



**Testimony of Patience Crozier, Esq.
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GLBTQ Legal Advocates & Defenders (GLAD)
in support of the Michigan Family Protection Act
HB 5207-5215**

October 25, 2023

House Judiciary Committee
124 North Capitol Avenue
Lansing, MI 48933

Dear Chair Breen, Vice Chair Edwards, Vice Chair Fink, and members of the committee:

Thank you for the opportunity to submit written testimony in support of HB 5207 (the “Assisted Reproduction and Surrogacy Parentage Act” or “Main Bill”) and the eight companion bills of the package (collectively the “Michigan Family Protection Act” or MFPA). The MFPA is an urgently needed update of Michigan’s parentage laws to ensure that all children have access to the security of a legal parent-child relationship which is core to their well-being throughout their lives. Based on best-practice model legislation, the Uniform Parentage Act 2017, and adapted to address Michigan’s needs, the MFPA provides clear standards for establishing parentage through assisted reproduction, with and without surrogacy. In so doing, the MFPA package ensures that Michigan parentage law recognizes, respects, and protects all of the children and families that enrich the state.

GLBTQ Legal Advocates & Defenders (“GLAD”) is a legal organization dedicated to ensuring equality on the basis of sexual orientation, gender identity and expression, and HIV status. GLAD has a longstanding interest and history in the protection and recognition of LGBTQ families, particularly ensuring that the lives of children are stable and secure. GLAD has successfully litigated cases to protect children born into LGBTQ families, including the groundbreaking case of *Goodridge v. Dep’t of Pub. Health*, 798 N.E.2d 941 (Mass. 2003), which established marriage equality in the state twenty years ago this November.¹ Nationally, GLAD has

¹ See, e.g., *Bezio v. Patenaude*, 410 N.E.2d 1207 (Mass. 1980); *Hunter v. Rose*, 975 N.E.2d 857 (Mass. 2012); *Adoption of a Minor*, 29 N.E.3d 830 (Mass. 2015); *Partanen v. Gallagher*, 59 N.E.3d 1133 (Mass. 2016); *Rubano v. DiCenzo*, 759 A.2d 959 (R.I. 2000); *In re Guardianship of Madelyn B.*, 98 A.3d 494 (N.H. 2014); *Baker v. State*, 744 A.2d 864 (Vt. 1999); *Miller-Jenkins v. Miller-Jenkins*, 912 A.2d 951 (Vt. 2006); *Sinnott v. Peck*, 180 A.3d 560 (Vt. 2017).

been a leader in establishing and protecting marriage equality and its attendant benefits, including rights and responsibilities vis a vis children, through our work on cases including *Obergefell v. Hodges*, 135 S. Ct. 1039 (2015), and *Pavan v. Smith*, 137 S. Ct. 2075 (2017). In Michigan, GLAD recently joined an amicus brief in favor of expanding the equitable parent doctrine to same-sex couples denied the benefit of marriage pre-*Obergefell*. See *Pueblo v. Haas*, No. 164046, 2023 Mich. LEXIS 1124 (July 24, 2023).

In the realm of policy, GLAD has successfully worked in coalition on legislation promoting the security of children regardless of the circumstances of their birth, including children born through assisted reproduction, to non-marital parents, and to LGBTQ parents. I serve on the Uniform Law Commission's national Uniform Parentage Act Enactment Committee, and, in that capacity, I work with legislators, lawyers, and legal scholars from across the country to advance parentage protections for children. GLAD led coalitions that passed and implemented updated parentage protections for children in Maine, New Hampshire, Vermont, Rhode Island, and Connecticut.² In June of 2023, we collaborated on a report emphasizing the urgent need to update parentage protections nationwide in order to protect children.³

Holes in Michigan Law

Michigan parentage law is outdated, and it currently leaves countless children vulnerable by failing to protect their parent-child relationships. As the Michigan Supreme Court recently noted, changes in society and family creation have outpaced Michigan parentage statutes, and the Court urged the Legislature to modernize and update state law concerning parentage, particularly for children born to LGBTQ couples.⁴

Some of the key gaps in Michigan's parentage laws include:

- **Michigan statutes do not have a method for securing children born to unmarried non-biological parents.** This means that a child lacks a legal relationship with one of their parents. Without a legal parent-child relationship, a child does not have access to the many rights of parentage including health insurance, decision making, care, custody, support, and access to benefits.
- **Michigan remains the only state in the country with criminal penalties for surrogacy agreements** and does not appropriately regulate surrogacy to protect children, intended parents, or people acting as surrogates. The current situation in Michigan leaves children

² See, e.g., Me. Rev. Stat. Ann. Tit. 19-A §1831 et. seq (2021) (Maine); Vt. Stat. Ann. tit. 15C, § 101-809 (2018) (Vermont); 15 R.I. Gen. Laws § 15-8.1 (2021) (Rhode Island); 2021 Conn. Pub. Acts No. 21-15 (Connecticut).

³ Movement Advancement Project, *Relationships at Risk: Why We Need to Update State Parentage Laws to Protect Children and Families* (June 2023), <https://www.mapresearch.org/file/MAP-June2023-ParentageReport.pdf>.

⁴ *Pueblo v. Haas*, No. 164046, 2023 Mich. LEXIS 1124, at *37 (July 24, 2023) (conurrence).

and families in legal limbo and means that Michigan is out of step with a majority of states that regulate surrogacy.

- **Voluntary acknowledgements of parentage**, a mechanism by which parents can establish a legal relationship with their child in the hospital at birth, **are not currently accessible to non-biological parents of children born through assisted reproduction.**⁵ This means that these parents cannot secure their children at birth and instead must pursue the lengthy and expensive adoption process to have a legal relationship with their own child.⁶
- **Many Michigan statutes retain outdated language** that is not inclusive of all children and parents.⁷

These gaps not only send a signal to some children and families that they are invisible and excluded from core family law protections, but these gaps inflict real harm.⁸ Michigan families need state law to enable ready access to parentage protections within the state and wherever they may travel. The Michigan Family Protection Act will fill these gaps in the law and ensure security and equality for Michigan's children.

The Michigan Family Protection Act (MFPA)

The Michigan Family Protection Act ensures that Michigan parentage statutes are (1) constitutional, (2) inclusive and protective of all Michigan children, and (3) reflective of best practice.

The Uniform Parentage Act (UPA) is model legislation issued by the non-partisan Uniform Law Commission that is recommended for adoption in all states to ensure uniformity of parentage protections. UPA 1973 ensured that parentage laws were constitutional and protected children born of non-marital parents. UPA 2017 recommends to states a number of important updates to ensure state parentage law remains constitutional post *Obergefell* and *Pavan* and consistent with best practices in family law.⁹ Comprehensive parentage reform legislation consistent with these values

⁵ MCL 722.1002, et seq.

⁶ See, for instance, Jennifer Brookland, *LGBTQ parents in Michigan pay thousands to adopt their own children*, Detroit Free Press (February 6, 2023), <https://www.freep.com/story/news/local/michigan/2023/02/06/lgbtq-couples-second-parent-adoptions-parental-rights-michigan/69872641007>.

⁷ MCL 722.1433, et seq.

⁸ Movement Advancement Project, *Relationships at Risk: Why We Need to Update State Parentage Laws to Protect Children and Families* 9 (June 2023), <https://www.mapresearch.org/file/MAP-June2023-ParentageReport.pdf>.

⁹ UPA 2017 was crafted with leading experts on parentage law, medical ethics, child support and other related disciplines and has been endorsed by leading national organizations including the American Bar Association and the National Child Support Enforcement Association. Furthermore, in 2018, the American Bar Association, in Resolution 113, recognized the urgent need for state lawmakers to ensure equal protection for LGBTQ parents and for bar associations and attorneys to support family law reform efforts. Resolution 113 notes the importance of comprehensive statutory reform as opposed to ad hoc recognition of rights through case law. See American Bar Association, House of Delegates Resolution 113.

has already been adopted in California, Colorado, Connecticut, Maine, Rhode Island, Vermont, and Washington.

Substantively, the proposed Michigan Family Protection Act package is comprised of the following key components:

1. The Assisted Reproduction and Surrogacy Parentage Act provides a path to parentage for children born through assisted reproduction and a path to parentage for children born through surrogacy and provides clear standards for these paths.
2. Bill “A” ensures that children born through assisted reproduction and surrogacy are included in the vital record code so that their birth certificates are established like other children.
3. Bill “B” removes the criminalization of surrogacy from Michigan law.
4. Bill “C” updates the Revocation of Paternity Act to be inclusive of children born through assisted reproduction and surrogacy.
5. Bill “D” revises the intestacy code so that children born through assisted reproduction and surrogacy are children of their parents for the purpose of inheritance.
6. Bill “E” revises the Paternity Act to indicate that the act is for establishing genetic fatherhood and is not to be used for establishing parentage through assisted reproduction and surrogacy.
7. Bill “F” updates the Acknowledgment of Parentage Act so that children born through assisted reproduction can also have their parentage established through this simple, voluntary form.
8. Bill “G” revises the Genetic Parentage Act to indicate the Act is not to be used for establishing parentage through assisted reproduction and surrogacy.
9. Bill “H” reflects that the Summary Support and Paternity Act is not to be used for establishing parentage through assisted reproduction and surrogacy.

GLAD enthusiastically supports the proposed Michigan Family Protection Act package in its entirety. This legislation will promote clarity, efficiency, and fairness in Michigan’s courts and security for Michigan children and families.

Thank you for the opportunity to provide testimony, and please do not hesitate to contact me with questions or for additional information. GLAD welcomes working with the Committee and with stakeholders on this critical legislation.

Respectfully submitted,

A handwritten signature in black ink, consisting of a stylized capital letter 'P' followed by a long horizontal line that tapers to the right.

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