



WHY YOUR STATE SHOULD ADOPT THE UNIFORM PARENTAGE ACT (2017)

The Uniform Parentage Act (2017) (UPA (2017)) provides states with rules for determining parentage of a child. In 1973, the Uniform Law Commissioners completed the first Uniform Parentage Act (UPA (1973)). The ULC revised UPA (1973) in 2000 and 2002 (UPA (2002)). UPA (2017) updates the UPA in response to the Supreme Court's decision in *Obergefell v. Hodges* (2015). UPA (2017) also addresses other developments in society, technology, and the law since 2002. Some important reasons why your state should adopt the UPA (2017) include:

- **UPA (2017) provides clarity for and reduces unnecessary litigation regarding children born to same-sex couples.** UPA (2002) used gendered terms and its provisions presumed that couples consist of one man and one woman. As a result, the provisions did not provide clear guidance about their application to children born to same-sex couples. UPA (2017) provides needed clarity for this group of children and their families.
- **UPA (2017) cures potential constitutional infirmity in existing state law.** In *Obergefell*, the United States Supreme Court held that laws barring marriage between two people of the same sex are unconstitutional. In *Pavan v. Smith* (2017), the Court reaffirmed that conclusion applies to rules regarding children born to same-sex spouses. After these decisions, state parentage laws that treat same-sex couples differently than different-sex couples are likely unconstitutional. By adopting UPA (2017), states can avoid litigation over these issues and uphold constitutional protections.
- **UPA (2017) clarifies and codifies state law related to de facto parentage.** Most states extend at least some parental rights to people who, while not biological parents, have functioned as parents with the consent of the child's legal parent. States recognize such people under a variety of equitable doctrines or extend rights to such people through broad third-party custody and visitation statutes. UPA (2017) codifies the recognition of de facto parents in a uniform statutory scheme. This is consistent with the current trend and is consistent with a core purpose of the UPA, which is to protect established parent-child relationships. At the same time, however, UPA (2017) erects safeguards to ensure that these provisions do not result in unwarranted or unjustified litigation.
- **UPA (2017) complies with federal laws tied to subsidies and financial incentives for states.** A state's receipt of federal subsidies for its child-support enforcement program is contingent on compliance with Title IV-D requirements. The federal Office of Child Support and Enforcement (OCSE) worked with the UPA (2017) Drafting Committee to ensure that the updates in UPA (2017) comply with all federal requirements. UPA (2017) also adds a new provision that precludes the establishment of a parent-child relationship by the perpetrator of a sexual assault that resulted in the conception of the child. This provision complies with a law that the U.S. Congress adopted in 2015 – the Rape Survivor Child Custody Act. This federal statute provides financial incentives for states enacting provisions such as the one provided for in UPA (2017).
- **UPA (2017) improves the surrogacy provisions of the UPA to reflect developments in modern science, law, and culture.** Much has changed in surrogacy practice since the UPA (2002) was approved. UPA (2017) makes the act's surrogacy provisions consistent with current practice and recently adopted statutes in several states.
- **UPA (2017) addresses the right of children born through assisted reproductive technology to access medical and identifying information regarding any gamete providers.** While UPA (2017) does not require disclosure of the identity of a gamete donor, it does require that donors be asked whether they would like their identity disclosed. It also requires a good faith effort to disclose nonidentifying medical history information regarding the gamete donor upon request.

For further information about UPA (2017), please contact Legislative Counsel, Lindsay Beaver at (312) 450-6618 or lbeaver@uniformlaws.org.