



**TESTIMONY OF GLBTQ LEGAL ADVOCATES & DEFENDERS  
IN SUPPORT OF H. 5707**

Rhode Island House Committee on Judiciary  
March 20, 2019

Dear Representative Craven, Chair, Representative Shanley, First Vice-Chair, Representative McEntee, Second Vice-Chair, and Members of the House Committee on Judiciary,

Thank you for the opportunity to submit testimony in support of H. 5707 – An act relating to domestic relations – Uniform Parentage Act (“Rhode Island Parentage Act”).

As some or all of you may know, GLAD is a New England-based legal organization dedicated to ending discrimination on the basis of sexual orientation, gender identity and expression, and HIV status. GLAD has a particular interest in the protection and recognition of LGBTQ families, particularly ensuring that the lives of children are stable and secure. In Rhode Island, GLAD has been involved in family law cases including *Rubano v. DiCenzo*, 759 A.2d 959 (R.I. 2000) and *In Re Parentage of a Minor Child*, No. 2015-0877-1 (R.I. Fam. Ct. Oct. 26, 2016), <https://www.glad.org/wp-content/uploads/2017/01/in-re-parentage-minor-decision-10-26-16.pdf>. In other New England states, GLAD has successfully litigated cases to protect children born into same-sex relationships, including in Massachusetts (*Partanen v. Gallagher*, 475 Mass. 632, 59 N.E.3d 1133 (Mass. 2016); *Hunter v. Rose*, 463 Mass. 488, 975 N.E.2d 857 (Mass. 2012)), New Hampshire (*In re Guardianship of Madelyn B.*, 166 N.H. 453, 98 A.3d 494 (N.H. 2014)), and Vermont (*Baker v. State*, 170 Vt. 194, 744 A.2d 864 (Vt. 1999); *Miller-Jenkins v. Miller-Jenkins*, 180 Vt. 441, 912 A.2d 951 (Vt. 2006); *Sinnott v. Peck*, 2017 Vt. 115, 2017 Vt. LEXIS 133 (Vt. 2017)). Additionally, GLAD has successfully worked in coalitions on legislation promoting the protection of children regardless of the circumstances of their birth, including children born through assisted reproduction, to non-marital parents, and to LGBTQ parents. GLAD Civil Rights Project Director Mary L. Bonauto served on the Working Group of the Family Law Advisory Commission that drafted the statute that became the Maine Parentage Act.

19-A M.R.S. §1831 et seq. I currently serve on the Uniform Parentage Act Enactment Committee, and I have been involved in collaborative efforts to update Massachusetts and Vermont law to protect children born from assisted reproduction. Prior to GLAD, I was a family law practitioner in Massachusetts, litigating complex parentage matters and helping to secure families created through assisted reproduction. In sum, GLAD is deeply engaged in and committed to protecting and securing the parentage of children, particularly of LGBTQ families.

Rhode Island has made important contributions to the recognition and protection of LGBTQ families. The Rhode Island Supreme Court's ruling in *Rubano v. DiCenzo* (2000) established the right of a de facto parent to pursue custody and visitation claims in Rhode Island. More recently, the Rhode Island Family Court granted an order of parentage for a Rhode Island non-biological mother to a child born through in-vitro fertilization who had initially sought a second-parent adoption in *In Re Parentage of a Minor Child* (2016). Rhode Island has also taken strong steps in the past to recognize LGBTQ relationships, passing legislation to recognize same-sex civil unions in 2011 and to legalize marriage for same-sex couples in 2013.

Even with Rhode Island's leadership and positive developments, the rapid clip of changes in society and family creation have outpaced Rhode Island law.<sup>1</sup> Nonmarital births are common in Rhode Island, where 45.1% of all births in 2015 (4,957 out of 10,993 births) were births to unmarried people. National Vital Statistics Reports, CDC, Vol. 66, No. 1, January 5, 2017, Table I-4. Additionally, births from assisted reproductive technology are becoming increasingly common. In 2015, 2.4% of all Rhode Island births involved the use of assisted reproductive technology (268 out of 10,993 births). "Assisted Reproductive Technology Surveillance – United States, 2015," CDC, Feb. 16, 2018, Table 3.<sup>2</sup> Although Rhode Island has comprehensive mandated health insurance coverage for ART procedures, greater statutory protections are needed in Rhode Island to protect children who are born through assisted reproductive

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<sup>1</sup> According to a 2016 Gallup poll, Rhode Island's LGBTQ population is 4.0%. Rhode Island had the 15<sup>th</sup> largest percentage of adults identifying as LGBT in the United States. <http://news.gallup.com/poll/203513/vermont-leads-states-lgbt-identification.aspx>.

<sup>2</sup> In comparison, 2.1% of births in 2014 (232 births) and 2.2% of births in 2013 (236 births) involved the use of ART in Rhode Island.

technology.<sup>3</sup> Comprehensive legislation is needed to provide clarity for courts and families on who can be a parent and who can access the courts to resolve disputes regarding the care and custody of children.

By considering this Act, the Legislature is responding to the needs of children and families through crucial legislation that addresses the needs of Rhode Island families for clarity, accessibility and stability in their family relationships. Substantively, the proposed Rhode Island Parentage Act, Chapter 8.1, has a structure that includes the following topics, broadly stated:

1. General provisions, which includes definitions, scope, and other procedural issues
2. Establishment of Parentage, which provides an overview of how a person can establish parentage either through birth, acknowledgment, presumption, de facto parentage, or consent to assisted reproduction or to a gestational carrier agreement
3. Voluntary Acknowledgement of Parentage, which addresses parentage by acknowledgment
4. Genetic Testing, which addresses testing and establishment of genetic parentage
5. Proceedings to Adjudicate Parentage, which addresses how to establish and adjudicate parentage, including for presumed parents and de facto parents,
6. Parentage by Assisted Reproduction
7. Parentage by Gestational Carrier Agreement
8. Miscellaneous provisions

Through these chapters, the proposed Rhode Island Parentage Act provides a clear and comprehensive framework for determining legal parentage that is accessible and consistent. The proposed Act also addresses the realities of Rhode Islanders today, particularly the increased use of assisted reproduction and gestational surrogacy to create families, and ensures equality for all children and families by not discriminating on the basis of marital status or gender. The Rhode Island Parentage Act would clarify who can be established as a parent in Rhode Island and how

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<sup>3</sup> According to the CDC's report on 2015 ART statistics, only four states (Illinois, Massachusetts, New Jersey, and Rhode Island) have comprehensive mandated health insurance coverage for ART procedures (i.e., coverage for at least four cycles of IVF). *See* "Assisted Reproductive Technology Surveillance – United States, 2015," CDC, Feb. 16, 2018.

to establish that legal parentage. The proposed statutory scheme does not disturb the established law regarding parental rights and responsibilities; rather, the court would maintain the discretion to assess the best interests of children and parental rights and responsibilities.

I write to highlight certain provisions of H. 5707 that GLAD believes particularly serve to increase the stability, security, and well-being of children born to LGBTQ families.

- Section 2, entitled “Parent-Child Relationship,” clearly lays out categories of parents and who has access to courts to establish parentage. Section 102 affirmatively pronounces as the public policy of Rhode Island that parent-child relationships should be accessed equally, regardless of marital status of the parents.
- Section 3, entitled “Voluntary Acknowledgment of Parentage,” ensures that parents who are LGBTQ and who conceive through assisted reproduction have equal access to the simple and quick administrative route to parentage that has long been available and used by different-sex non-marital couples. VAPs require filling out a form and establish parentage of children by agreement and outside the court system, and allowing equal access to this method of establishing parentage will provide greater stability for children and reduce litigation in the courts.
- The provisions relating to presumed parentage (e.g. 15-8.1-2.104; 15-8.1-6-203) clarify who qualifies as a presumed parent. These provisions ensure protection of and recognition for the children of non-marital couples who have jointly planned for and parented those children, bringing non-marital children on par with children of married couples.
- De Facto Parentage, found in section 6 at 15-8.1-6.204, ensures that a child can maintain a relationship with a person who has functioned as their parent. These provisions balance the needs of children and adults, by providing safeguards for existing legal parents by imposing heightened standing and proof requirements for the de facto parent to meet, but also allowing courts to protect children from the termination of an important adult relationship when those hurdles are met.

- Section 6 also outlines how to resolve competing claims of parentage and provides that, in certain limited instances, and as determined by the court, children can have more than two parents.
- Section 7, entitled “Assisted Reproduction,” clarifies how to establish parentage with the use of assisted reproduction, which is conception without sexual intercourse. This means of conception is used mostly by *non-LGBTQ* people and also many LGBTQ people. Rhode Island is one of the few states without any statutory guidance on parentage by assisted reproduction, and it is critically important to spell out parentage for these children.
- Section 8, entitled “Surrogacy Agreement,” provides for a process and protections for people establishing parentage through gestational and genetic carrier agreements, which is a means of family creation used by many LGBTQ people. Clear statutory guidance for gestational and genetic carrier agreements protects all parties involved and creates consistency throughout Rhode Island courts.

GLAD enthusiastically supports the proposed Rhode Island Parentage Act, particularly these sections highlighted above, and believes that this legislation will promote clarity, efficiency and fairness in Rhode Island courts and security for Rhode Island children and families. Thank you for the opportunity to provide testimony, and please do not hesitate to contact me with questions or for additional information.

Respectfully submitted,

A handwritten signature in black ink, appearing to be the name 'Patience Crozier', with a long horizontal line extending to the right.

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