

West's Annotated California Codes

Family Code (Refs & Annos)

Division 12. Parent and Child Relationship (Refs & Annos)

Part 3. Uniform Parentage Act (Refs & Annos)

Chapter 2. Establishing Parent and Child Relationship (Refs & Annos)

West's Ann.Cal.Fam.Code § 7612

§ 7612. Presumption as natural parent; rebuttable presumption; conflicting presumptions; more than two persons with claim to parentage; petition to set aside voluntary declaration of paternity; invalid voluntary declarations of paternity

Effective: January 1, 2017

Currentness

(a) Except as provided in Chapter 1 (commencing with [Section 7540](#)) and Chapter 3 (commencing with [Section 7570](#)) of Part 2, a presumption under [Section 7611](#) is a rebuttable presumption affecting the burden of proof and may be rebutted in an appropriate action only by clear and convincing evidence.

(b) If two or more presumptions arise under [Section 7610](#) or [7611](#) that conflict with each other, or if a presumption under [Section 7611](#) conflicts with a claim pursuant to [Section 7610](#), the presumption which on the facts is founded on the weightier considerations of policy and logic controls.

(c) In an appropriate action, a court may find that more than two persons with a claim to parentage under this division are parents if the court finds that recognizing only two parents would be detrimental to the child. In determining detriment to the child, the court shall consider all relevant factors, including, but not limited to, the harm of removing the child from a stable placement with a parent who has fulfilled the child's physical needs and the child's psychological needs for care and affection, and who has assumed that role for a substantial period of time. A finding of detriment to the child does not require a finding of unfitness of any of the parents or persons with a claim to parentage.

(d) Unless a court orders otherwise after making the determination specified in subdivision (c), a presumption under [Section 7611](#) is rebutted by a judgment establishing parentage of the child by another person.

(e) Within two years of the execution of a voluntary declaration of paternity, a person who is presumed to be a parent under [Section 7611](#) may file a petition pursuant to [Section 7630](#) to set aside a voluntary declaration of paternity. The court's ruling on the petition to set aside the voluntary declaration of paternity shall be made taking into account the validity of the voluntary declaration of paternity, the best interests of the child based upon the court's consideration of the factors set forth in [subdivision \(b\) of Section 7575](#), and the best interests of the child based upon the nature, duration, and quality of the petitioning party's relationship with the child and the benefit or detriment to the child of continuing that relationship. In the event of a conflict between the presumption under [Section 7611](#) and the voluntary declaration of paternity, the weightier considerations of policy and logic shall control.

(f) A voluntary declaration of paternity is invalid if, at the time the declaration was signed, any of the following conditions exist:

(1) The child already had a presumed parent under [Section 7540](#).

(2) The child already had a presumed parent under [subdivision \(a\), \(b\), or \(c\) of Section 7611](#).

(3) The man signing the declaration is a sperm donor, consistent with [subdivision \(b\) of Section 7613](#).

(g) A person's offer or refusal to sign a voluntary declaration of paternity may be considered as a factor, but shall not be determinative, as to the issue of legal parentage in any proceedings regarding the establishment or termination of parental rights.

Credits

(Stats.1992, c. 162 (A.B.2650), § 10, operative Jan. 1, 1994. Amended by Stats.1993, c. 219 (A.B.1500), § 178; Stats.1994, c. 1269 (A.B.2208), § 54; Stats.2008, c. 534 (S.B.1726), § 1; Stats.2011, c. 185 (A.B.1349), § 3; Stats.2013, c. 510 (A.B.1403), § 4; Stats.2013, c. 564 (S.B.274), § 6.5; Stats.2015, c. 91 (A.B.1049), § 1, eff. Jan. 1, 2016; Stats.2016, c. 86 (S.B.1171), § 129, eff. Jan. 1, 2017.)

Editors' Notes

LAW REVISION COMMISSION COMMENTS

Enactment [Revised Comment]

Section 7612 continues former Civil Code Section 7004(c) without substantive change. This section is similar to [Section 4\(b\) of the Uniform Parentage Act](#) (1973). In subdivision (c), "judgment" has been substituted for "decree." This is not a substantive change. See [Section 100](#) ("judgment" includes decree, as appropriate). [23 Cal.L.Rev.Comm. Reports 1 (1993)].

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2013 Main Volume

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[Notes of Decisions \(120\)](#)

West's Ann. Cal. Fam. Code § 7612, CA FAM § 7612
Current with urgency legislation through Ch. 3 of 2017 Reg.Sess.

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