

SENATE FLOOR AMENDMENT

Second Reading

BY SENATOR Moreno

1 Amend the Health and Human Services Committee Report, dated March
2 23, 2022, page 1, strike lines 4 through 26.

3 Page 2, strike lines 1 through 30 and substitute:

4 ""**SECTION 2.** In Colorado Revised Statutes, 19-1-103, **amend**
5 (61) as follows:

6 **19-1-103. Definitions.** As used in this title 19 or in the specified
7 portion of this title 19, unless the context otherwise requires:

8 (61) "Donor", as used in ~~section 19-4-106~~ ARTICLE 4 OF THIS TITLE
9 19, means an individual who produces eggs or sperm used for AN assisted
10 ~~reproduction~~ REPRODUCTIVE PROCEDURE, whether or not for
11 consideration. "Donor" does not include ~~a spouse who provides sperm or~~
12 ~~eggs to be used for assisted reproduction by the other spouse~~ AN
13 INTENDED PARENT PURSUANT TO SECTION 19-4-106(1) OR (5) OR SECTION
14 19-4.5-109 OR A SPOUSE OR CIVIL UNION PARTNER WHO PROVIDES
15 REPRODUCTIVE TISSUE TO BE USED FOR AN ASSISTED REPRODUCTIVE
16 PROCEDURE BY THE OTHER SPOUSE OR CIVIL UNION PARTNER.

17 **SECTION 3.** In Colorado Revised Statutes, **add** 19-4-102.5 as
18 follows:

19 **19-4-102.5. Terms defined.** (1) ANY REFERENCE IN THE
20 STATUTES, ADMINISTRATIVE RULES, COURT RULES, GOVERNMENT
21 POLICIES, COMMON LAW, AND ANY OTHER PROVISION OR SOURCE OF LAW
22 IN THIS STATE TO AN "ACKNOWLEDGMENT OF PATERNITY" MEANS AN
23 "ACKNOWLEDGMENT OF PARENTAGE", AS DESCRIBED IN THIS SECTION.

24 (2) UNLESS THE CONTEXT OTHERWISE REQUIRES, ANY REFERENCE
25 IN THIS TITLE 19 TO "FATHER" INCLUDES A PARENT OF ANY GENDER, ANY
26 REFERENCE TO "MOTHER" INCLUDES A PARENT OF ANY GENDER, AND ANY
27 REFERENCE TO "PATERNITY" IS EQUALLY APPLICABLE TO "PARENTAGE".

28 (3) UNLESS THE CONTEXT OTHERWISE REQUIRES, AS USED IN THIS
29 TITLE 19, "NATURAL PARENT" MEANS A NONADOPTIVE PARENT
30 ESTABLISHED PURSUANT TO ARTICLE 4 OF THIS TITLE 19, WHETHER OR NOT
31 BIOLOGICALLY RELATED TO THE CHILD.

32 (4) ANY REFERENCE IN THE STATUTES, ADMINISTRATIVE RULES,
33 COURT RULES, GOVERNMENT POLICIES, COMMON LAW, AND ANY OTHER
34 PROVISION OR SOURCE OF LAW IN THIS STATE TO "SPOUSE", "HUSBAND", OR
35 "WIFE", OR TO THE PLURALS OF SUCH TERMS, ARE EQUALLY APPLICABLE TO
36 A CIVIL UNION PARTNER. ANY REFERENCE TO "MARRIAGE", "MARITAL
37 UNION", "MARITAL STATUS", "MARRIED", "UNMARRIED", "WEDLOCK", OR
38 ANY SIMILAR TERM IS EQUALLY APPLICABLE TO THE STATUS OF BEING IN
39 A CIVIL UNION OR NOT IN A CIVIL UNION.

1 **SECTION 4.** In Colorado Revised Statutes, **amend** 19-4-105 and
2 19-4-106 as follows:

3 **19-4-105. Presumption of paternity.** (1) A ~~man~~ PERSON is
4 presumed to be the natural ~~father~~ PARENT of a child if:

5 (a) ~~He and the child's natural mother~~ THE PERSON AND THE
6 PARENT WHO GAVE BIRTH TO THE CHILD are or have been married to each
7 other OR ARE IN A CIVIL UNION PURSUANT TO ARTICLE 15 OF TITLE 14, and
8 the child is born during the marriage OR CIVIL UNION, within three
9 hundred days after the marriage OR CIVIL UNION is terminated by death,
10 annulment, declaration of invalidity of marriage OR CIVIL UNION,
11 dissolution of marriage OR CIVIL UNION, or divorce, or after a decree of
12 legal separation is entered by a court;

13 (b) Before the child's birth, ~~he and the child's natural mother~~ THE
14 PERSON AND THE PARENT WHO GAVE BIRTH TO THE CHILD have attempted
15 to marry each other by a marriage solemnized in apparent compliance
16 with law OR ATTEMPTED TO ENTER INTO A CIVIL UNION IN APPARENT
17 COMPLIANCE WITH LAW, although the attempted marriage OR CIVIL UNION
18 is or could be declared invalid, and:

19 (I) If the attempted marriage OR CIVIL UNION could be declared
20 invalid only by a court, the child is born during the attempted marriage OR
21 CIVIL UNION or within three hundred days after its termination by death,
22 annulment, declaration of invalidity of marriage OR CIVIL UNION,
23 dissolution of marriage OR CIVIL UNION, or divorce; or

24 (II) If the attempted marriage OR CIVIL UNION is invalid without
25 a court order, the child is born within three hundred days after the
26 termination of cohabitation;

27 (c) After the child's birth, ~~he and the child's natural mother~~ THE
28 PERSON AND THE PARENT WHO GAVE BIRTH TO THE CHILD have married OR
29 ENTERED INTO A CIVIL UNION, or attempted to marry each other by a
30 marriage solemnized in apparent compliance with law OR ENTER INTO A
31 CIVIL UNION IN APPARENT COMPLIANCE WITH LAW, although the attempted
32 marriage OR CIVIL UNION is or could be declared invalid, and:

33 (I) ~~He has acknowledged his paternity~~ THE PERSON HAS ASSERTED
34 PARENTAGE of the child in writing filed with the court or registrar of vital
35 statistics, if such acknowledgment has not previously become a legal
36 finding pursuant to ~~paragraph (b) of subsection (2)~~ SUBSECTION (2)(a.5)
37 of this section;

38 (II) With ~~his consent, he~~ THE PERSON'S CONSENT, THE PERSON is
39 named as the child's ~~father~~ PARENT on the child's birth certificate; or

40 (III) ~~He~~ THE PERSON is obligated to support the child under a
41 written voluntary promise or by court order or by an administrative order
42 issued pursuant to section 26-13.5-110; ~~C.R.S.;~~

43 (d) While the child is under the age of majority, ~~he~~ THE PERSON

1 receives the child into ~~his~~ THE PERSON'S home and openly holds out the
2 child as ~~his~~ THE PERSON'S natural child;

3 (e) ~~He acknowledges his paternity of the child in a writing filed~~
4 ~~with the court or registrar of vital statistics, which shall promptly inform~~
5 ~~the mother of the filing of the acknowledgment, and she does not dispute~~
6 ~~the acknowledgment within a reasonable time after being informed~~
7 ~~thereof, in a writing filed with the court or registrar of vital statistics, if~~
8 ~~such acknowledgment has not previously become a legal finding pursuant~~
9 ~~to paragraph (b) of subsection (2) of this section. If another man is~~
10 ~~presumed under this section to be the child's father, acknowledgment may~~
11 ~~be effected only with the written consent of the presumed father or after~~
12 ~~the presumption has been rebutted.~~

13 (f) The genetic tests or other tests of inherited characteristics have
14 been administered ~~as provided in~~ PURSUANT TO section 13-25-126,
15 C.R.S., and the results show that the alleged ~~father~~ GENETIC PARENT is not
16 excluded as the probable ~~father~~ GENETIC PARENT and that the probability
17 of ~~his~~ THE PERSON'S GENETIC parentage is ninety-seven percent or higher.
18 THIS SUBSECTION (3)(f) DOES NOT APPLY TO A DONOR AS DEFINED IN
19 SECTION 19-1-103.

20 (2) (a) ~~A presumption under this section~~ OF PARENTAGE PURSUANT
21 TO SUBSECTION (1) OF THIS SECTION may be rebutted in an appropriate
22 action only by clear and convincing evidence. If two or more
23 CONFLICTING presumptions arise, ~~which conflict with each other,~~ the
24 presumption ~~which~~ THAT, on the facts, is founded on the weightier
25 considerations of policy and logic controls. The presumption is rebutted
26 by a court decree establishing ~~paternity~~ PARENTAGE of the child by
27 another ~~man~~ PERSON OTHER THAN THE PARENT WHO GAVE BIRTH. In
28 determining which of two or more conflicting presumptions ~~should~~
29 ~~control~~ CONTROLS, based upon the weightier considerations of policy and
30 logic, the judge or magistrate shall consider all pertinent factors,
31 including but not limited to the following:

32 (I) The length of time between the proceeding to determine
33 parentage and the time that the presumed ~~father~~ PARENT was placed on
34 notice that ~~he~~ THE PRESUMED PARENT might not be the genetic ~~father~~
35 PARENT, UNLESS THE CHILD WAS CONCEIVED THROUGH AN ASSISTED
36 REPRODUCTIVE PROCEDURE;

37 (II) The length of time during which the presumed ~~father~~ PARENT
38 has assumed the role of ~~father of the child~~ THE CHILD'S PARENT;

39 (III) The facts surrounding the presumed ~~father's~~ PARENT'S
40 discovery of ~~his possible nonpaternity~~ THE POSSIBILITY THAT THE
41 PRESUMED PARENT WAS NOT A GENETIC PARENT, UNLESS THE CHILD WAS
42 CONCEIVED THROUGH AN ASSISTED REPRODUCTIVE PROCEDURE;

43 (IV) The nature of the ~~father-child~~ EXISTING PARENT-CHILD

1 relationship;
2 (V) The CHILD'S age; ~~of the child;~~
3 (VI) The CHILD'S relationship ~~of the child to any presumed father~~
4 ~~or fathers;~~ TO ANY PRESUMED PARENT OR PARENTS;
5 (VII) The extent to which the passage of time reduces the chances
6 of establishing ~~the paternity of another man~~ ANOTHER PERSON'S
7 PARENTAGE and a child support obligation in favor of the child; and
8 (VIII) Any other factors that may affect the equities arising from
9 the disruption of the ~~father-child~~ PARENT-CHILD relationship between the
10 child and the presumed ~~father or fathers~~ PARENT OR PARENTS or the
11 chance of other harm to the child.
12 (a.5) (I) A PERSON AND THE PARENT WHO GAVE BIRTH TO THE
13 CHILD MAY SIGN A VOLUNTARY ACKNOWLEDGMENT OF PARENTAGE TO
14 ESTABLISH THE PARENTAGE OF THE CHILD. A VOLUNTARY
15 ACKNOWLEDGMENT OF PARENTAGE MAY BE SIGNED BY A PARENT WHO
16 GAVE BIRTH TO THE CHILD AND EITHER:
17 (A) ANOTHER PERSON WHO IS OR BELIEVES THEMSELVES TO BE A
18 GENETIC PARENT; OR
19 (B) ANOTHER PERSON WHO IS AN INTENDED PARENT OF A CHILD
20 CONCEIVED THROUGH AN ASSISTED REPRODUCTIVE PROCEDURE.
21 (II) A MARRIED PERSON OR PERSON IN A CIVIL UNION WHO GIVES
22 BIRTH TO A CHILD MAY ONLY SIGN A VOLUNTARY ACKNOWLEDGMENT OF
23 PARENTAGE WITH A PERSON WHO IS NOT THE MARRIED PERSON'S SPOUSE
24 OR CIVIL UNION PARTNER IF THE SPOUSE OR CIVIL UNION PARTNER SIGNS
25 A DENIAL OF PARENTAGE.
26 (b) A duly executed voluntary acknowledgment of ~~paternity shall~~
27 ~~be considered a legal finding of paternity~~ PARENTAGE TAKES EFFECT UPON
28 THE FILING OF THE DOCUMENT WITH THE STATE REGISTRAR OF VITAL
29 STATISTICS AND MAY BE RESCINDED on the earlier of:
30 (I) Sixty days after execution of such acknowledgment; or
31 (II) On the date of any administrative or judicial proceeding
32 pursuant to this article or any administrative or judicial proceeding
33 concerning the support of a child to which the signatory is a party.
34 (c) ~~Except as otherwise provided in section 19-4-107.3, a legal~~
35 ~~finding of paternity~~ AN ACKNOWLEDGMENT OF PARENTAGE may be
36 challenged in court only on the basis of fraud, duress, or mistake of
37 material fact, with the burden of proof upon the challenger. Any legal
38 responsibilities resulting from signing an acknowledgment of ~~paternity~~
39 PARENTAGE, including child support obligations, ~~shall continue~~ CONTINUE
40 during any challenge to the finding of ~~paternity~~ PARENTAGE, except for
41 good cause shown.
42 (d) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTIONS (2)(b) AND
43 (2)(c) OF THIS SECTION, A VOLUNTARY ACKNOWLEDGMENT OF PARENTAGE

1 THAT COMPLIES WITH THIS SECTION AND SECTION 25-2-112, AND IS FILED
2 WITH THE STATE REGISTRAR OF VITAL STATISTICS, IS EQUIVALENT TO AN
3 ADJUDICATION OF PARENTAGE OF THE CHILD AND CONFERS ON THE
4 ACKNOWLEDGED PARENT ALL RIGHTS AND DUTIES OF A PARENT. THE
5 COURT SHALL GIVE FULL FAITH AND CREDIT TO A VOLUNTARY
6 ACKNOWLEDGMENT OF PARENTAGE THAT IS EFFECTIVE IN ANOTHER STATE,
7 INCLUDING A FEDERALLY RECOGNIZED INDIAN TRIBE, IF THE
8 ACKNOWLEDGMENT WAS IN A SIGNED RECORD AND OTHERWISE COMPLIES
9 WITH THE LAWS OF THE OTHER STATE OR FEDERALLY RECOGNIZED INDIAN
10 TRIBE.

11 **19-4-106. Assisted reproductive procedures.** (1) ~~If, under the~~
12 ~~supervision of a licensed physician or advanced practice nurse and with~~
13 ~~the consent of her husband, a wife consents to assisted reproduction with~~
14 ~~sperm donated by a man not her husband, the husband is treated in law as~~
15 ~~if he were the natural father of a child thereby conceived. If, under the~~
16 ~~supervision of a licensed physician or advanced practice nurse and with~~
17 ~~the consent of her husband, a wife consents to assisted reproduction with~~
18 ~~an egg donated by another woman, to conceive a child for herself, not as~~
19 ~~a surrogate, the wife is treated in law as if she were the natural mother of~~
20 ~~a child thereby conceived. Both the husband's and the wife's consent must~~
21 ~~be in writing and signed by each of them. The physician or advanced~~
22 ~~practice nurse shall certify their signatures and the date of the assisted~~
23 ~~reproduction and shall file the consents with the department of public~~
24 ~~health and environment, where they shall be kept confidential and in a~~
25 ~~sealed file; however, the physician's failure to do so does not affect the~~
26 ~~father and child relationship or the mother and child relationship. All~~
27 ~~papers and records pertaining to the assisted reproduction, whether part~~
28 ~~of the permanent record of a court or of a file held by the supervising~~
29 ~~physician or advanced practice nurse or elsewhere, are subject to~~
30 ~~inspection only upon an order of the court for good cause shown. If, WITH~~
31 ~~THE CONSENT OF ANOTHER INTENDED PARENT, AN INTENDED PARENT~~
32 ~~CONSENTS TO BECOME PREGNANT THROUGH AN ASSISTED REPRODUCTIVE~~
33 ~~PROCEDURE, THE INTENDED PARENT WHO DOES NOT GIVE BIRTH IS~~
34 ~~TREATED IN LAW AS THE NATURAL PARENT OF THE CHILD CONCEIVED. THE~~
35 ~~CONSENT OF BOTH THE INTENDED PARENT WHO WILL GIVE BIRTH AND THE~~
36 ~~OTHER INTENDED PARENT MUST BE IN WRITING AND SIGNED BY EACH SUCH~~
37 ~~PARTY, EXCEPT AS PROVIDED IN SUBSECTION (5) OF THIS SECTION. THIS~~
38 ~~SUBSECTION (1) DOES NOT APPLY TO A CHILD CONCEIVED PURSUANT TO A~~
39 ~~SURROGACY AGREEMENT PURSUANT TO ARTICLE 4.5 OF THIS TITLE 19.~~

40 (2) A donor is not a parent of a child conceived by means of AN
41 assisted ~~reproduction~~ REPRODUCTIVE PROCEDURE, except as provided in
42 subsection (3) of this section.

43 (3) ~~If a husband provides sperm for, or consents to, assisted~~

1 reproduction by his wife as provided in subsection (1) of this section, he
2 is the father of the resulting child.

3 (4) The requirement for consent set forth in subsection (1) of this
4 section does not apply to the donation of eggs by a married woman for
5 assisted reproduction by another woman or to the donation of sperm by
6 a married man for assisted reproduction by a woman who is not his wife.

7 (5) Failure of the husband INTENDED PARENT to sign a consent
8 required by subsection (1) of this section before or after the birth of the
9 child does not preclude a finding that the husband is the father of a child
10 born to his wife pursuant to section 19-4-105 (2)(a) INTENDED PARENT IS
11 THE PARENT IF THE COURT FINDS BY CLEAR AND CONVINCING EVIDENCE
12 THAT, PRIOR TO THE CONCEPTION OF THE CHILD, THE PARENT WHO GIVES
13 GAVE BIRTH AND THE INTENDED PARENT HAD AN ORAL AGREEMENT THAT
14 BOTH WOULD BE PARENTS OF THE CHILD AND THAT THE CHILD WAS
15 CONCEIVED THROUGH AN ASSISTED REPRODUCTIVE PROCEDURE.

16 (6) If there is no signed consent form, the nonexistence of the
17 father-child relationship shall be determined pursuant to section 19-4-107
18 (1)(b).

19 (6.5) NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE
20 CONTRARY, GENETIC TESTS MAY NOT BE ORDERED AND ARE NOT
21 ADMISSIBLE TO ESTABLISH A DONOR AS A PARENT, TO CHALLENGE THE
22 RECOGNITION OF AN INTENDED PARENT WHO CONSENTED TO THE ASSISTED
23 REPRODUCTIVE PROCEDURE AS A PARENT, OR TO CHALLENGE A
24 VOLUNTARY ACKNOWLEDGMENT OF PARENTAGE THAT COMPLIES WITH
25 SECTION 19-4-105 WHERE THE CHILD WAS CONCEIVED THROUGH AN
26 ASSISTED REPRODUCTIVE PROCEDURE, EXCEPT TO RESOLVE A DISPUTE
27 REGARDING WHETHER THE CHILD WAS CONCEIVED THROUGH AN ASSISTED
28 REPRODUCTIVE PROCEDURE.

29 (7) (a) If a marriage OR CIVIL UNION is dissolved before placement
30 of eggs, sperm, or embryos, the former spouse OR CIVIL UNION PARTNER
31 is not a parent of the resulting child unless the former spouse OR CIVIL
32 UNION PARTNER consented in a record that if assisted reproduction THE
33 ASSISTED REPRODUCTIVE PROCEDURE were to occur after a dissolution of
34 marriage OR CIVIL UNION, the former spouse OR CIVIL UNION PARTNER
35 would be a parent of the child.

36 (b) The consent of a former spouse OR CIVIL UNION PARTNER to
37 assisted reproduction may be withdrawn by that individual in a record
38 GIVEN TO THE PARENT WHO AGREED TO GIVE BIRTH TO A CHILD
39 CONCEIVED BY AN ASSISTED REPRODUCTIVE PROCEDURE at any time
40 before placement of eggs, sperm, or embryos.

41 (8) If a spouse OR CIVIL UNION PARTNER dies before placement of
42 eggs, sperm, or embryos, the deceased spouse OR CIVIL UNION PARTNER
43 is not a parent of the resulting child unless the deceased spouse OR CIVIL

1 UNION PARTNER consented in a record that if assisted reproduction were
2 to occur after death, the deceased spouse OR CIVIL UNION PARTNER would
3 be a parent of the child.

4 (9) This section does not apply to the birth of a child conceived by
5 means of sexual intercourse.

6 (10) For purposes of this section, "donor" is defined in section
7 19-1-103."

8 Renumber succeeding sections accordingly."

9 Page 2 of the report, after line 35 insert:

10 "SECTION 6. In Colorado Revised Statutes, 25-2-112, **amend**
11 (3.5) as follows:

12 **25-2-112. Certificates of birth - filing - establishment of**
13 **paternity - notice to collegeinvest.** (3.5) Upon the birth of a child to an
14 unmarried ~~woman~~ PERSON in an institution, the person in charge of the
15 institution or that person's designated representative shall provide an
16 opportunity for the ~~child's mother and natural father~~ PERSON WHO GAVE
17 BIRTH AND THE PERSON SEEKING TO ACKNOWLEDGE PARENTAGE
18 PURSUANT TO SECTION 19-4-105 to complete a written acknowledgment
19 of ~~paternity~~ PARENTAGE on the form prescribed and furnished by the state
20 registrar.

21 Renumber succeeding sections accordingly."

** ** ** *