

1977

## c 41 The Children's Law Reform Act 1977

Ontario

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## CHAPTER 41

**An Act to reform the  
Law respecting the Status of Children***Assented to November 4th, 1977*

**H**ER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

## PART I

## EQUAL STATUS OF CHILDREN

1.—(1) Subject to subsection 2, for all purposes of the law of Ontario a person is the child of his or her natural parents and his or her status as their child is independent of whether the child is born within or outside marriage. Rule of parentage

(2) Where an adoption order has been made, section 83 or 85 of *The Child Welfare Act* applies and the child is the child of the adopting parents as if they were the natural parents. Exception for adopted children  
R.S.O. 1970, c. 64

(3) The parent and child relationships as determined under subsections 1 and 2 shall be followed in the determination of other kindred relationships flowing therefrom. Kindred relationships

(4) Any distinction at common law between the status of children born in wedlock and born out of wedlock is abolished and the relationship of parent and child and kindred relationships flowing therefrom shall be determined for the purposes of the common law in accordance with this section. Common law distinction of legitimacy abolished

2.—(1) For the purposes of construing any instrument, Act or regulation, unless the contrary intention appears, a reference to a person or group or class of persons described in terms of relationship by blood or marriage to another person shall be construed to refer to or include a person who comes within the description by reason of Rule of construction

the relationship of parent and child as determined under section 1.

- Application (2) Subsection 1 applies to,
- (a) any Act of the Legislature or any regulation, order or by-law made under an Act of the Legislature enacted or made before, on or after the day this Act comes into force; and
  - (b) any instrument made on or after the day this Act comes into force.

## PART II

### ESTABLISHMENT OF PARENTAGE

Court under ss. 47 3. The court having jurisdiction for the purposes of sections 4 to 7 shall be the Unified Family Court in the Judicial District of Hamilton-Wentworth and the Supreme Court in the other parts of Ontario.

Application for declaration 4.—(1) Any person having an interest may apply to a court for a declaration that a male person is recognized in law to be the father of a child or that a female person is the mother of a child.

Declaration of paternity recognized at law (2) Where the court finds that a presumption of paternity exists under section 8 and unless it is established, on the balance of probabilities, that the presumed father is not the father of the child, the court shall make a declaratory order confirming that the paternity is recognized in law.

Declaration of maternity (3) Where the court finds on the balance of probabilities that the relationship of mother and child has been established, the court may make a declaratory order to that effect.

Idem (4) Subject to sections 6 and 7, an order made under this section shall be recognized for all purposes.

Application for declaration of paternity where no presumption 5.—(1) Where there is no person recognized in law under section 8 to be the father of a child, any person may apply to the court for a declaration that a male person is his or her father, or any male person may apply to the court for a declaration that a person is his child.

Limitation (2) An application shall not be made under subsection 1 unless both the persons whose relationship is sought to be established are living.

(3) Where the court finds on the balance of probabilities that the relationship of father and child has been established, the court may make a declaratory order to that effect and, subject to sections 6 and 7, the order shall be recognized for all purposes. Declaratory order

6. Where a declaration has been made under section 4 or 5 and evidence becomes available that was not available at the previous hearing, the court may, upon application, discharge or vary the order and make such other orders or directions as are ancillary thereto. Reopening on new evidence

7. An appeal lies from an order under section 4 or 5 or a decision under section 6 in accordance with the rules of the court. Appeal

8.—(1) Unless the contrary is proven on a balance of probabilities, there is a presumption that a male person is, and he shall be recognized in law to be, the father of a child in any one of the following circumstances: Recognition in law of parentage

1. The person is married to the mother of the child at the time of the birth of the child.
2. The person was married to the mother of the child by a marriage that was terminated by death or judgment of nullity within 300 days before the birth of the child or by divorce where the decree *nisi* was granted within 300 days before the birth of the child.
3. The person marries the mother of the child after the birth of the child and acknowledges that he is the natural father.
4. The person was cohabiting with the mother of the child in a relationship of some permanence at the time of the birth of the child or the child is born within 300 days after they ceased to cohabit.
5. The person and the mother of the child have filed a statutory declaration under subsection 8 of section 6 of *The Vital Statistics Act* or a request under subsection 5 of section 6 of that Act, or either under a similar provision under the corresponding Act in another jurisdiction in Canada.
6. The person has been found or recognized in his lifetime by a court of competent jurisdiction in Canada to be the father of the child.



Where  
marriage  
void

(2) For the purpose of subsection 1, where a man and woman go through a form of marriage with each other, in good faith, that is void and cohabit, they shall be deemed to be married during the time they cohabit and the marriage shall be deemed to be terminated when they cease to cohabit.

Conflicting  
presump-  
tions

(3) Where circumstances exist that give rise to a presumption or presumptions of paternity by more than one father under subsection 1, no presumption shall be made as to paternity and no person is recognized in law to be the father.

Admissi-  
bility in  
evidence of  
acknowledg-  
ment against  
interest

9. A written acknowledgment of parentage that is admitted in evidence in any civil proceeding against the interest of the person making the acknowledgment is *prima facie* proof of the fact.

Approved  
blood tests

10.—(1) Upon the application of a party in a civil proceeding in which the court is called upon to determine the parentage of a child, the court may give the party leave to obtain blood tests of such persons as are named in the order granting leave and to submit the results in evidence.

Conditions  
attached

(2) Leave under subsection 1 may be given subject to such terms and conditions as the court thinks proper.

Inference  
from refusal

(3) Where leave is given under subsection 1 and a person named therein refuses to submit to the blood test, the court may draw such inferences as it thinks appropriate.

Consent  
where  
incapacity

(4) Where a person named in an order granting leave under subsection 1 is not capable of consenting to having a blood test taken, the consent shall be deemed to be sufficient,

(a) where the person is a minor of the age of sixteen years or more, if the minor consents;

(b) where the person is a minor under the age of sixteen years, if the person having the charge of the minor consents; and

(c) where the person is without capacity for any reason other than minority, if the person having his charge consents and a legally qualified medical practitioner certifies that the giving of a blood sample would not be prejudicial to his proper care and treatment.

Regulations  
for blood  
tests

11. The Lieutenant Governor in Council may make regulations governing blood tests for which leave is given

by a court under section 10 including, without limiting the generality of the foregoing,

- (a) the method of taking blood samples and the handling, transportation and storage thereof;
- (b) the conditions under which a blood sample may be tested;
- (c) designating persons or facilities or classes thereof who are authorized to conduct blood tests for the purposes of section 10;
- (d) prescribing procedures respecting the admission of reports of blood tests in evidence;
- (e) prescribing forms for the purpose of section 10 and this section and providing for their use.

**12.**—(1) Any person may file in the office of the Registrar General a statutory declaration, in the form prescribed by the regulations, affirming that he is the father of a child.

Statutory declaration of paternity

(2) Upon application and upon payment of the fee prescribed under *The Vital Statistics Act*, any person having an interest may inspect any relevant statutory declaration filed under subsection 1 and obtain a certified copy thereof from the Registrar General.

Inspection and copies  
R.S.O. 1970,  
c. 483

**13.** Upon application and upon payment of the fee prescribed under *The Vital Statistics Act*, any person who has an interest, furnishes substantially accurate particulars and satisfies the Registrar General as to his reason for requiring it may inspect any statutory declaration filed under subsection 8 of section 6 of *The Vital Statistics Act* or any request filed under subsection 5 of section 6 of that Act and obtain a certified copy thereof from the Registrar General.

Inspection of filings under  
R.S.O. 1970,  
c. 483, s. 6 (5, 8)

**14.**—(1) The registrar or clerk of every court in Ontario shall furnish the Registrar General with a statement in the form prescribed by the regulations respecting each order or judgment of the court that confirms or makes a finding of parentage.

Filing of court decisions respecting parentage

(2) Upon application and upon payment of the fee prescribed under *The Vital Statistics Act*, any person may inspect an order or judgment filed under subsection 1 and obtain a certified copy thereof from the Registrar General.

Inspection by public

Certified  
copies as  
evidence

**15.** A certificate certifying a copy of a document to be a true copy, obtained under section 12, 13 or 14, purporting to be signed by the Registrar General or Deputy Registrar General or on which the signature of either is lithographed, printed or stamped is, without proof of the office or signature of the Registrar General or Deputy Registrar General, receivable in evidence as *prima facie* proof of the filing and contents of the document for all purposes in any action or proceeding.

Duties of  
Registrar  
General

**16.** Nothing in this Act shall be construed to require the Registrar General to amend a registration showing parentage other than in recognition of an order made under section 4, 5 or 6.

Regulations  
for forms

**17.** The Lieutenant Governor in Council may make regulations prescribing forms for the purposes of this Part.

### PART III

#### COMPLEMENTARY AMENDMENTS

R.S.O. 1970,  
c. 222, s. 16 (1),  
amended

**18.**—(1) Subsection 1 of section 16 of *The Infants Act*, being chapter 222 of the Revised Statutes of Ontario, 1970, is amended by inserting after "father" in the third line "if known".

s. 16 (2),  
amended

(2) Subsection 2 of the said section 16 is amended by inserting after "no" in the first line "known".

R.S.O. 1970,  
c. 242,  
repealed

**19.** *The Legitimacy Act*, being chapter 242 of the Revised Statutes of Ontario, 1970, is repealed.

R.S.O. 1970,  
c. 343, s. 7 (4),  
amended

**20.** Subsection 4 of section 7 of *The Perpetuities Act*, being chapter 343 of the Revised Statutes of Ontario, 1970, is amended by striking out "legitimation" in the second line.

R.S.O. 1970,  
c. 396, s. 30,  
amended

**21.** Section 30 of *The Quieting Titles Act*, being chapter 396 of the Revised Statutes of Ontario, 1970, is amended by striking out "legitimate" in the second line.

R.S.O. 1970,  
c. 449,  
s. 1 (d) (i),  
amended

**22.**—(1) Subclause i of clause d of section 1 of *The Succession Duty Act*, being chapter 449 of the Revised Statutes of Ontario, 1970, is amended by striking out "legitimate".

s. 1 (d) (iv),  
amended

(2) Subclause iv of clause d of the said section 1 is amended by striking out "legitimate" in the first line.

s. 7 (11) (c) (i),  
amended

(3) Subclause i of clause c of subsection 11 of section 7 of the said Act, as re-enacted by the Statutes of Ontario,



1973, chapter 109, section 2, is amended by striking out "legitimate".

**23.**—(1) Subsection 2 of section 6 of *The Vital Statistics Act*, being chapter 483 of the Revised Statutes of Ontario, 1970, is amended by striking out "an illegitimate child" in the first and second lines and inserting in lieu thereof "a child born outside marriage". R.S.O. 1970, c. 483, s. 6 (2), amended

(2) Subsection 1 of section 12 of the said Act, as amended s. 12 (1), amended by the Statutes of Ontario, 1971, chapter 98, section 4, is further amended by striking out "a child has been legitimated by the subsequent intermarriage of his parents" in the first and second lines and inserting in lieu thereof "after the birth of a child his parents intermarry", and by striking out "as to the legitimation" in the thirteenth line.

(3) Subsection 2 of section 41 of the said Act is repealed. s. 41 (2), repealed

**24.** Clause *r* of subsection 1 of section 1 of *The Workmen's Compensation Act*, being chapter 505 of the Revised Statutes of Ontario, 1970, as amended by the Statutes of Ontario, 1973, chapter 173, section 1, is further amended by striking out "and, where the employee is the parent or grandparent of an illegitimate child, includes such child and, where the employee is an illegitimate child, includes his parents and grandparents" in the eighth, ninth, tenth and eleventh lines and in the amendment of 1973. R.S.O. 1970, c. 505, s. 1 (1) (r), amended

**25.** This Act comes into force on the 31st day of March, 1978. Commencement

**26.** The short title of this Act is *The Children's Law Reform Act*, 1977. Short title



