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SB-1436 Natural parent and child relationship: establishment. (2017-2018)

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Senate Bill No. 1436

CHAPTER 116

An act to amend Section 6453 of the Probate Code, relating to intestate succession.

[Approved by Governor July 16, 2018. Filed with Secretary of State July 16, 2018.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1436, Portantino. Natural parent and child relationship: establishment.

Existing law requires the property of a decedent's estate not disposed of by will to be passed to the decedent's heirs through intestate succession and provides for the intestate rights between a natural parent and child. Existing law establishes a natural parent and child relationship, for the purposes of intestate succession, based on provisions of the Uniform Parentage Act, except as the provisions of that act are specifically excluded. Existing law authorizes a provision of the Uniform Parentage Act to be used to establish a natural parent and child relationship if it was impossible for the father to hold out the child as his own and paternity is established by clear and convincing evidence.

This bill would specify that clear and convincing evidence of parentage, for the purposes of utilizing this provision of the Uniform Parentage Act to establish a natural parent and child relationship, may include genetic DNA evidence acquired during the parent's lifetime.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 6453 of the Probate Code is amended to read:

6453. For the purpose of determining whether a person is a "natural parent" as that term is used in this chapter:

(a) A natural parent and child relationship is established where that relationship is presumed and not rebutted pursuant to the Uniform Parentage Act (Part 3 (commencing with Section 7600) of Division 12 of the Family Code).

(b) A natural parent and child relationship may be established pursuant to any other provisions of the Uniform Parentage Act, except that the relationship may not be established by an action under subdivision (c) of Section 7630 of the Family Code unless any of the following conditions exist:

(1) A court order was entered during the parent's lifetime declaring parentage.

(2) Parentage is established by clear and convincing evidence that the parent has openly held out the child as that parent's own.

(3) It was impossible for the parent to hold out the child as that parent's own and parentage is established by clear and convincing evidence, which may include genetic DNA evidence acquired during the parent's lifetime.

(c) A natural parent and child relationship may be established pursuant to Section 249.5.