

Acknowledgment and declaration of paternity in Saskatchewan

ESTABLISHMENT AND RECOGNITION OF PARENTAGE

A parent is the father or mother of a child, whether the child was born within or outside of marriage. A mother or father of a child by adoption is also a parent. *The Vital Statistics Act 2009* provides that the woman who gives birth to a child is considered to be the mother. That Act also provides that a father is the person who acknowledges himself to be the biological father of a child. The Act contemplates the possibility of a child having more than two parents; “other parent” is defined to mean a person other than the mother or father who is cohabiting with the mother or father of the child in a spousal relationship at the time of the child birth and who intends to participate as a parent in the upbringing of the child. *The Vital Statistics Act 2009* also creates a presumption that a live birth registered under the Act occurred in accordance with the information set out in the Statement of Live Birth (signed by the mother, or mother and father) unless the contrary is proven on a balance of probabilities. *The Children’s Law Act* sets out presumptions of paternity, which include:

- (1) at the time of the child’s birth or conception the man was cohabiting with the mother, whether or not they were married to each other;
- (2) the man and the mother of the child have filed a statutory declaration, acknowledging that the man is the father of the child, with Vital Statistics or an equivalent official in another jurisdiction in Canada;
- (3) the man signed the birth registration form pursuant to *The Vital Statistics Act, 2009*;
- (4) the man married the mother after the child’s birth and acknowledges that he is the father;
- (5) the man and the mother have acknowledged in writing that the man is the father of the child;
- (6) the man has been found or recognized by a court in Canada to be the father of the child.

In cases where contradictory presumptions of paternity apply, no presumption applies. Both the *Vital Statistics Act 2009* and *The Children’s Law Act 1997* provide that an applicant may apply to court to determine, based on a balance of probabilities, who shall be recognized as a parent at law. The court may consider the results of a blood test, and the court may draw an adverse inference from a party’s refusal to consent to participate in a blood test. *The Children’s Law Act* then allows the court to make a declaration of parentage, or a declaration that a person is not the mother or father of the child at law.

The Children’s Law Act, 1997 provides that a declaratory order made in another Canadian province or territory shall be recognized in Saskatchewan. Declaratory orders made outside Canada are also to be recognized if at the time the order was made, either parent lived in that jurisdiction, the court that made the order would have had jurisdiction to do so under the conflict of laws rules that are applicable in Saskatchewan, the child was habitually resident in the jurisdiction of the court that made the order, or the child or either parent had a real and substantial connection with that jurisdiction. A Saskatchewan court may decline to recognize an extra-provincial declaratory order where there is new evidence available, or the declaratory order was obtained by fraud or duress.