

CHAPTER 456
FORMERLY
SENATE SUBSTITUTE NO. 1 FOR
SENATE BILL NO. 171
AS AMENDED BY
SENATE AMENDMENT NOS. 1 & 2
AND HOUSE AMENDMENT NOS. 2 & 3

AN ACT TO AMEND TITLE 13 OF THE DELAWARE CODE RELATING TO PARENTAGE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend §8-606, Title 13, Delaware Code, by adding a new subsection (e) to read as follows:

“(e) Notwithstanding the two-year period of limitation recited in this chapter or other affirmative defense, an action for parentage may proceed despite a prior adjudication, acknowledgement or presumption of parentage when shown by clear and convincing evidence to be in the best interest of the particular child, and where the prior adjudication, acknowledgement or presumption of parentage was based on fraud or duress or material mistake of fact.”

Section 2. Amend §8-607(b), Title 13, Delaware Code, by adding a new paragraph (3) to read as follows:

“(3) The presumed father did not commence an action within the limitation period in reliance on the mother’s failure to disclose the possibility of any other alleged fathers.”

Section 3. Amend §8-608(b), Title 13, Delaware Code, by adding a new paragraph (10) to read as follows:

“(10) Whether the child has a medical condition for which an accurate family history is necessary.”

Section 4. Amend §8-612, Title 13, Delaware Code by adding a new subsection (c) to read as follows:

“(c) Where all necessary parties to a parentage action agree to genetic testing despite the availability of affirmative defenses, they shall be presumed to be adequately representing the interests of the child subject to the Court’s consideration of the factors recited in §8-608(b).”

Section 5. Amend §8-631, Title 13, Delaware Code, by adding a new subsection (5) to read as follows:

“(5) Paternity may not be established with regard to an alleged father without the assistance of genetic testing unless the mother of the child swears or affirms on the record or by affidavit, under penalty of perjury, that she did not have sexual intercourse with any other man at or about the time the child was conceived.”

Section 6. Amend §8-608, Title 13, Delaware Code, by adding in subsection (b), after the phrase “to deny”, the phrase “or to grant”.

Section 7. Amend §8-607(b)(2), of Title 13, Delaware Code by deleting the period found at that paragraph, and by substituting in lieu thereof, the phrase “; or”.

Approved July 30, 2010