 16

(B) Paragraph (2) is amended by inserting after the phrase “In all other 17
cases” the phrase “in which a child has neither a presumed father under section 16-909(a)(1) 18
through (4) nor a presumed parent under section 16-909(e)” 19

(g) Section 16-2343.01 is amended by striking the phrase “A genetic test result” and 20
inserting the phrase “When a child has no presumed parent under section 16-909(a)(1) through 21
(4) nor a presumed parent under section 16-909(e), a genetic test result” in its place. 22

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

(1) By amending the section title by striking the word “natural”; and

(2) By inserting after the phrase “the requirements of section 16-909.01(a)(2) are submitted to the Registrar,” the phrase “or when a consent to parent a child born by artificial insemination pursuant to section 16-909(f)(1)(A) is submitted to the Registrar,”.

Sec. 4. Section 2 of the Parental Leave Act of 1984, effective August 17, 1984 (D.C. Law 10-146; D.C. Official Code § 32-1201(2)(E)) is amended as follows:

(a) Paragraph 2(E) is amended by inserting after the phrase “married to” the phrase “, or in a domestic partnership with,”; and

(b) By adding a new paragraph (5) 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. 5. Section 1031 of An Act To establish a code of law for the District of Columbia, approved March 3, 1901 (31 Stat. 1352, 1277; D.C. Official Code § 42-516), is amended by adding a new subsection (c) to read as follows:

“(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)).”.

Sec. 6. Section 27c(a)(1) of the District of Columbia Child Support Enforcement Amendment Act of 1985, effective February 24, 1987 (D.C. Law 6-166; D.C. Official Code §

46-226.03), is amended by inserting after the word “paternity” the phrase “,consistent with section 16-2343(a-1)”. 1
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Sec. 7. Fiscal impact statement. 3

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)). 4
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Sec. 8. Effective date. 7

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 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register. 8
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