The Child-Parent Security Act

February 11, 2020

New York State | Department of Health

Today's Agenda

- Overview of the Child-Parent Security Act
- Local Registrar Responsibilities
- DOH and OTDA Contacts
- Q & A

The Child-Parent Security Act

- The Child-Parent Security Act (CPSA) is a law in New York State that legalizes gestational surrogacy and provides a simple path to establish legal parental rights for parents who rely on assisted reproductive technology (ART) to have children.

- Introduces the new documentation to amend the birth certificate:

  - Acknowledgement of Parentage (AoP)

  - Surrogacy Agreement

  - Order of Parentage

- **Effective: February 15, 2021**

The Child-Parent Security Act (cont.)

- Establishes legal criteria for gestational surrogacy agreements that provide the strongest protections in the nation for parents and surrogates, ensuring all parties provide informed consent at every step of the process;

- Creates a Surrogates' Bill of Rights, to ensure the unfettered right of surrogates to make their own healthcare decisions, including whether to terminate or continue a pregnancy, and that surrogates have access to comprehensive health insurance and independent legal counsel of their choosing, all paid for by the intended parents; and

- Creates a streamlined process for establishing parenthood when one of the individuals is a non-biological parent

Benefits of establishing parentage:

- Legal record of the identity of both parents
- Both parents' names will appear on the birth certificate
- Better access to information on family medical history
- Emotional benefit of knowing both parents
- Financial support, health or life insurance
- Right to inherit from the other parent
- Share child-related responsibilities
- Parental rights legally established

The Acknowledgement of Parentage (AOP)

- Formerly known as the Acknowledgement of Paternity – this document continues to be a voluntary document to add parental rights to the non-birthing parent.

- Filing procedure remains **_unchanged_**

- **Reminder:** Search for the initial birth record before accepting the AoP – carefully review what you have on file

  - If there is an amended birth record on file – REJECT the AOP

  - If a secondary parent exists on the original birth certificate - REJECT THE AOP

- Rejected AoPs are not sent to the Putative Father Registry or the State Health Department

The Acknowledgement of Parentage (AOP)

➡ **An Acknowledgment of Parentage is void at the time of signing if:**

1. A person other than the parties signing the Acknowledgment of Parentage is a presumed parent of the child due to marriage under New York Domestic Relations law;

2. The child has a legally recognized parent other than the parties signing the Acknowledgment of Parentage due to an assisted reproduction agreement;

3. A court has already entered a judgment or order determining parentage for the child;

4. Another person has voluntarily acknowledged parentage for the child;

5. A person signing the Acknowledgment of Parentage was a donor in an assisted reproduction, and already signed a statement that the donation was not intended to result in parental rights and responsibilities; or

6. A person signing the Acknowledgment of Parentage asserts that they have parental rights due to an assisted reproduction agreement, but a court finds that the child was not conceived through assisted reproduction.

Surrogacy Agreement

- A contractual agreement where intended parents utilize a surrogate to have a child.
  - The surrogate is never intended to be the parent of the child.
  - The surrogacy agreement outlines who will be the legal parent of the child to be placed on the birth certificate.*
- File the original birth record – BUT DO NOT issue the original birth record (original record should be sealed)
  - *Note: Please continue to send the original birth certificate to DOH*
- The State Health Department will issue an amended birth record to the Local Registrar
- The Local Registrar should have a copy of the surrogacy agreement
  - The surrogacy agreement should be provided from the hospital, family, or DOH
- * (Just be aware of these circumstances in the surrogacy agreement)

Order of Parentage

- The Order of Parentage is an order issued by a court of competent jurisdiction which legally establishes the parents to a child

  - This may occur at the time of birth or any time thereafter.

- File the original birth record, but <u>DO NOT ISSUE</u> the original birth record if <u>both parents or the birth parent</u> are being altered

  - *Note: Please continue to send the original birth certificate to DOH*

- The State Health Department will issue an amended birth record if <u>both parents or the birth parent</u> are being changed

- Be vigilant on what is being amended by the order of parentage

Local Registrar Roles & Responsibilities

- If you are made aware that a birth certificate is affected by an AoP, Surrogacy Agreement or Order of Parentage, make sure you get a copy.

- Search your records to ensure that there is no current birth certificate on file.

- If the AoP, Surrogacy Agreement or Order of Parentage effects an existing parent on an existing birth certificate, DO NOT Amend the document.

  - If it is an AoP, please REJECT the AoP. Do not send the AoP to the State Health Department or the Putative Father Registry.

    - Please inform the applicant that a court order will be needed to make the changes to the birth certificate.

    - If the applicant continues to question, please send them to the State Health Department

  - If it is a Surrogacy Agreement or Order of Parentage – send them to the State Health Department for an amendment

    - Please seal the record.

- Any questions – please contact the State Health Department.

New York State Contacts

- Questions about the birth certificate as it relates to the AoP, Surrogacy Agreements and/or Orders of Parentage
  - The Dept. of Health/Bureau of Vital Records:
    - vr@health.ny.gov
- Questions about the AoP or the Putative Father Registry only:
  - The Office of Temporary Disability Assistance:
    - otda.sm.dcse.parentage@otda.ny.gov

Question & Answer

Please type your questions into the chat.

Thank you