



**Statement of Libby Snyder, Legislative Counsel at the Uniform Law Commission, to the Senate Judiciary
Public Safety Committee in Support of SF 3504 – The Parentage Act**

Chair Latz and Members of the Committee:

Thank you for considering SF 3504, enacting the Uniform Parentage Act (UPA), promulgated by the Uniform Law Commission (ULC) in 2017. The ULC is a non-profit organization formed in 1892 to draft non-partisan model legislation in the areas of state law for which uniformity among the states is advisable.

Minnesota's current statutory law regarding artificial insemination was enacted in 1980. Over the last several decades, medical science has developed a wide array of assisted reproductive technology. Currently, Minnesota statute does not provide clear rules to determine parentage in a variety of situations that are common when using assisted reproductive technology. Article 7 of the UPA provides needed clarity. In addition, Minnesota has no statutes specifically permitting or prohibiting surrogacy agreements. Article 8 of the UPA provides comprehensive statutory guidance that reflects the developments that have occurred in surrogacy practice over the last twenty years.

It is my understanding that SF 3504 is going to be amended to include only Articles 7 (assisted reproduction) and 8 (surrogacy agreements) of the UPA. Enacting these articles would be a big step forward in the fight to provide equal treatment under the law to all Minnesotans, but it is important to stress that this is only the first step. It is crucial that a bill to enact Articles 1 to 6 and Article 9 of the UPA is introduced next legislative session. Some important reasons why Minnesota should adopt the entire UPA include:

- **To provide clarity for and reduce unnecessary litigation regarding children born to same-sex couples.** UPA (2002) and UPA (1973) used gendered terms and its provisions presumed that couples consist of one man and one woman. As a result, the provisions did not provide clear guidance about their application to children born to same-sex couples. UPA (2017) provides needed clarity for this group of children and their families.
- **To cure potential constitutional infirmity in existing state law.** In *Obergefell*, the United States Supreme Court held that laws barring marriage between two people of the same sex are unconstitutional. After *Obergefell*, some state parentage laws that treat same-sex couples differently than different-sex couples may be unconstitutional. By adopting UPA (2017), Minnesota can make sure that state law does not run afoul of important constitutional protections.
- **To clarify and codify state law related to de facto parentage.** Most states extend at least some parental rights to people who, while not biological parents, functioned as parents with the consent of the child's legal parent. Some states recognize such people under a variety of equitable doctrines. Other states extend rights to such people through broad third-party custody and visitation statutes. The UPA (2017) adds clarity to this issue across the states by expressly codifying the recognition of de facto parentage in a uniform statutory scheme. This is consistent with the current trend and is consistent with a core purpose of the UPA, which is to protect established parent child relationships. At the same time, however, the UPA (2017) erects safeguards to ensure that these provisions do not result in unwarranted or unjustified litigation.

Minnesota's statutes must be updated to provide comprehensive guidance to individuals who wish to build their families by using assisted reproductive technology. If passed, SF 3504 will be an important first step in modernizing parentage law in Minnesota. I ask for your support to advance this important legislation and to revisit the remaining sections of the Uniform Parentage Act (2017) next legislative session. Thank you for your time and consideration.

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