

SENATE BILL REPORT

SB 5333

As Reported by Senate Committee On:
Law & Justice, January 24, 2019

Title: An act relating to making changes related to the uniform parentage act for access to court records, compliance with regulations of the food and drug administration, enacting a repealed section of chapter 26.26 RCW, and correcting citations and terminology.

Brief Description: Making changes related to the uniform parentage act for access to court records, compliance with regulations of the food and drug administration, enacting a repealed section of chapter 26.26 RCW, and correcting citations and terminology. **[Revised for 1st Substitute:** Making changes related to the uniform parentage act for access to court records, entry of protective orders by the court, use of mandatory forms, criteria for notice of a proceeding to adjudicate parentage, compliance with regulations of the food and drug administration, enacting a repealed section of chapter 26.26 RCW, clarifying the crimes included in sexual assault for purposes of preclusion of parentage, and correcting citations and terminology.]

Sponsors: Senators Pedersen and Rivers.

Brief History:

Committee Activity: Law & Justice: 1/22/19, 1/24/19 [DPS, DNP].

Brief Summary of First Substitute Bill

- Changes court proceedings in parentage actions related to access to records, protective orders, proper notice, and mandatory forms.
- Complies with regulations of the food and drug administration.
- Allows acknowledged parents to file an action for visitation, parenting plan, child support and health care.
- Corrects citations cross-referencing the Uniform Parentage Act and terminology in other laws.
- Clarifies the crimes included in sexual assault for purposes of preclusion of parentage.

SENATE COMMITTEE ON LAW & JUSTICE

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Majority Report: That Substitute Senate Bill No. 5333 be substituted therefor, and the substitute bill do pass.

Signed by Senators Pedersen, Chair; Dhingra, Vice Chair; Kuderer, Salomon and Wilson, L..

Minority Report: Do not pass.

Signed by Senators Padden, Ranking Member; Holy.

Staff: Tim Ford (786-7423)

Background: In 2018 the Legislature enacted the Uniform Parentage Act (UPA), effective January 1, 2019, which repealed the former version of the same name.

The UPA provides for how a legal parent-child relationship may be established or challenged, and how a determination of parentage may be used by courts in other proceedings including child support. The UPA addresses a range of subjects including:

- parent-child relationship;
- voluntary acknowledgement of parentage;
- genetic testing;
- adjudication of parentage;
- assisted reproduction;
- surrogacy agreements;
- information about donors; and
- miscellaneous provisions.

Access to Court Records. The court, in an adjudication of parentage, may close the proceeding to the public, while a final order in a proceeding is available for public inspection. Other records are available for public inspection only with the consent of the parties or by court order.

Donor Information. A gamete means a sperm, egg, or any part. A gamete bank or fertility clinic must collect a donor's identifying information and medical history at the time of donation. If the gametes are transferred to another bank or clinic, the donor identifying information and medical history must also be forwarded. A bank or clinic receiving the gametes must retain the information about the donor and the bank or clinic forwarding the information.

Donors may decide whether or not to disclose their identifying information, and their decision is documented in a signed declaration. On request by a child conceived by assisted reproduction and who attains eighteen years of age, a gamete bank or fertility clinic must provide the offspring or, if the child is a minor, the parent or guardian of the child, the donor identifying information if the donor's declaration chose disclosure. If the donor chose non-disclosure, the bank or clinic must notify the donor of the request, and the donor may elect to change their choice in a new declaration. Non-disclosure would not prevent the 18 year old child from obtaining the donor's non-identifying medical history upon request. Banks and clinics must comply with federal law for screening, testing, and reporting.

Food and Drug Administration Regulations. The Food and Drug Administration (FDA) regulates donation of human cells, tissues, and related products. The FDA requires certain records to accompany donations including:

- a distinct identification code that relates donations to the donor and all records pertaining to the donations, and does not include the individual's name, social security number, or medical record number;
- a statement determining eligibility based on the results of screening and testing; and
- a summary of the records used to make the eligibility determination.

The accompanying records required by FDA regulation must not contain the donor's name or other personal information that might identify the donor.

Terminology. The new UPA changed certain terminology compared to the repealed UPA including:

- paternity is replaced with parentage;
- acknowledged father or father is replaced with acknowledged parent or parent; and
- alleged father is replaced with alleged genetic parent.

Variations with similar changes appear throughout the new UPA.

Summary of Bill (First Substitute): Except as provided by applicable court rules, records entered after the entry of a final order determining parentage in a proceeding under this chapter are publicly accessible. Allows for the entry of protective orders by the court. Requires the use of mandatory forms in parentage actions. Establishes criteria for notice of a proceeding to adjudicate parentage.

Identifying information and medical history of a donor may not accompany the transfer of a donation from one gamete bank or fertility clinic to another bank or clinic. A bank or clinic receiving a donation from another bank or clinic must collect the name, address, telephone number, and email address of the bank or clinic from which it received the gametes.

On request of an eighteen-year-old child conceived by assisted reproduction, a bank or clinic which received the gametes used in the assisted reproduction from another bank or clinic shall disclose the name, address, telephone number, and email address of the bank or clinic from which it received the gametes.

The eighteen-year-old child may then request information from the bank or clinic that originally collected the identifying information and medical history. Consistent with existing law, the bank or clinic that originally collected the information would then be required to disclose or not disclose the identifying information depending on the donor's declaration. Non-disclosure would not prevent the 18 year old child from obtaining the non-identifying medical history of the donor upon request.

Acknowledged parents may file an action for visitation, parenting plan, child support and health care.

Clarifies the crimes included in sexual assault for purposes of preclusion of parentage.

Terminology changes in the new UPA were limited, yet also contain terminology used in the old version. The bill replaces the terminology consistent with the new terminology in the new UPA. Citation changes are provided in other chapters to ensure that cross references to the new UPA are correct.

EFFECT OF CHANGES MADE BY LAW & JUSTICE COMMITTEE (First Substitute):

- Allows for the entry of protective orders by the court.
- Requires the use of mandatory forms in parentage actions.
- Establishes criteria for notice of a proceeding to adjudicate parentage.
- Clarifies the crimes included in sexual assault for purposes of preclusion of parentage.

Appropriation: None.

Fiscal Note: Not requested.

Creates Committee/Commission/Task Force that includes Legislative members: No.

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

Staff Summary of Public Testimony on Original Bill: *The committee recommended a different version of the bill than what was heard.* PRO: The purposes of the section that was inadvertently omitted give acknowledged parents a statutory vehicle to go into court to attain a parenting plan, residential schedule, child support order, or medical care provisions for the children. It needs to be added back to the law. Without it they need to get married or divorced. The parenting plans and residential schedules are important to provide stability for families, schools, and others. Historically, court documents filed after a final judgment adjudicating parentage have been publicly available. The law last year changed that making clerk's jobs more difficult. We support the language for greater public access to these court documents. Judges need the authority to enter a range of different protective or restraining orders that were removed in last year's law. There should be a provision requiring the use of mandatory forms. Judges also would like more clarity for how proper notice is to be provided. It should be by service of a summons and a complaint to all parties entitled to notice.

OTHER: Identity information is important to children. The law governing donor information needs to comply with the federal regulations. The identifying information can not accompany the distribution of human gametes.

Persons Testifying: PRO: Senator Jamie Pedersen, Prime Sponsor; Sarah Richardson, Family Support Division, WAPA and Chief Deputy Prosecutor, Pierce County; Sonya Kraski, Snohomish County Clerk, Washington Association of County Clerks; Tom Parker, Superior Court Judges Association.

OTHER: Angelo Allard, General Supervisor, Seattle Sperm Bank.

Persons Signed In To Testify But Not Testifying: No one.