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## FISCAL IMPACT REPORT

<b>SPONSOR</b> <u>Herndon</u>	<b>LAST UPDATED</b> _____
	<b>ORIGINAL DATE</b> <u>02/19/2025</u>
<b>SHORT TITLE</b> <u>Revised Uniform Parentage Act</u>	<b>BILL NUMBER</b> <u>House Bill 373</u>
	<b>ANALYST</b> <u>Chilton</u>

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT\* (dollars in thousands)

Agency/Program	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Courts and HCA to update regulations and procedures	Indeterminate but minimal	Indeterminate but minimal	Indeterminate but minimal	Indeterminate but minimal	Recurring	General Fund

Parentheses ( ) indicate expenditure decreases.  
 \*Amounts reflect most recent analysis of this legislation.

Relates to with Senate Bill 417

### Sources of Information

LFC Files

Agency Analysis Received From  
 Health Care Authority (HCA)  
 Administrative Office of the Courts (AOC)

Agency Analysis was Solicited but Not Received From  
 Children, Youth and Families Department (CYFD)

## SUMMARY

### Synopsis of House Bill 373

House Bill 373 (HB373) repeals the New Mexico Uniform Parentage Act (Section 40-11A NMSA 1978) with a new section, the Revised Uniform Parentage Act, that accommodates different family configurations. The bill generally conforms to the recommendations from the National Conference of Commissioners on Uniform State Laws (also known as Uniform Law Commission).

Among other provisions, the bill would assure equal treatment of children born to same-sex couples, establish a new role of “de facto parent” as someone who has acted as a parent despite not being married to another of the child’s parents or contributing genetic material to a child, attempt to prevent a perpetrator of sexual assault from establishing parentage to a child conceived through assault, and update references to surrogacy and assisted reproduction.

In Section 3 of the bill, the purpose and scope of the legislation is described as the “adjudication or determination of parentage.”

The bill creates 10 articles in the new act and 95 sections of new language and amends other existing laws. The 10 articles of the newly Revised Uniform Parentage Act are as follows:

- Article 1, General Provisions
- Article 2: Parent-Child Relationship
- Article 3: Voluntary Acknowledgement of Parentage
- Article 4: Registry of Paternity
- Article 5: Genetic Testing
- Article 6: Nature of [Court] Proceeding
- Article 7: Assisted Reproduction
- Article 8: Surrogacy Agreements
- Article 9: Information About Donor
- Article 10: Miscellaneous Provisions

Section 2 establishes definitions, including differentiating among “acknowledged parent,” “adjudicated parent,” “intended parent,” “presumed parent,” and “alleged genetic parent”, defining a child as one of any age whose parentage needs to be determined, and defining “support-enforcement agency” as the Health Care Authority. Section 4 and 5 give courts authority over parentage determination. Section 6 discusses the maintenance of privacy of a child or adult’s information.

Section 8 discusses establishing a parent-child relationship, usually by giving birth to the child or adopting the child or by being judged to be the parent in a court proceeding. Section 9 assures unmarried and married parents equal rights to be declared a parent. Section 10 states that, unless dissolved, a determination of parentage is valid for all purposes. Section 11 states a person is presumed to be a parent if they are or were married to the woman giving birth at the time of the birth or 300 days before the birth, if birth occurred after the marriage, and the individual asserted parenthood or resided in the same house for the first two years of a child’s life and acted as a parent. Reversal of presumption of parenthood is discussed in Section 11B.

Section 12 allows the birth mother and the “alleged genetic” father to acknowledge that they are the parents. Section 13 gives details of an acknowledgement of parentage and Sections 14 and 15 give the information needed for a presumed or alleged genetic parent to acknowledge or deny parenthood. Section 16 lists the effects of acknowledging or denying parenthood and Section 18 states courts will not adjudicate unchallenged parentage acknowledgements, but if such a document is to be rescinded, a court is to rule on it (Section 19) within 60 days of the signature or 60 days after the signatory’s 18th birthday. Section 20 allows further challenges to acknowledgements of parenthood.

Section 27 deals with genetic testing, lists occasions when a court may order or deny genetic testing, the qualifications of labs that would do genetic testing, and requirements for challenging the lab’s report. Section 35 indicates situations in which a court may order others (such as an assumed grandparent or uncle) to submit specimens for genetic testing, and Section 36 indicates that the court may order genetic testing on a dead person, or in Section 37, of an identical sibling. Section 38 specifies releasing genetic material of another person for reasons other than those covered in the act is a fourth-degree felony.

Section 39 deals with proceedings to establish parentage. These may be initiated by a child, the birth mother, persons identified as parents or possible parents, the child support enforcement agency, an adoption agency, and, in certain instances, by a representative of one of these individuals. Child support issues are in Section 53.

Section 44 deals with the admissibility of genetic testing results in a court proceeding. Section 45 allows adjudication of parentage in situations where an alleged genetic parent has not been identified as a presumed parent, and Section 47 allows a supposed “de facto parent” (one who has acted as a parent, living with the child) to initiate a proceeding to claim while the child is alive and less than age 18. Section 49 discusses challenges to adjudicated parentage, and Section 50 discusses adjudicating parentage of children conceived through assistive technology. Competing claims of parentage are covered in Section 51.

Section 52 precludes establishment of parentage for a perpetrator of sexual assault if the birth mother has alleged criminal sexual penetration within two years of the birth and if the alleged criminal act occurred fewer than 300 days before birth of the child.

Section 62 deals with assisted reproduction, stating in that section that it does not deal with children conceived through sexual intercourse or pursuant to surrogacy agreements. Section 63 states that donors to assisted reproduction techniques are not to be considered parents, unless (Section 64) the donation was made on condition of the donor being a parent. Sections 65 and 66 deal with instances in which the donor and the birth mother dispute parentage, and Section 67 deals with situations where the marriage of a woman who gives birth through assisted reproduction is dissolved. Section 68 allows withdrawal of consent to assisted reproduction, and Section 69 describes actions to be taken if an intended parent dies before a child conceived through assisted reproduction is born.

Section 70 deals with surrogacy agreements between a woman who agrees to carry a child for another person or persons and to yield parentage to those people after the birth. Section 72 requires New Mexico residency or medical care of at least one party to an agreement, with each having legal representation and the intended parents paying for the surrogate’s representation. Section 73 requires that the surrogate’s spouse, if any, relinquish rights to be a parent to the child. It provides that all medical expenses and future child expenses be paid by the intended parents and gives the right to all medical decisions regarding her pregnancy, including the right to terminate the pregnancy, to the surrogate.

Section 74 clarifies that new marriages or divorces, in most cases, do not change the approved surrogacy agreement. Section 77 gives parties to surrogacy agreements the right to terminate the agreement in writing, giving notice to other parties to the agreement. Section 78 assigns parentage of the child resulting from a surrogacy agreement to the intended parents and not to the surrogate or her partner, if any. Section 79 deals with the death of an intended parent before the child’s birth. Sections 80 and 81 provide for court orders dealing with disputes arising between surrogates and intended parents.

The effective date of this bill is January 1, 2026, and the provisions in the bill would apply beginning on that date.

## FISCAL IMPLICATIONS

Agencies indicate minimal expenses to update regulations and processes.

## SIGNIFICANT ISSUES

According to the Eastern Regional Interstate Child Support Association (ERICSA), New Mexico is one of 11 states that adopted the 2002 version of the Revised Uniform Parentage Act recommended by the Uniform Code, but is not one of the six states that adopted the current 2017 version of the act, often abbreviated RUPA. This bill follows closely the precepts of the current version, updating New Mexico statutes dealing with parentage and taking into account issues raised by assisted reproductive techniques and surrogacy agreements, increasingly used by individuals to achieve parenthood. The bill summarized above hews closely to the [Uniform Parentage Act](#) model bill put forward in 2024 by the National Conference of Commissioners on Uniform State Laws, although there are some differences noted under “Technical Details” below.

## CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

HB373 relates to and conflicts in part with Senate Bill 417 concerning adoptions. Senate Bill 417 refers repeatedly to Section 40-11A; if both House Bill 373 and Senate Bill 417 were passed, the references would have to be changed to refer to the new Section 40-11B.

## TECHNICAL ISSUES

Section 77 allows for dissolution of a surrogacy agreement but does not state what happens to the child born after a surrogacy agreement is dissolved at the request of the intended parents.

AOC comments: “Although HB373 closely follows the model RUPA promulgated by the Uniform Law Commission, there are a few differences, as follows:

- HB 373 does not contain Sections 402-415 that appear in the model act and govern a registration of paternity.
- HB 373, Section 60, adds Subsection F and H that do not appear in the model act.

HCA, on behalf of its Child Support Services Division (CSSD), has the following concerns about provisions it sees as missing or misplaced:

- 40-11B-102, definition of “support-enforcement agency,” should also include medical support obligations.
- 40-11B-304 allows for an AOP to be signed prior to the child’s birth but is not effective until the child’s birth or filing of the document, whichever is later. This may require CSSD to change its business process.
- [In] 40-11B-306 and 24-14-13, additional language should be added that “support enforcement agency shall be provided copies of acknowledgment of parentage or denial of parentage free of charge” instead of requiring reimbursement.”
- 40-11B-401 [is] unclear if the putative father registry will be updated to the “putative parent registry” since “intended parents” would now be allowed to sign an AOP. The mention of the Punitive Father Registry is duplicated in 32-A-5-20, which goes into more detail about the registry; however, the language here contradicts the revised UPA language and added definitions of “parent” language.

- 40-11B-503(B) could hinder CSSD’s authority to administratively order genetic testing.
- 40-11B-613- C allows the court to adjudicate a child to have more than two parents if there is a finding that failure to recognize more than two parents would be detrimental to the child and could impact how a child support obligation may be determined.
- 40-11B-614 states a woman must file an allegation within two years of sexual assault that resulted in pregnancy if she wishes to preclude the man from establishing a parent-child relationship but would still allow child support to be established. CSSD does not pursue cases involving rape or incest when customers on [Temporary Assistance for Needy Families] request a “good cause” determination to not be required to cooperate with CSSD when it is not in the best interest of the child(ren).
- 40-11B-617 is unclear how this relates to 40-11B-503(C) (in utero genetic testing may not be ordered). CSSD cases are initiated after the birth of the child. Also, 40-11B-622 still says child support starts at the date of the child’s birth at the earliest, so any child support judgment entered before birth might be for a right that has not accrued. This could create extra litigation. See generally *Britton v. Britton*, 1983-NMSC-084 ... (considering whether “accrued and unpaid periodic child support installments mandated in a New Mexico divorce decree are considered final judgments in New Mexico on the date they become due” and deciding that they are so considered, at least for purposes of the statute of limitations).
- 40-11B-622 G language is unclear regarding CSSDs standing for “right to reimbursement of public assistance” of the household, or child.
- 40-11B-805 language is unclear regarding CSSD role involving surrogacy and contracts parties may have with each other.
- 24-14-13 and 40-4-20 (page 89-119) have inconsistent language and no longer conform to gender neutral language in regard to parentage.
- 40-4-9.1 ... does not seem to belong here and may need to be revised and placed in another article.