

The CBA

Family Law Section position request is as follows:

Position Request: To support the Uniform Parentage Act with the following amendments:

1. Delete paragraph (a)(3) of Section 36 (lines 556 to 560) which make a presumed parent of the minor child a person who

“...jointly with another legal parent, resided in the same household with the child and openly held out the child as the person’s own child from the time the child was born or adopted and for a period of at least two years thereafter, including any period of temporary absence”

2. Add the following language to subsection (b), section 37, of the bill, which sets forth criteria for overcoming the presumption of parentage,

(b) Except as provided in subsection (e) of this section, a presumption of parentage under Section 36 of this act cannot be overcome after the child attains two years of age unless the court determines:

(4) the presumed parent is not a genetic parent, has not resided in the same household as the child for two years and has not maintained the parental relationship with the child;

3. Amend Section 38 as follows, deleting the language in brackets, added the underlined language:

(a) In a proceeding to adjudicate parentage of a person who claims to be a de facto parent of the child, if there is only one other person who is a parent or has a claim to parentage of the child, the court shall adjudicate the person who claims to be a de facto parent to be a parent of the child if the person demonstrates by clear and convincing evidence that:

(1) The person resided with the child as a regular member of the child's household for [at least one year] a period of at least four years, or, if the child is not yet four years old, since the

(2) birth of the child, unless the court finds good cause to accept a shorter period; [lines 642-645]

4. Amend Section 38 as follows, deleting the language in brackets, added the underlined language:

(a) In a proceeding to adjudicate parentage of a person who claims to be a de facto parent of the child, if there is only one other person who is a parent or has a claim to parentage of the child, the court shall adjudicate the person who claims to be a de facto parent to be a parent of the child if the person demonstrates by clear and convincing evidence that:

(6) Another parent of the child fostered or supported the bonded and dependent relationship required under subdivision (5) of this subsection and held the person out as a parent of the child (understood, acknowledged or accepted that, or behaved as though, the person is a parent of the child); [lines 655-657]and

5. Amend Section 38 by adding the following paragraph to subsection (a):
 - (a) In a proceeding to adjudicate parentage of a person who claims to be a de facto parent of the child, if there is only one other person who is a parent or has a claim to parentage of the child, the court shall adjudicate the person who claims to be a de facto parent to be a parent of the child if the person demonstrates by clear and convincing evidence that:
 - (8) The child, as long as of a sufficient age as determined by the court, held the person out as their parent.
6. Amend Section 39 by adding the following paragraph to subsection (a)
 - (a) A proceeding to establish parentage of a child under this section may be commenced only by a person who:
 - (3) if not currently residing in the same household as the child, has supported the child financially since ceasing to reside in the same household as the child.

Proposed Legislative Concept:

To make the criteria for becoming a common law parent more stringent

Explanation:

Connecticut does not recognize common law marriage, and the Family Law Section is skeptical of the concept of common law (De Facto or Equitable) parentage. Our Supreme Court rejected the concept in the case of *Doe v. Doe*, 244 Conn. 403, 710 A.2d 1297 (1998).

The bill has much to recommend it. Rather than oppose the bill in its entirety we think some key amendments to the sections on presumed parentage and de facto parentage strike a good balance between the need for certainty as to who is a parent, the need to minimize litigation, and the need to give legality to the relationships of non-traditional families.

Potential CBA Opposition:

LGBT Section may oppose any amendments to the bill. We anticipate Estates and Probate Support

Strength of Section Position:

Approved by the executive Committee by 11-6 vote on January 14, 2020.

Fiscal Impact (on the State):

We anticipate that our amendments would reduce litigation, which would be a cost saving to the state.