

LAWS OF DELAWARE
VOLUME 85
CHAPTER 18
153rd GENERAL ASSEMBLY
FORMERLY
SENATE SUBSTITUTE NO. 1
FOR
SENATE BILL NO. 119

AN ACT DIRECTING THE STATE REGISTRAR OF VITAL STATISTICS TO ISSUE A BIRTH CERTIFICATE WITH THE NAME OF THE FATHER OF LEVI RYAN MURRAY.

WHEREAS, under § 3121(h)(1) of Title 16, if the mother was married at the time of either conception or birth, the name of the husband shall be entered on the birth certificate as the father of the child unless paternity has been determined otherwise by Family Court; and

WHEREAS, assisted reproduction allows for conception to occur through in vitro fertilization; and

WHEREAS, under § 3121(h)(1) of Title 16, if the parents were married at the time of in vitro fertilization, the name of the husband should be entered on the birth certificate of a child born as a result of this assisted reproduction; and

WHEREAS, the 2000 version of the Uniform Parentage Act (“UPA”) provides under § 8-707 that if an individual who consented in a record to be a parent by assisted reproduction dies before placement of eggs, sperm, or embryos, the deceased individual is not a parent of the resulting child unless the deceased individual consented in a record that if assisted reproduction were to occur after death, the deceased individual would be a parent of the child; and

WHEREAS, the 2017 update to the UPA revises § 8-707 so that if the individual who intends to be a parent of a child conceived by assisted reproduction dies during the period between the creation of the embryo and placement of the embryo, the individual’s death does not preclude the establishment of the individual’s parentage of the child if (1) the individual consented in a record that if assisted reproduction were to occur after death, the deceased individual would be a parent of the child or (2) the individual’s intent to be a parent of the child is established by clear and convincing evidence and the embryo is in utero not later than 36 months after the individual’s death or the child is born not later than 45 months after the individual’s death; and

WHEREAS, Delaware adopted the 2000 version of the UPA in 2003 as Chapter 8 of Title 13 but has not adopted the 2017 updates to the UPA; and

WHEREAS, the General Assembly finds that there is a conflict in the law that determines whether the name of the husband who dies during the period between the creation of the embryo and placement of the embryo should or can be entered on the birth certificate as the father of the child conceived; and

WHEREAS, there is a conflict because under § 3121(h)(1) of Title 16, the name of the husband must be entered on the child’s birth certificate as the father but under § 8-707 of Title 13, the name of the husband can only be entered on the child’s birth certificate as the father if the deceased individual consented in a record that if assisted reproduction were to occur after death, the deceased individual would be a parent of the child; and

WHEREAS, this conflict has impacted 1 family. Specifically, in January 2020, Megan Murray (“Mrs. Murray”) and Ryan Murray (“Mr. Murray”) were married and conceived embryos through in vitro fertilization. Mrs. Murray was scheduled for an embryo transfer in February 2020. One day before the embryo transfer, Mr. Murray died suddenly. The embryos were then frozen. In March 2022, Mrs. Murray underwent an embryo transfer and a child, Levi Ryan Murray (“Levi”), was born; and

WHEREAS, the General Assembly finds a conflict exists as § 3121(h)(1) of Title 16 requires that Mr. Murray’s name must be entered on Levi’s birth certificate, but § 8-707 of Title 13 does not permit entering Mr. Murray’s name on Levi’s birth certificate, and therefore, the State Registrar of Vital Statistics does not have clear authority to enter Mr. Murray’s name on Levi’s birth certificate and Family Court does not have the authority to determine that Mr. Murray is Levi’s father; and

WHEREAS, the General Assembly finds that because of this conflict in the Delaware Code the General Assembly should act to resolve this situation for Levi’s birth certificate immediately while the General Assembly considers how to resolve the conflict.

NOW, THEREFORE:

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. The State Registrar of Vital Statistics shall amend the birth certificate of Levi Ryan Murray under § 3131(b) of Title 16 of the Delaware Code by entering the name “Ryan Murray” as the father of Levi Ryan Murray.

Section 2. Notwithstanding § 3131(c) of Title 16 of the Delaware Code, the State Registrar of Vital Statistics may not mark the birth certificate of Levi Ryan Murray issued under Section 1 of this Act as “delayed” or “amended”.

Approved May 16, 2025