

**SUMMARY OF THE ILLINOIS PARENTAGE ACT OF 2015
– HIGHLIGHTING CHANGES IN THE LAW
(PUBLIC ACT 99-85; HB 1531)**

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1. Gender neutrality – The Illinois Parentage Act of 2015 is gender-neutral, providing the same protection for the child’s two parents, regardless of the gender of the parents. **Section 102** of the act provides the following new language: “The parent-child relationship, including support obligations, extends equally to every child and to his or her parent or to each of his or her 2 parents, regardless of the legal relationship of the parents, and regardless of whether a parent is a minor.” **Section 201(c)** provides: “Insofar as practicable, the provisions of this Act applicable to parent-child relationships shall apply equally to men and women as parents, including, but not limited to, the obligation to support.” In **Section 204**, presumptions of parentage based on a relationship to the mother (such as marriage or civil union with the mother at the time of a child’s birth) are now phrased as the “person” with whom the mother entered into marriage rather than the “man” with whom the mother entered into marriage.

2. Establishment of parent-child relationship – Methods of establishing a parent-child relationship are similar to the methods in the prior law, although the new act makes the provisions for a woman and a man more parallel. **Section 201** provides:

- (a) The parent-child relationship is established between a woman and a child by:
 - (1) the woman having given birth to the child, except as otherwise provided in a valid gestational surrogacy contract;
 - (2) an adjudication of the woman’s parentage;
 - (3) adoption of the child by the woman;
 - (4) a valid gestational surrogacy contract under the Gestational Surrogacy Act or other law; or
 - (5) an un rebutted presumption of the woman’s parentage of the child under Section 204 of this Act.

- (b) The parent-child relationship is established between a man and a child by:
 - (1) an un rebutted presumption of the man’s parentage of the child under Section 204 of this Act;
 - (2) an effective voluntary acknowledgment of paternity by the man under Article 3 of this Act, unless the acknowledgment has been rescinded or successfully challenged;
 - (3) an adjudication of the man’s parentage;
 - (4) adoption of the child by the man; or
 - (5) a valid gestational surrogacy contract under the Gestational Surrogacy Act or other law.

3. Presumptions of parentage – The presumptions are similar to existing law with the statute reworded for gender-neutrality and the addition of more specific time frames, such as a child being born within 300 days of the end of a marriage or civil union.

Section 204 provides (with bold-face brackets provided by author – not part of statute):

(a) A person is presumed to be the parent of a child if:

(1) **[child born during marriage or civil union]**

the person and the mother of the child have entered into a marriage, civil union, or substantially similar legal relationship, and the child is born to the mother during the marriage, civil union, or substantially similar legal relationship, except as provided by a valid gestational surrogacy contract, or other law;

(2) **[child born within 300 days of end of marriage or civil union]**

the person and the mother of the child were in a marriage, civil union, or substantially similar legal relationship and the child is born to the mother within 300 days after the marriage, civil union, or substantially similar legal relationship is terminated by death, declaration of invalidity of marriage, judgment for dissolution of marriage, civil union, or substantially similar legal relationship, or after a judgment for legal separation, except as provided by a valid gestational surrogacy contract, or other law;

(3) **[child born during marriage or civil union, but marriage or civil union could be declared invalid]**

before the birth of the child, the person and the mother of the child entered into a marriage, civil union, or substantially similar legal relationship in apparent compliance with law, even if the attempted marriage, civil union, or substantially similar legal relationship is or could be declared invalid, and the child is born during the invalid marriage, civil union, or substantially similar legal relationship or within 300 days after its termination by death, declaration of invalidity of marriage, judgment for dissolution of marriage, civil union, or substantially similar legal relationship, or after a judgment for legal separation, except as provided by a valid gestational surrogacy contract, or other law; or

(4) **[after child's birth, the couple enters into invalid marriage or civil union and the person that mother married consented to be named as a parent on child's birth certificate]**

after the child's birth, the person and the child's mother have entered into a marriage, civil union, or substantially similar legal relationship, even if the marriage, civil union, or substantially similar legal relationship is or could be declared invalid, and the person is named, with the person's written consent, as the child's parent on the child's birth certificate.

(b) If 2 or more conflicting presumptions arise under this Section, the presumption which on the facts is founded on the weightier considerations of policy and logic, especially the policy of promoting the child's best interests, controls.

4. Rebutting presumption of parentage – Under the new act, all four presumptions of parentage can be rebutted. Under the old act, **750 ILCS 45/5(b)**, two presumptions regarding acknowledgments were labeled “conclusive” unless the person who signed the acknowledgment acted promptly under the **Section 12 of the Vital Records Act**. Under both the new law and the old law, presumptions may be rebutted only by “clear and convincing evidence.” **Section 206** of the new act; **750 ILCS 54/5(b)** (old act).

5. Two-year limit on actions to declare non-existence of parent-child relationship – **Section 205(d)** provides, “An action to declare the non-existence of the parent-child relationship brought under subsection (c) of this Section shall be barred if brought more than 2 years after the petitioner obtains actual knowledge of relevant facts. The 2–year period shall not apply to periods of time where the birth mother or the child refuses to submit to deoxyribonucleic acid (DNA) testing. The 2-year period for bringing an action to declare the non-existence of the parent-child relationship shall not extend beyond the date on which the child reaches the age of 18 years.” *See also* **Section 205(a)**. The parallel provision under the old law was **750 ILCS 45/8**.

6. Procedure when genetics experts disagree – **Section 404(b)** provides: “(b) If the experts disagree in their findings or conclusions, the question shall be weighed with other competent evidence of paternity.”

7. Consideration of best interests of the child before ordering genetic testing – **Section 610** provides:

- “(a) In a proceeding to adjudicate the parentage of a child having a presumed, acknowledged, or adjudicated parent, the court may deny a motion by a parent, presumed parent, acknowledged parent, adjudicated parent, or alleged parent seeking an order for genetic testing of the parents and child if the court determines that:
- (1) the conduct of the parent, acknowledged parent, adjudicated parent, or the presumed parent estops that party from denying parentage;
 - (2) it would be inequitable to disprove the parent-child relationship between the child and the presumed, acknowledged, or adjudicated parent; and
 - (3) it is in the child’s best interests to deny genetic testing, taking into account the following factors:
 - (A) the length of time between the current proceeding to adjudicate parentage and the time that the presumed, acknowledged, or adjudicated parent was placed on notice that he or she might not be the biological parent;
 - (B) the length of time during which the presumed, acknowledged, or

- (C) adjudicated parent has assumed the role of parent of the child;
 - (D) the facts surrounding the presumed, acknowledged, or adjudicated parent's discovery of his or her possible nonparentage;
 - (E) the nature of the relationship between the child and the presumed, acknowledged, or adjudicated parent;
 - (F) the age of the child;
 - (G) the harm that may result to the child if the presumed, acknowledged, or adjudicated parentage is successfully disproved;
 - (H) the nature of the relationship between the child and any alleged parent;
 - (I) the extent to which the passage of time reduces the chances of establishing the parentage of another person and a child support obligation in favor of the child;
 - (J) other factors that may affect the equities arising from the disruption of the parent-child relationship between the child and the presumed, acknowledged, or adjudicated parent or the chance of other harm to the child; and
 - (K) any other factors the court determines to be equitable.
- (b) In a proceeding involving the application of this Section, a minor or incapacitated child must be represented by a guardian ad litem, child's representative, or attorney for the child.
- (c) If the court denies a motion seeking an order for genetic testing, it shall issue an order adjudicating the presumed parent to be the parent of the child."

8. Ordering genetic testing of family members of the man – Section 408 provides:

- “(a) Subject to subsection (b), if a genetic-testing specimen is not available from a man who may be the father of a child, for good cause and under circumstances the court considers to be just, the court may order the following individuals to submit specimens for genetic testing:
- (1) the parents of the man;
 - (2) brothers and sisters of the man;
 - (3) other children of the man and their mothers; and
 - (4) other relatives of the man necessary to complete genetic testing.
- (b) Issuance of an order under this Section requires a finding that a need for genetic testing outweighs the legitimate interests of the individual sought to be tested, and in no event shall an order be issued until the individual is joined as a party and given notice as required under the Code of Civil Procedure.”

9. Circumstances in which child is bound by genetic tests – Section 621(b) provides:

“A child is not bound by a determination of parentage under this Act unless:

- (1) the determination was based on an unrescinded acknowledgment as provided in Article 3 of this Act and the acknowledgment is consistent with the results of genetic testing;
- (2) the adjudication of parentage was based on a finding consistent with the results of genetic testing and the consistency is declared in the determination or is otherwise shown;
- (3) the child was a party or was represented in the proceeding determining parentage by a guardian ad litem, child’s representative or attorney for the child; and
- (4) the child was no longer a minor at the time the proceeding was initiated and was the moving party resulting in the parentage determination.”

10. Child’s right to bring action at any time, even after child is an adult, if there is no presumed, acknowledged, or adjudicated parent – Section 607 provides:

“A proceeding to adjudicate the parentage of a child having no presumed, acknowledged, or adjudicated parent may be commenced at any time, even after:

- (a) the child becomes an adult, but only if the child initiates the proceeding;
or
- (b) an earlier proceeding to adjudicate parentage has been dismissed based on the application of a statute of limitations then in effect.”

11. Venue for child custody proceeding – Section 604(b) adds the following to the section regarding venue in parentage actions: “(b) A child custody proceeding is commenced in the county where the child resides.” [Author’s note: The exercise of jurisdiction in a child custody proceeding needs to be consistent with the **Uniform Child Custody Jurisdiction and Enforcement Act, 750 ILCS 36/101 - 36/403**.

12. Joinder of proceedings – Section 611 provides:

- “(a) Except as otherwise provided in subsection (b), a proceeding to adjudicate parentage may be joined with a proceeding for adoption, termination of parental rights, child custody or parenting time, child support, dissolution of marriage or civil union, declaration of invalidity of marriage or civil union, legal separation, probate or administration of an estate, or other appropriate proceeding.
- (b) A respondent may not join a proceeding described in subsection (a) with a

proceeding to adjudicate parentage brought under the Uniform Interstate Family Support Act.”

13. Use of children’s and parties’ last four digits of Social Security number –
Section 802(a) provides: “An order adjudicating parentage must identify the child by initials and year of birth.” **Sections 803(c), (d)** also provide for use of the last four digits of the Social Security numbers of the obligor, obligee, and child.

14. Explicitly allowing support for non-minor child under IMDA Section 513 –
Section 802(m) of the new law provides: “This subsection shall not be construed to prevent or affect the establishment or modification of an order for support of a minor child or the establishment or modification of an order for support of a non-minor child or educational expenses under Section 513 of the Illinois Marriage and Dissolution of Marriage Act.”