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HOUSE BILL 514

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

Danice Picraux

AN ACT

RELATING TO PARENTAGE; CLARIFYING PARENTAGE IN ASSISTED
REPRODUCTION; AMENDING SECTIONS OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 24-14-13 NMSA 1978 (being Laws 1961,
Chapter 44, Section 13, as amended) is amended to read:

"24-14-13. BIRTH REGISTRATION. --

A. A certificate of birth for each live birth which
occurs in this state shall be filed with the vital statistics
bureau of the public health division of the department or as
otherwise directed by the state registrar within ten days after
the birth and shall be registered if it has been completed and
filed in accordance with this section. When a birth, however,
occurs on a moving conveyance, a birth certificate shall be
registered in this state and the place where the child is first

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1 removed shall be considered the place of birth.

2 B. When a birth occurs in an institution, the
3 person in charge of the institution or his designated
4 representative shall obtain the personal data, prepare the
5 certificate of birth, secure the signatures required and file
6 it as directed in this section. The physician or other person
7 in attendance shall certify the medical information required by
8 the certificate of birth within ten working days after the
9 birth in accordance with policies established by the
10 institution where the birth occurred. The person in charge of
11 the institution or his designee shall complete and sign the
12 certificate of birth.

13 C. When a birth occurs outside an institution, the
14 certificate of birth shall be prepared and filed by one of the
15 following in the indicated order of priority:

16 (1) the physician in attendance at or
17 immediately after the birth;

18 (2) any other person in attendance at or
19 immediately after the birth [~~or in the absence of this person~~];
20 or

21 (3) the father, the mother or, in the absence
22 of the father and the inability of the mother, the person in
23 charge of the premises where the birth occurred.

24 D. If the genetic mother was married at the time of
25 either conception or birth, the name of [~~the~~] her husband shall

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1 be entered on the certificate of birth as the father of the
2 child, unless [~~paternity~~] parentage has been determined
3 pursuant to Subsection F or G of this section or by a court, in
4 which case the name of the [~~father~~] parents as determined by
5 the court shall be entered.

6 E. If the genetic mother was not married at the
7 time of either conception or birth, but the father has signed
8 an acknowledgment of paternity as provided by this section, the
9 father's name, date of birth and social security number shall
10 be entered on the acknowledgment of paternity. The name of the
11 father shall not be entered on the certificate of birth without
12 the written consent of the genetic mother and the person to be
13 named as the father, unless a determination of paternity has
14 been made by a court, in which case the name of the father as
15 determined by the court shall be entered.

16 F. At or before the birth of a child to an
17 unmarried woman, the person in charge of the institution, a
18 designated representative, the attending physician or midwife
19 shall:

20 (1) provide an opportunity for the child's
21 genetic mother and natural father to complete an acknowledgment
22 of [~~paternity~~] parentage. The completed affidavit shall be
23 filed with the vital statistics bureau of the public health
24 division of the department. The acknowledgment shall contain
25 or have attached to it:

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1 (a) a sworn statement by the genetic
2 mother consenting to the assertion of [~~paternity~~] parentage;

3 (b) a sworn statement by the father that
4 he is the natural father of the child;

5 (c) written information, furnished by
6 the human services department, explaining the implications of
7 signing, including legal parental rights and responsibilities;
8 and

9 (d) the social security numbers of both
10 parents; and

11 (2) provide written information, furnished by
12 the human services department, to the genetic mother and father
13 or putative father, regarding the benefits of having the
14 child's [~~paternity~~] parentage established and of the
15 availability of [~~paternity~~] parentage establishment services
16 and child support enforcement services.

17 G. If a married [~~mother~~] person claims that [~~her~~
18 ~~husband~~] the spouse is not the [~~father~~] parent of the child,
19 the [~~husband~~] spouse agrees that he or she is not the [~~father~~]
20 genetic parent and the putative [~~father~~] parent agrees that he
21 or she is the [~~father~~] parent, an acknowledgment of [~~paternity~~]
22 parentage may be signed by the respective parties and duly
23 notarized. Upon filing this affidavit with the state
24 registrar, the [~~name~~] names of the [~~nonhusband~~] genetic parents
25 shall be entered on the certificate of birth as the [~~father~~]

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1 parents.

2 H. Pursuant to an interagency agreement for proper
3 reimbursement, the vital statistics bureau of the public health
4 division of the department shall make available to the human
5 services department the birth certificate, the mother's and
6 father's social security numbers and ~~[paternity]~~ parentage
7 acknowledgments. The human services department shall use these
8 records only in conjunction with its duties as the state IV-D
9 agency responsible for the child support program under Title
10 IV-D of the federal Social Security Act. "

11 Section 2. Section 40-11-2 NMSA 1978 (being Laws 1986,
12 Chapter 47, Section 2) is amended to read:

13 "40-11-2. ~~[DEFINITION]~~ DEFINITIONS. --As used in the
14 Uniform Parentage Act:

15 A. "gamete" means a mature sperm or egg capable of
16 participating in fertilization; and

17 B. "parent and child relationship" means the legal
18 relationship existing between a child and ~~[his]~~ the child's
19 natural or adoptive parents incident to which the law confers
20 or imposes rights, privileges, duties and obligations. It
21 includes the mother and child relationship and the father and
22 child relationship. "

23 Section 3. Section 40-11-5 NMSA 1978 (being Laws 1986,
24 Chapter 47, Section 5, as amended) is amended to read:

25 "40-11-5. PRESUMPTION OF ~~[PATERNITY]~~ PARENTAGE. --

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1 A. A [~~man~~] person is presumed to be the natural
2 [~~father~~] parent of a child if:

3 (1) [~~he~~] a man and the child's [~~natural~~]
4 genetic mother are or have been married to each other and the
5 child is born during the marriage or within three hundred days
6 after the marriage is terminated by death, annulment,
7 declaration of invalidity or dissolution of marriage or after a
8 decree of separation is entered by a court;

9 (2) before the child's birth, [~~he~~] a man and
10 the child's [~~natural~~] genetic mother have attempted to marry
11 each other by a marriage solemnized in apparent compliance with
12 law, although the attempted marriage is or could be declared
13 invalid, and:

14 (a) if the attempted marriage could be
15 declared invalid only by a court, the child is born during the
16 attempted marriage or within three hundred days after its
17 termination by death, annulment, declaration of invalidity or
18 divorce; or

19 (b) if the attempted marriage is invalid
20 without a court order, the child is born within three hundred
21 days after the termination of cohabitation;

22 (3) after the child's birth, [~~he~~] a man and
23 the child's [~~natural~~] genetic mother have married or attempted
24 to marry each other by a marriage solemnized in apparent
25 compliance with law, although the attempted marriage is or

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1 could be declared invalid, and:

2 (a) he has acknowledged his paternity of
3 the child in writing filed with the vital statistics bureau of
4 the public health division of the department of health;

5 (b) with his consent, he is named as the
6 child's father on the child's birth certificate; or

7 (c) he is obligated to support the child
8 under a written voluntary promise or by court order;

9 (4) while the child is under the age of
10 majority, [~~he~~] a person openly holds out the child as [~~his~~] the
11 person's natural child and has established a personal,
12 financial or custodial relationship with the child; or

13 (5) [~~he~~] a person acknowledges [~~his paternity~~]
14 parentage of the child pursuant to Section 24-14-13 NMSA 1978
15 or in writing filed with the vital statistics bureau of the
16 public health division of the department of health, which shall
17 promptly inform the [~~mother~~] genetic parent of the filing of
18 the acknowledgment, and, within a reasonable time after being
19 informed of the filing, [~~she~~] the genetic parent does not
20 dispute the acknowledgment. In order to enforce the rights of
21 custody or visitation, a [~~man~~] person presumed to be the
22 [~~father~~] parent as a result of filing a written acknowledgment
23 shall seek an appropriate judicial order in an action filed for
24 that purpose. A signed voluntary acknowledgment of [~~paternity~~]
25 parentage is considered a legal finding of [~~paternity~~]

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1 parentage, subject to the right of any signatory to rescind the
2 acknowledgment within the earlier of:

3 (a) sixty days from the date of signing;

4 or

5 (b) the date of an administrative or
6 judicial proceeding relating to the child, including a
7 proceeding to establish a support order, to which the signatory
8 is a party. After sixty days from the date of signing, the
9 acknowledgment may be challenged in court only on the grounds
10 of fraud, duress or material mistake of fact, with the burden
11 of proof upon the challenger, although legal responsibilities
12 arising from signing the acknowledgment may not be suspended
13 during the challenge, except upon a showing of good cause.
14 Judicial or administrative proceedings are not required to
15 ratify an unchallenged acknowledgment.

16 B. If two or more [~~men~~] persons are presumed under
17 this section to be the child's [~~father~~] parent, an
18 acknowledgment by one of them may be effective only with the
19 written consent of the other or pursuant to Subsection C of
20 this section.

21 C. A presumption under this section may be rebutted
22 in an appropriate action only by clear and convincing evidence.
23 If two or more [~~men~~] persons are presumed under this section to
24 be the [~~father~~] parent of the same child, [~~paternity~~] parentage
25 shall be established as provided in the Uniform Parentage Act.

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1 If the presumption has been rebutted with respect to one [~~man,~~
2 ~~paternity~~] person, parentage of the child by another [~~man~~
3 person may be determined in the same action if [~~he~~] that person
4 has been made a party.

5 D. A [~~man~~] person is presumed to be the natural
6 [~~father~~] parent of a child if, pursuant to blood or genetic
7 tests properly performed by a qualified person and evaluated by
8 an expert, including deoxyribonucleic acid (DNA) probe
9 technique tests under the Uniform Parentage Act, the
10 probability of [~~his~~] the person being the [~~father~~] parent is
11 ninety-nine percent or higher.

12 E. The voluntary acknowledgment of [~~paternity~~]
13 parentage must be recognized as a basis for seeking a support
14 order without requiring any further proceedings to establish
15 [~~paternity~~] parentage.

16 F. Full faith and credit must be given to
17 determination of [~~paternity~~] parentage made by other states,
18 including acknowledgments of [~~paternity~~] parentage. "

19 Section 4. Section 40-11-6 NMSA 1978 (being Laws 1986,
20 Chapter 47, Section 6) is amended to read:

21 "40-11-6. [~~ARTIFICIAL INSEMINATION~~] ASSISTED
22 REPRODUCTION. --

23 A. If under the supervision of a licensed physician
24 and with the consent of [~~her husband~~] the spouse a [~~woman is~~
25 ~~inseminated artificially~~] person undergoes assisted

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1 reproduction with [~~semen~~] donated [~~by a man not her husband~~]
2 gametes, the [~~husband~~] spouse is treated as [~~if he were~~] the
3 natural [~~father~~] parent of the child thereby conceived so long
4 as the [~~husband's~~] spouse's consent is in writing, signed by
5 [~~him and his wife~~] both spouses. The physician shall certify
6 their signatures and the date of the [~~insemination~~] gamete
7 transfer and file the [~~husband's~~] spouse's consent with the
8 vital statistics bureau of the [~~health services~~] public health
9 division of the [~~health and environment~~] department of health,
10 where it shall be kept confidential and in a sealed file;
11 provided, however, that the physician's failure to either
12 certify or file the consent shall not affect the [~~father~~]
13 parent and child relationship.

14 B. [~~Any~~] A donor of [~~semen~~] gametes provided to a
15 licensed physician for use in [~~artificial insemination~~]
16 assisted reproduction of a [~~woman~~] person other than the
17 donor's [~~wife~~] spouse may be treated as [~~if he were~~] the
18 natural [~~father~~] parent of the child thereby conceived if [~~he~~]
19 the donor so consents in writing signed by [~~him~~] the donor and
20 the [~~woman~~] gamete recipient. The physician shall certify
21 their signatures and the date of the [~~insemination~~] gamete
22 transfer and file the donor's consent with the vital statistics
23 bureau of the [~~health services~~] public health division of the
24 [~~health and environment~~] department of health, where it shall
25 be kept confidential and in a sealed file; provided, however,

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1 that the physician's failure to either certify or file the
2 consent shall not affect the [~~father~~] parent and child
3 relationship.

4 C. All papers and records pertaining to the
5 [~~insemination~~] gamete transfer, whether part of a court,
6 medical or any other file, are subject to inspection only upon
7 an order of the court for good cause shown. "

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