

SENATE BILL REPORT

SB 6742

As of February 02, 2006

Title: An act relating to determination of parentage.

Brief Description: Clarifying determination of parentage.

Sponsors: Senators Stevens, Swecker, Benton, Carrell, Zarelli and Delvin.

Brief History:

Committee Activity: Human Services & Corrections: 1/31/06.

SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

Staff: Shani Bauer (786-7468)

Background: The Uniform Parentage Act of 2002 (UPA) was adopted by the Legislature in 2002. The UPA provides that a parent-child relationship is established:

Between a child and a woman by:

- The woman having given birth to the child;
- An adjudication of the woman's maternity;
- Adoption of the child by the woman;
- A valid surrogate parentage contract, under which the mother is the intended parent;
- or
- A woman follows the statutory process for establishing maternity for a child born as a result of a surrogacy or egg donor arrangement.

Between a child and a man by:

- An un rebutted presumption of the man's paternity as provided in law;
- The man having signed a voluntary acknowledgment of paternity;
- An adjudication of the man's paternity;
- Adoption of the child by the man;
- The man having consented to assisted reproduction by his wife that resulted in the birth of the child; or
- A valid surrogate parentage contract under which the father is the intended parent.

The Supreme Court of Washington recently held that the UPA, as adopted in current statute, is not the exclusive means for determining the parentage of a child. The court found that a *de facto* parent who is not the biological or adoptive parent of the child may be determined to be the legal parent of the child.

A *de facto* parent is a parent who:

- 1) The natural or legal parent consented to and fostered the parent-like relationship;
- 2) The petitioner and the child lived together in the same household;

- 3) The petitioner assumed obligations of parenthood without expectation of financial compensation; and
- 4) The petitioner has been in a parental role for a length of time sufficient to have established with the child a bonded, dependent relationship, parental in nature.

Summary of Bill: The Uniform Parentage Act, as adopted in current law, is the exclusive means for determining parentage in this state.

It is the intent of the Legislature to preempt common law and clarify that current statutory law governs every determination of parentage.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: The purpose of this bill is to clarify the legislative meaning of what the law already says. We want to bring the court back to the understanding that when the Legislature adopted the UPA, it meant for the UPA to govern all determinations of parentage in this state. The court should not be looking outside of the UPA to establish parentage in some other manner.

Testimony Against: From a policy perspective, allowing parentage to be established for a *de facto* parent is good for children. Although not tested in the law yet, the court established parameters for a *de facto* parent are narrowly defined and, therefore, it is not likely that a large range of persons would be able to qualify as a *de facto* parent under this decision. This also restores the status of common law prior to adoption of the UPA. The legislature could create a remedy for these circumstances. A remedy does not currently exist in statutory law, so the court was free to address the issue by common law.

Who Testified: PRO: Senator Val Stevens, prime sponsor.

CON: Rick Bartholomew, WSBA Family Law Section; Pam Crone, NW Women's Law Center.