

HOUSE No. 2310

By Mr. Pitaro of Boston, petition of Mimie B. Pitaro, David C. Ahearn, John A. Businger, Charles F. Flaherty, Jr., William J. Spence, Paul H. Guzzi and others that children born out of wedlock be considered legitimate children of natural parents and be entitled to all rights and privileges. The Judiciary.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Seventy-Two.

AN ACT TO AMEND THE LAWS PERTAINING TO CERTAIN CHILDREN.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Chapter 273 of the General Laws is hereby amended by
2 adding the following section: —

3 10A: Every child, whether or not born in wedlock, is the
4 legitimate child of its natural parents and is entitled to all
5 rights and privileges as if born in lawful wedlock. The term
6 “natural parents” shall mean the child’s mother and the child’s
7 father if (a) the father is or has been married to the mother
8 and child is born during marriage or within ten months after
9 divorce (b) the mother and father have been married, though
10 marriage has been declared void; (c) the father acknowledges
11 child in writing filed with and approved by the probate court;
12 (d) the father receives the child into his family or lives with
13 child or does other such acts indicating paternity (e) the father
14 and mother marry after birth of child; (f) the father consented
15 to artificial insemination; (g) the father is adjudicated father of
16 the child by a court or by other competent jurisdiction.

17 Section 11 of chapter 273 of the General Laws is hereby
18 repealed and the following is inserted in place thereof: —

19 Section 11. A proceeding to determine the paternity of a
20 child shall be a civil proceeding and the district court shall have
21 jurisdiction of said proceeding. A proceeding to determine
22 paternity may be brought in the district court sitting for the

23 county where the alleged father lives or in the county where
24 the mother lives. Paternity may be determined upon the
25 petition of the mother, the father, or any guardian of the
26 child. If a proceeding to determine paternity is commenced
27 during the pregnancy of the mother, the trial shall not, without
28 the alleged father's consent, be held until after the birth,
29 miscarriage, or stillbirth of the child, or until the mother is at
30 least six months pregnant. The rules of evidence and compe-
31 tency of witnesses in said proceeding shall be as in any other
32 civil proceeding and in the event an adjudication of paternity is
33 made, the alleged father may appeal therefrom as from any
34 other civil proceeding in the district court, provided, however,
35 that the alleged father, if he so desires, may request a trial de
36 novo before a jury on the superior court or district court, if
37 jury sittings are available on said district court.

38 Section 12 of chapter 273 of the General Laws is hereby
39 repealed.

40 Section 15 of chapter 273 of the General Laws is hereby
41 repealed.

42 Section 16 of chapter 273 of the General Laws is hereby
43 amended by striking the words, "or after conviction" and
44 substituting in place thereof the words, "or after an adju-
45 dication of paternity" and by striking the words "original
46 complaint or indictment" and substituting in place thereof
47 "original cause of action", and by striking the words "penalties
48 and".

49 Section 19 of chapter 273 of the General Laws is hereby
50 repealed.

51 Section 7 of chapter 4 of the General Laws is hereby
52 amended by striking the sixteenth clause thereof and inserting
53 in place thereof the following: "Issue" - sixteenth, "Issue", as
54 applied to the descent of estates, shall include all the lawful
55 lineal descendants of the ancestor, including children born out
56 of wedlock.

57 Section 7 of chapter 4 of the General Laws is hereby
58 amended by adding between the fifth and sixth paragraphs
59 thereof, the following words: "Children" - Fifth (A), "Chil-
60 dren" shall include every child, whether born in or out of
61 wedlock".

62 Section 1, subsection (3) of chapter 152 of the General
63 Laws is hereby amended by adding after the words “members
64 of the employee’s family” the words “including children born
65 out of wedlock”.

66 Section 32, subsection (c) of chapter 152 of the General
67 Laws is hereby amended by adding after the words “Upon the
68 parent with whom they are living at the time of the death of
69 such parent” the words “including their children born out of
70 wedlock”.

71 Section 32, subsection (d) of chapter 152 of the General
72 Laws is hereby amended by adding after the words “any
73 children of the deceased employee conceived but not born at
74 the time of the employee’s injury”, the words “including the
75 natural children of the mother, and the natural children of the
76 father if (a) the father is or has been married to the mother
77 and the child is born during the marriage or within ten months
78 after divorce; (b) the mother and father have been married,
79 though the marriage has been declared void; (c) the father has
80 acknowledged the child in writing filed with and approved by
81 the probate court; (d) the father has received the child into his
82 family or lives with the child or does other such acts indicating
83 paternity; (e) the father consented to artificial insemination;
84 (f) the father is adjudicated the father of the child by a court
85 or other competent jurisdiction.”

86 Section 7 of chapter 190 of the General Laws is hereby
87 amended by striking the entire section and substituting in place
88 thereof the following: – Every child shall inherit from its
89 natural parents and from their kindred heir, lineal and collat-
90 eral, in the same manner of a child born in lawful wedlock.

91 Section 5 of chapter 190 of the General Laws is hereby
92 repealed.

93 Section 6 of chapter 190 of the General Laws is hereby
94 amended by striking the entire section and substituting in place
95 thereof the following: – If a child born out of wedlock, who
96 has not been acknowledged or adopted by the father dies
97 intestate without lawful issue who may lawfully inherit his
98 estate, his estate goes to his mother, or in the case of here
99 decease, to her heirs at law.

100 Section 20 of chapter 191 of the General Laws is hereby
101 amended by inserting at the end of said section the follow-
102 ing: — For the purposes of this section, the word “children”
103 shall include all children whether or not born in lawful wed-
104 lock, except if such child has been adopted in which case
105 section 7 of chapter 210 shall control.

106 Section 22 of chapter 191 of the General Laws is hereby
107 amended by striking the period at the end of the section and
108 inserting in place thereof the following: — “and children born
109 out of wedlock.”

110 Section 6 of chapter 207 of the General Laws is hereby
111 amended by striking the last seventeen words of the section
112 beginning with “and” and ending with “parents” and by
113 deleting the comma following the word “impediment” and
114 replacing same with a period.

115 Section 15 of chapter 207 of the General Laws is hereby
116 repealed.

117 Section 17 of chapter 207 of the General Laws is hereby
118 repealed.

119 Section 2 of chapter 210 of the General Laws is hereby
120 amended by striking the fourth clause and substituting in place
121 thereof the following: “of the mother only of the child, if
122 born out of wedlock,” and by adding at the end of the section
123 the following: “In the case of a child born out of wedlock, the
124 father of the child shall be notified of the surrender or release
125 of the child for adoption, or the intention to surrender or
126 release said child, if (a) the father is or has been married to
127 the mother and the child is born during marriage or within ten
128 months after divorce; (b) the mother and father have been
129 married, though their marriage has been declared void; (c) the
130 father acknowledges the child in writing filed with and
131 approved by the probate court; (d) the father receives the
132 child into his family or lives with the child or does other such
133 acts indicating paternity; (3) the marriage of father and mother
134 has occurred after birth of child; (f) the father consented to
135 artificial insemination; (g) the father is adjudicated the father
136 of the child by court or by competent jurisdiction, within 30
137 days after the birth of the child if the child is surrendered or
138 released for adoption at birth or within 30 days after receipt of

139 such notice of surrender or release, said father may petition the
140 Probate Court for the County where the child or the mother
141 resides and request a hearing as to whether it is in the best
142 interests of the child for said child to be surrendered or
143 released for adoption; after a hearing, the judge may take
144 whatever action is indicated to further the best interests of the
145 child.

146 Section 6A of chapter 210 of the General Laws is hereby
147 amended by striking the last clause of the first paragraph and
148 substituting in place thereof, "provided that if such person is
149 born out of wedlock, the name, or names of and all other facts
150 relating to his natural parent, or parents, shall be omitted from
151 such certificate.

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