

Memorandum

TO: Senator Sears, Senate Judiciary Chair
FROM: Karen Vastine, Senior Advisor to the DCF Commissioner
CC: Jessica Seman, Office of Child Support Supervising Staff Attorney
Sarah Haselton, Office of Child Support Senior Management Attorney
RE: H.512 Miscellaneous Court and Judiciary Amendments
DATE: April 4, 2019

Historically, 15 V.S.A. §293(b) allowed the Office of Child Support (“OCS”) or a private litigant to initiate a support action when a presumption of parentage existed for the absent parent, without asking for a determination of parentage. However, §293(b) is now superseded by the Vermont Parentage Act (“the VPA,” codified at Title 15C).

The VPA is a technical piece of legislation. It outlines in detail the many ways a person can be legally recognized as a parent. It gives the courts—and litigants—a clear process for adjudicating issues related to parentage, and clarifies that parentage must be adjudicated “in the best interest of the child.” Under the VPA, having a biological connection to a child is a basis for establishing parentage, but equally or arguably more importantly, it is the nature of the relationship you have with the child.

The proposed amendment to 15 V.S.A. §293(b) simply omits the reference to the old law and inserts a reference to 15C V.S.A. §401, which defines “presumptions of parentage” in the VPA. This simple amendment conflicts with the terms of the VPA, for the following reasons:

- (1) Under the VPA, one cannot simply raise an objection to a legal presumption of parentage unless they meet the specific criteria for bringing a challenge under 15C V.S.A. §402;
- (2) It used to be easy for someone to challenge a presumption of parentage, and for the court to order genetic testing. Now, under the VPA, not only do you need to meet the statutory criteria for bringing a challenge, but the court must also engage in an analysis to determine whether ordering genetic testing is in the best interest of the child (15C V.S.A. §615); and finally
- (3) A valid Voluntary Acknowledgment of Parentage no longer creates a “presumption of parentage,” but operates as an independent basis for initiating a support action without pleading for parentage. The proposed amendment to §293(b) does not address this issue.

Our position is that §293(b) should be repealed all together. We appreciate you considering our recommendation.
