

ACT 12

S.B. NO. 325

A Bill for an Act Relating to Parentage.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that the Hawaii supreme court's majority opinion in *LC v. MG and Child Support Enforcement Agency*, No. SCAP-16-0000837 (HAW. Oct. 4, 2018) held, in part, that the Hawaii Uniform Parentage Act, chapter 584, Hawaii Revised Statutes, precludes a spouse from rebutting the marital presumption of parentage with evidence that demonstrates a clear and convincing lack of consent to the other spouse's artificial insemination procedure. The legislature also finds that the court's majority based this holding on speculation regarding the legislature's intent in removing a provision relating to artificial insemination when it adopted the Uniform Parentage Act in 1973. The provision at issue specifically identified a husband's written consent to his wife's artificial insemination procedure as evidence relating to paternity. The legislature finds that the court's majority overreached in its conclusion that the legislature's removal of this provision in its initial adoption of the Uniform Parentage Act indicates express legislative intent to preclude any evidence of non-consent to an artificial insemination procedure as a rebuttal to the presumption of parentage.

The purpose of this Act is to clarify that evidence of an alleged parent's non-consent to an artificial insemination procedure that resulted in the birth of

a child may be considered as evidence relating to paternity in an action regarding the parentage of that child.

SECTION 2. Section 584-12, Hawaii Revised Statutes, is amended to read as follows:

“§584-12 Evidence relating to paternity. Evidence relating to paternity may include:

- (1) Evidence of sexual intercourse between the mother and the alleged father at any possible time of conception;
- (2) An expert’s opinion concerning the statistical probability of the alleged father’s paternity based upon the duration of the mother’s pregnancy;
- (3) Genetic test results, including blood test results, weighted in accordance with evidence, if available, of the statistical probability of the alleged father’s paternity;
- (4) Medical or anthropological evidence relating to the alleged father’s paternity of the child based on tests performed by experts. If a man has been identified as a possible father of the child, the court may, and upon request of a party shall, require the child, the mother, and the man to submit to appropriate tests;
- (5) A voluntary, written acknowledgment of paternity;
- (6) Bills for pregnancy and childbirth, including medical insurance premiums covering this period and genetic testing, without the need for foundation testimony or other proof of authenticity or accuracy, and these bills shall constitute prima facie evidence of amounts incurred for such services or for testing on behalf of the child; ~~[and]~~
- (7) Evidence of consent to an artificial insemination procedure that resulted in the birth of the child; and
- ~~[(7)]~~ (8) All other evidence relevant to the issue of paternity of the child.”

SECTION 3. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved April 17, 2019.)