

1 A bill to be entitled

2 An act relating to the determination of parentage;  
3 amending s. 742.13, F.S.; providing a definition;  
4 creating s. 742.19, F.S.; providing presumptions of  
5 legal parentage; authorizing petitions to challenge  
6 presumptions of legal parentage; providing petition  
7 requirements; requiring the court to appoint a  
8 guardian ad litem or an attorney ad litem under  
9 certain conditions; requiring the court to hold an  
10 evidentiary hearing for certain purposes; requiring  
11 the court to require genetic testing of the child and  
12 the alleged parent under certain conditions; requiring  
13 the court to determine parental rights based on the  
14 best interest of the child; requiring the court to  
15 approve, grant, or modify a parenting plan under  
16 certain conditions; requiring a court to enter a final  
17 order or judgment for certain purposes; providing that  
18 an order does not impugn or affect a child's  
19 legitimacy; providing an effective date.

20  
21 Be It Enacted by the Legislature of the State of Florida:

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23 Section 1. Subsections (1) through (15) of section 742.13,  
24 Florida Statutes, are renumbered as subsections (2) through  
25 (16), respectively, and a new subsection (1) is added to that

26 section, to read:

27 742.13 Definitions.—As used in ss. 742.11-742.19 ~~742.11-~~  
 28 ~~742.17~~, the term:

29 (1) "Alleged parent" means a person with a reasonable and  
 30 well-founded belief that they are a child's biological parent.

31 Section 2. Section 742.19, Florida Statutes, is created to  
 32 read:

33 742.19 Establishment of parentage for children born in  
 34 wedlock or when parentage is otherwise established by law.—

35 (1) A person is presumed to be the legal parent of a child  
 36 when:

37 (a) At the time of the child's conception or birth, the  
 38 person was married to the child's mother; or

39 (b) Parentage has been established under s. 742.091, s.  
 40 742.10, or s. 742.105.

41 (2) The child, the child's mother, or the child's alleged  
 42 parent may challenge the presumption of the child's legal  
 43 parentage by filing a petition in circuit court. The petition  
 44 shall:

45 (a) Be signed by the petitioner under oath.

46 (b) Identify as parties the mother, the mother's spouse,  
 47 the alleged parent, and any other person who may be the parent.

48 (c) Provide clear and convincing evidence to support a  
 49 claim that the alleged parent is the biological parent of the  
 50 child, that the alleged parent has demonstrated a substantial

51 interest in or concern for the welfare of the child, and that it  
52 is in the best interest of the child to establish the alleged  
53 parent as the legal parent of the child.

54 (3) The court shall appoint a guardian ad litem for the  
55 child unless good cause is shown that a guardian ad litem is not  
56 necessary to protect the best interest of the child. If the  
57 court determines that the child is of sufficient age and  
58 understanding to participate in the proceedings, the court shall  
59 appoint an attorney ad litem for the child in lieu of a guardian  
60 ad litem unless good cause is shown that an attorney ad litem is  
61 not necessary to protect the best interest of the child. The  
62 qualifications, powers, authorities, and duties of the guardian  
63 ad litem shall be governed by ss. 61.402, 61.403, and 61.404  
64 except as otherwise specified in the court order, and the  
65 guardian ad litem shall have immunity pursuant to s. 61.405.

66 (4) (a) The court shall hold an evidentiary hearing to  
67 determine whether:

68 1. The alleged parent has demonstrated a substantial  
69 interest in or concern for the welfare of the child.

70 2. The best interest of the child would be served by  
71 allowing the petition to proceed.

72 (b) If the court determines that the alleged parent has  
73 not demonstrated a substantial interest in or concern for the  
74 welfare of the child and that the best interest of the child  
75 would not be served by allowing the petition to proceed, the

76 | court shall dismiss the petition and seal the court file.

77 | (c) The petitioner is entitled to an award of fees and  
78 | costs against the other parties.

79 | (5) If the petition is not dismissed under paragraph  
80 | (4)(b), the court shall require the child and the alleged parent  
81 | to submit to genetic testing conducted by a qualified technical  
82 | laboratory as defined in s. 409.256 to determine the probability  
83 | of parentage.

84 | (6) The court shall hold an evidentiary hearing if the  
85 | genetic testing establishes that the alleged parent is the  
86 | biological parent, and the court shall issue a final judgment  
87 | that determines whether:

88 | (a) The mother's spouse shall remain the legal parent of  
89 | the child based on the best interest of the child;

90 | (b) The parentage and legal rights and obligations of the  
91 | mother's spouse shall be terminated and granted to the  
92 | biological parent; or

93 | (c) The mother, mother's spouse, and the biological parent  
94 | shall share parental rights and responsibilities.

95 | (7) The determinations in subsection (6) shall be made by  
96 | the court in accordance with the provisions of this section and  
97 | evaluate the following factors affecting the welfare and the  
98 | best interest of the child:

99 | (a) The established bond between the child and the  
100 | mother's spouse, including love, affection, and emotional ties.

101        (b) The established bond between the child and the  
102 biological parent, including love, affection, and emotional  
103 ties.

104        (c) The permanence and stability of the child's current  
105 family unit or units, including the length of time the child has  
106 lived in a satisfactory environment and the desirability of  
107 maintaining continuity or creating stability.

108        (d) The capacity and disposition of the mother's spouse  
109 and the biological parent to provide for the child's financial  
110 needs.

111        (e) The moral fitness of the mother's spouse and the  
112 biological parent.

113        (f) The mental and physical health of the mother's spouse  
114 and the biological parent.

115        (g) The home, school, and community record of the child.

116        (h) The preference of the child, taking into consideration  
117 the child's age and understanding.

118        (i) Whether the mother's spouse or the biological parent  
119 has abandoned, abused, or neglected the child, or has otherwise  
120 been remiss in his or her responsibilities toward the child.

121        (j) Whether the mother's spouse or the biological parent  
122 has ever acted contrary to the best interest of the child.

123        (k) Whether the mother's spouse or the biological parent  
124 wishes to exercise or continue to exercise parental rights.

125        (l) Any other facts the court considers relevant.

126        (8) If the court determines that it is in the best  
127 interest of the child for the mother's spouse to remain the  
128 legal parent of the child to the exclusion of the biological  
129 parent, the court shall enter an order dismissing the petition  
130 with prejudice and ordering the file sealed.

131        (9) If the court determines that it is in the best  
132 interest of the child for the parental rights of the mother's  
133 spouse to be terminated and the biological parent to be the  
134 legal parent of the child, the court shall enter an order:

135        (a) Terminating the parental rights of the mother's spouse  
136 and responsibilities, declaring that the biological parent is  
137 the legal parent of the child and specifying the biological  
138 parent's parental responsibilities and rights, including, but  
139 not limited to, time-sharing and child support.

140        (b) Requiring that the biological parent's name be  
141 substituted on the child's birth certificate and the mother's  
142 spouse's name be removed.

143        (10) If the court determines that the mother's spouse and  
144 the biological parent have each established a substantial  
145 relationship with the child and that it is in the best interest  
146 of the child for both the mother's spouse and the biological  
147 parent to be the child's legal parents, the court shall enter a  
148 final order or judgment that:

149        (a) Preserves the parental rights of the mother's spouse.

150        (b) Establishes the biological parent's parental rights

151 and responsibilities as the child's third legal parent.

152 (c) Requires the Office of Vital Statistics of the  
153 Department of Health to amend the child's birth certificate to  
154 add the third legal parent.

155 (d) Declares each legal parent is recognized as an equal  
156 parent to the child and has equal standing to secure shared  
157 parenting rights to time-sharing, parental responsibility, and  
158 child support pursuant to chapter 61.

159 (11) This section does not prevent the mother, the  
160 mother's spouse, and the biological parent from agreeing to a  
161 parenting plan as defined in s. 61.046 which establishes each  
162 parent's respective parental rights and responsibilities. With  
163 regard to any such parenting plan:

164 (a) The court may approve, grant, or modify a parenting  
165 plan, regardless of whether the child is physically present in  
166 this state, if the court finds that the child was removed from  
167 this state for the primary purpose of removing the child from  
168 the court's jurisdiction in an attempt to avoid the court's  
169 approval, creation, or modification of the parenting plan.

170 (b) A parenting plan approved by the court must describe  
171 the shared responsibilities of the daily tasks of parenting; the  
172 time-sharing schedule that specifies the time the child will  
173 spend with each parent; a designation of who will be responsible  
174 for health care, school-related matters, including the address  
175 to be used for school-boundary determination and registration,

176 and extracurricular activities; and the methods and technologies  
177 that the parents will use to communicate with the child.

178 (c) The court shall determine all matters relating to  
179 parenting and time-sharing of each minor child of the parties in  
180 accordance with the best interest of the child and in accordance  
181 with the Uniform Child Custody Jurisdiction and Enforcement Act.

182 (12) An order entered pursuant to this section does not  
183 impugn or affect a child's legitimacy.

184 Section 3. This act shall take effect July 1, 2018.