

BEYOND BIOLOGY: HOW CALIFORNIA'S MORE THAN TWO PARENT RULE IMPACTS TRUSTS AND ESTATES PRACTICE EVERYWHERE

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I. SYNOPSIS

In *Estate of Martino*, California's Fourth District Court of Appeal held that intestate heirship in California turns on functional parentage under the Uniform Parentage Act ("UPA"), not biology, thus finding that a decedent was a third legal parent of a petitioner who could then inherit as a child under intestate succession.⁰² That holding arrived against a national backdrop in which courts and legislatures increasingly recognize that a child may have more than two legal parents.

California was an early adopter of a multiparent statute. Effective January 1, 2014, various sections of the Family Code were amended or added to expressly abrogate the decision in *In re M.C.*⁰³ and allow courts to "recognize that the child has more than two parents" where not doing so would be "detrimental to the child."⁰⁴ In the years since, other jurisdictions have followed suit with statutes expressly permitting more than two parents⁰⁵ and/or codifying de facto parentage⁰⁶—statutory mechanisms allowing courts to adjudicate functional parents as legal parents. Also, some state courts have recognized tri-parent arrangements even in the absence of an explicit statute.⁰⁷

For trusts and estates practitioners, the implications are immediate. California alone is home to tens of millions of people (approximately 12 percent of the U.S. population),⁰⁸ and many clients, family members, and beneficiaries move between jurisdictions. A plan signed today in one state

may be administered tomorrow in another—potentially one that statutorily or judicially recognizes more than two parents, or vice versa. Significantly, multiparent frameworks expand who may be included in intestate classes (child, issue, sibling, or parent), who must receive notice, who has standing in court proceedings, who may assert claims in disputes, and how assisted-reproduction scenarios are analyzed.

Awareness of multiparent scenarios is vital to providing thoughtful and effective counsel to clients, because this modernization of the law is part of a much longer story. Across history, caregiving has often been shared among more than two adults—through kin networks, re-partnering, and community caregiving—and courts have long used functional doctrines to protect those relationships. Contemporary multiparent statutes and UPA updates do not invent new families; they codify realities, making it easier for clients, courts, and practitioners to honor actual familial attachments.⁰⁹

II. THE EVOLUTION OF PARENTAGE LAWS IN CALIFORNIA AND BEYOND

The first UPA was introduced in 1973. It was amended in 2000, 2002, 2017, and 2019.¹⁰ California adopted the UPA in 1973, creating the initial framework to recognize parentage for children born to married and unmarried couples. The law was amended over the years to expand the

definition of parents to include adoptive parents, de facto parents, and those using assisted reproductive technology.

The issue of whether a child can have more than two legal parents arose in *In re M.C.*, in what became a landmark custody dispute between the biological mother, the biological mother's ex-wife, and the biological father.¹¹ The juvenile court held all three people were "presumed parents" of the child.¹² The appellate court reluctantly reversed on the grounds that California law and Supreme Court precedent prohibited a finding of more than two presumed parents:

M.C. and amicus curiae invite us to employ this case as a vehicle to highlight the inadequacies of the antiquated UPA to accommodate rapidly changing familial structures, and the need to recognize and accommodate novel parenting relationships. We agree these issues are critical, and California's existing statutory framework is ill-equipped to resolve them. But even if the extremely unusual factual circumstances of this unfortunate case made it an appropriate action in which to take on such complex practical, political and social matters, we would not be free to do so. Such important policy determinations, which will profoundly impact families, children and society, are best left to the Legislature. ... To date, the Supreme Court has rejected the concept of dual paternity or maternity where such recognition would result in three parents¹³

The Legislature responded. Effective January 1, 2014, California's Family Code was amended to define a "parent and child relationship" to mean "the legal relationship existing between a child and the child's natural or adoptive parents incident to which the law confers or imposes rights, privileges, duties, and obligations."¹⁴ The definition expressly confirms it "does not preclude a finding that a child has a parent and child relationship with more than two parents."¹⁵ The definition modifies "state law, administrative regulations, court rules, government policies, common law, and any other provision or source of law governing the rights, protections, benefits, responsibilities, obligations, and duties of parents" such that any reference to "two parents" means "every parent of a child where that child has been found to have more than two parents under this part."¹⁶

Family Code sections 7610-7611.5 allow a "parent and child relationship" to be established by showing proof that a person is a "natural parent" or an "adoptive parent."¹⁷ Family Code section 7611 creates the presumption that a person is a "natural parent" under various scenarios relating to the child's birth and the marriage of the natural

mother.¹⁸ Relevant to this discussion, Family Code section 7611, subdivision (d), creates a presumption in favor of the parent and child relationship if the person "receives the child into their home and openly holds out the child as their natural child."¹⁹ "Any interested party may bring an action at any time for the purpose of determining the existence or nonexistence of the parent and child relationship presumed under subdivision (d) or (e) of Section 7611."²⁰ The Family Code does not contain a definition of "interested party."

Outside of the UPA, Family Code section 7540 also creates a presumption that "the child of spouses who cohabitated at the time of conception and birth is conclusively presumed to be a child of the marriage."²¹

Family Code section 7612 provides a framework for those seeking to be adjudged a third parent²² and to address competing presumptions that could arise under Family Code sections 7611 and 7540. Section 7612 allows courts to find that more than two people are parents when "the court finds that recognizing only two parents would be detrimental to the child."²³

In 2017, the Uniform Law Commission approved and recommended a revised Uniform Parentage Act.²⁴ Among other changes, the UPA (2017) provides a procedural mechanism for a *parent* to establish themselves as the legal parent of a child by demonstrating de facto parentage to a court.²⁵ However, it does not provide a mechanism for a *child* (the inverse) to establish de facto parentage.

Other jurisdictions have enacted similar frameworks. Delaware codified de facto parentage; Maine's Parentage Act allows a child in appropriate cases to have more than two legal parents; Vermont authorizes courts to adjudicate more than two parents when it is in the child's best interests; Washington's UPA permits recognition of more than two parents when limiting to two would be detrimental; Connecticut's 2021 Parentage Act includes a parallel detriment standard; and Massachusetts now authorizes more than two parents by statute.²⁶

III. INTERSECTIONS OF PARENTAGE LAWS WITH THE PROBATE CODE

Probate Code section 6453 is the fulcrum between the foregoing provisions of the Family Code and the Probate Code. But first, the foundation.

A. Rules of Intestate Succession

Probate Code sections 6400, *et seq.* set forth the rules for intestate succession.²⁷ The purpose of the Probate Code's intestate succession provisions is to "carry out . . . the intent a decedent without a will is most likely to have

had,' evidently at the time of death, and to do so in a 'more efficient and expeditious' manner."²⁸

Where a decedent dies intestate with a surviving spouse or state-recognized domestic partner²⁹ and no surviving "issue" or other enumerated relatives (i.e. parents, siblings, or issue of siblings), the surviving spouse or state-recognized domestic partner takes the entire intestate estate.³⁰ If there is a surviving spouse or state-recognized domestic partner and one "child" or "parent(s)" or their issue, then the surviving spouse or state-recognized domestic partner takes half of the intestate estate.³¹ If there is more than one surviving child, or one child and the issue of one or more deceased children, or issue of two or more deceased children, then the surviving spouse or state-recognized domestic partner takes only one third of the decedent's intestate estate.³²

The part of the intestate estate not passing to the surviving spouse or state-recognized domestic partner under the rules above passes first to the "issue" of the decedent, with their shares depending on the degree of kinship to the decedent.³³

For purposes of the foregoing, a "child" is defined as "any individual entitled to take as a child under this code by intestate succession from the parent whose relationship is involved."³⁴ "Issue" is defined as "lineal descendants of all generations, with the relationship of parent and child at each generation being determined by the definitions of child and parent."³⁵ A "parent" is defined as "any individual entitled to take as a parent under this code by intestate succession from the child whose relationship is involved."³⁶

B. Definition of the Natural Parent and Child Relationship

The Probate Code also provides definitions for the "Parent and Child Relationship,"³⁷ stating that a "relationship of parent and child" exists between "a person and the person's natural parents"³⁸ and between an adopted person and the person's adopting parent or parents.³⁹

Specifically, Probate Code section 6453 allows "natural parent and child relationship" to be established one of three ways. One, 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)."⁴⁰

Two, under any other provision of the UPA except it may not be established using the mechanism in Family Code section 7630, subdivision (c), *unless* a court order establishing the parent-child relationship was entered during the parent's lifetime, or parentage is "established by clear and convincing evidence that the parent has openly held out the child as

that parent's own," or 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 DNA evidence.⁴¹ "The legislative history of section 6453, subdivision (b)(2) indicates that the clear and convincing evidence standard is 'to discourage dubious paternity claims made after a father's death for the sole purpose of inheritance.'"⁴²

Three, a natural parent and child relationship may be established when the child is conceived and born after death of the decedent in certain circumstances.⁴³

As a result, this confluence of the Family Code and the Probate Code sets forth statutory pathways for establishing parentage relevant to this discussion:

- Family Code section 7600—Existence of Parent-Child Relationship: A parent-child relationship may be recognized irrespective of the parents' marital or state domestic partnership status—serving as the foundation upon which all parentage presumptions and actions rely.
- Family Code section 7611—Rebuttable Presumptions of Parentage: Multiple factual bases for presuming parentage, including (1) marriage or state domestic partnership recognition with or attempted marriage or state domestic partnership recognition with the birth parent, (2) receiving the child into one's home and openly holding the child out as one's own, and (3) execution of a voluntary declaration of parentage.
- Family Code section 7540—Conclusive Marital/Domestic Partnership Presumption: A child of spouses or state-recognized domestic partners who cohabited at the time of conception and birth is conclusively presumed to be a child of the marriage or state-recognized domestic partnership.⁴⁴
- Family Code section 7612, subdivision (c)—More Than Two Parent Actions: A court may find that a person has more than two parents where recognizing only two parents would be detrimental to the child and considering all relevant factors including the child's physical and psychological needs for care and affection and who has assumed that role for a substantial period of time.
- Family Code section 7630—Standing to Establish or Challenge Parentage: Defines individuals who may initiate an action to establish the existence or nonexistence of a parent-child relationship pursuant to Family Code section 7611, including the child, a presumed parent, or an alleged parent.

- Probate Code section 6453—Parentage for Intestate Succession: Recognizes parentage established under the Family Code or, alternatively, proof by clear and convincing evidence that the parent openly held the child out as that parent's own.

C. *Estate of Martino* Recognized More Than Two Parents for Intestate Succession—But Left Open Questions

Estate of Martino involved a decedent who died intestate, Nick Martino. Martino was survived by a biological daughter from his first marriage, a stepson from his second marriage (the petitioner, Nick Zambito), and a biological son from his third marriage.⁴⁵ The decedent raised Zambito for a few years when Zambito was a child and during the decedent's marriage with Zambito's mother. Zambito maintained a close relationship with the decedent both before and after the decedent's divorce from Zambito's mother, and during Zambito's childhood he considered the decedent his "true father." Zambito also had little contact with his other purported parent (Domenick), whom Zambito's mother married six months before Zambito was born and divorced a few years later. Moreover, Martino and his friends referred to Zambito as Martino's son, and Martino and Zambito maintained a close relationship through Zambito's adulthood, including in the decedent's final years.⁴⁶

Zambito originally petitioned to be deemed a "stepchild heir" pursuant to Probate Code section 6454, based on the fact his relationship with Martino began when he was a minor and Domenick objected to Martino adopting Zambito.⁴⁷ However, conceding that those barriers did not exist at the time of Martino's death, Zambito amended his petition to establish a parent-child relationship pursuant to Probate Code section 6453, subdivisions (a) and (b) (2).⁴⁸ Subdivision (a) establishes a "natural parent and child relationship" when the relationship is presumed and not rebutted pursuant to the UPA.⁴⁹ Subdivision (b)(2) establishes the "natural parent and child relationship" where the parent openly held out the child as the parent's own.⁵⁰

Martino's two other children objected to Zambito's petition. After a five day bench trial, the probate court held that Zambito failed to prove Martino's intent to adopt Zambito, but granted Zambito's petition for heirship under the two added theories.⁵¹ Namely, applying Probate Code section 6453, subdivision (a), the court held that Martino was Zambito's presumed parent under Family Code section 7611, subdivision (d), applicable when "the presumed parent receives the child into their home and openly holds out the child as their natural child."⁵² The court held Martino's other two children failed to rebut the presumption.⁵³ The

court also held that Zambito established a parent-child relationship pursuant to Probate Code 6453, subdivision (b) (2), by offering clear and convincing evidence that Martino openly held out Zambito as his own.⁵⁴

The appellate court affirmed for three reasons. The opinion first confirmed that Zambito had standing under Probate Code section 11700 to claim "natural parentage," despite not being biologically related to the decedent.⁵⁵

Second, the appellate court then explained that Probate Code section 6454 does not foreclose a stepchild from asserting other statutory methods of parentage because it does not state that it is the *exclusive* method for a stepchild to establish intestate succession; an ex-stepchild, like any other child, may inherit through section 6453 if a showing of parentage under the UPA presumption is made and unrebutted.⁵⁶

Third, the appellate court rejected the argument raised by Martino's other two children that Zambito should be judicially estopped from claiming Martino was his "natural father" because, in a prior Nevada probate court proceeding, Zambito took an inconsistent position, claiming Domenick was his "natural father," and inherited on that basis.⁵⁷ The court held that Zambito's assertion in the Nevada proceeding was not inconsistent with his assertion in the subsequent proceeding because Family Code section 7601, subdivision (c), states the UPA "does not preclude a finding that a child has a parent and child relationship with more than two parents."⁵⁸

While the *Martino* case appropriately upholds the Legislature's decree that a person can have more than two parents under the Family Code, including for purposes of intestate succession, the case also raises and muddles at least two issues relating to establishing parentage beyond two parents.

First, the *Martino* court's application of presumed parentage under Family Code section 7611, subdivision (d), may have been overly broad because it did not address the additional requirement under Family Code section 7612, subdivision (c), that, to establish that a person has more than two parents, there must also be a court finding "that recognizing only two parents would be detrimental to the child . . . consider[ing] 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."⁵⁹ While such a case might have been possible or even practical under the facts of the *Martino* case, this issue simply was not addressed. In fact, where the *Martino* court

references Family Code section 7612, subdivision (c), it fails to mention the “detriment” requirement at all.⁶⁰

Second, *Martino* may also be overly restrictive by noting “an exception to this general rule [that a person may have more than two parents],” as set forth in *Estate of Franco*.⁶¹ In *Franco*, the First District Court of Appeal held that a child of spouses who cohabitated at the time of conception and birth is conclusively presumed to be a child of the marriage pursuant to Family Code section 7540 and that child is barred from proving a parent-child relationship existed with a deceased third person for purposes of inheritance under intestate succession.⁶² The extended holding in *Franco* that barred the child from proving a parent-child relationship beyond two conclusively presumptive parents reads an exclusivity that is not contained in the Code and directly contradicts legislative intent to override the similar result in *In re M.C.*

Regarding the stepchild provisions in Probate Code section 6454, the *Martino* court explains that nothing in section 6454 indicates it is the only method for a stepchild to establish a parent-child relationship.⁶³ The same is true of Family Code section 7540; nothing in that code section indicates the marital/state-recognized domestic partner presumption is the only method of establishing a parent-child relationship. On the contrary, as cited above, the Family Code “does not preclude a finding that a child has a parent and child relationship with more than two parents.”⁶⁴ Such result was directly upheld by the Third District Court of Appeal in *C.A. v. C.P. et al.*, affirming the trial court’s finding that a plaintiff was a third legal parent of a child under Family Code section 7611, subdivision (d), despite the concurrent existence of a conclusive marital parentage presumption under Family Code section 7540.⁶⁵ Similarly, nothing in the Probate Code definition of a “natural parent” states that a natural parent-child relationship cannot also exist where the marital/state-recognized domestic partner presumption has been established.⁶⁶ Such a result would be illogical. It would mean that a child of spouses or state-recognized domestic partners who cohabitated at the time of conception and birth would be the *only* possible parents of a child, even if the child was also received into someone else’s home and held out as that third person’s natural child under Family Code section 7611, subdivision (d), and that it would be a detriment to the child to be limited to only two parents under Family Code section 7612, subdivision (c). Whereas, by contrast, every other child could have more than two natural parents. Ultimately, the *Martino* court declined to address the issue, because the facts in that case did not involve the marital/state domestic partnership parentage presumption.⁶⁷

As more fact patterns involving modern family relationships make their way to the appellate courts, those courts

will have an opportunity to clarify the possible over-restrictiveness of *Franco* on the marital parentage presumption and the possible overbreadth of the *Martino* holding on the issue of whether and how the “detriment” standard of Family Code section 7612, subdivision (c), should be applied in the context of the Probate Code, such as after a purported parent or child has passed away.

In the meantime, trusts and estates practitioners should pay close attention to *Martino*, *Franco*, and their progeny, Probate Code section 6453, Family Code sections 7611, subdivision (d), and 7612, subdivision (c). Practitioners should also continue to be careful of our own possibly incorrect assumptions about who might be considered a parent, sibling, or child so as not to jeopardize our clients’ estate and trust planning, administration, and litigation efforts.

IV. IMPLICATIONS FOR ESTATE PLANNING

Parentage questions are not limited to intestacy, but also impact how “children,” “issue,” “sibling,” and “parent” are or should be defined or restricted, not only for our clients, but also for any of the other beneficiaries or family members of our clients. Parentage also impacts the pretermitted child provisions of Probate Code section 21620 which provide that:

if a decedent fails to provide in a testamentary instrument for a child of decedent born or adopted after the execution of all of the decedent’s testamentary instruments, the omitted child shall receive a share in the decedent’s estate equal in value to that which the child would have received if the decedent had died without having executed any testamentary instrument.⁶⁸

Accordingly, at the outset, intake questionnaires and initial interviews could alert clients to the potential issues and ask questions designed to identify whether the client may have any relationships that *could* satisfy, even arguably, the elements of a “natural parent” presumption under Family Code section 7611, subdivision (d), including but not limited to who could or should be considered the client’s children, siblings, or parents, as well as the children, siblings, or parents of other family members and beneficiaries. Estate planning questionnaires could include prompts such as: “Did you raise anyone other than those you list as your children whom you held out as your natural child?” “Did your parents bring into their home anyone else other than you and the siblings that you list who was held out by either parent as a natural child in your family?” “Did anyone else other than the parents you named bring you into their home and hold you out to the world as their natural child?” “Whether true

or not, is there anyone who would claim to be your child for the purposes of inheriting from you?”

When a client intends inclusion, an instrument might state that a person shall be considered a “child,” “sibling,” or “parent” of the client for purposes of this document, regardless of the person’s actual legal relationship to the client, or any other similar language that would assist resolving post-death questions about the client’s intent. In some cases where the parent-child relationship has implications beyond inclusion in the documents, such as with California’s parent-child state property tax exemption under Proposition 19, additional actions by the client during the client’s lifetime such as a petition to determine parentage under the UPA and/or a third-parent adoption might be worth considering.

When a client intends exclusion, the documents can state explicitly that there is no other person that the client believes to be a child, sibling, or parent, other than the people expressly named, along with disinheritance provisions for anyone else who might claim such a relationship.

At a minimum, practitioners and clients in all jurisdictions should be educated that this issue of possibly having more than two legal parents exists in many states so that clients know to seek additional counsel if they have concerns about inadvertent inclusion or exclusion of people who should be inheriting, receiving notice, or having powers to act as trustee, executor, or agent. Such concerns would include not only avoidance of post-death claims by persons claiming to be a presumed child, sibling, or parent that should inherit, including for any future pretermitted children under Probate Code section 21620, but also as it relates to children, siblings, and parents for any family members or beneficiaries who move to or from other states where more than two parents can or cannot be established by statute or case law.

V. IMPLICATIONS FOR ADMINISTRATION AND INCAPACITY PLANNING

Adult children are regularly seen as having standing to file a petition for conservatorship for a parent, and vice versa. Indeed, any “interested person or friend” of the proposed conservatee has standing to petition for a conservatorship,⁶⁹ and any “interested person” may petition to limit the powers of a conservator⁷⁰ or to remove a conservator or a guardian.⁷¹ Presumably, if a parent-child relationship can be established under Family Code section 7611, such relationship would garner standing.

Similarly, Probate Code section 1812 sets forth the order of preference for appointment of a conservator

with priority going first to spouses and state-recognized domestic partners, second to an “adult child” of the proposed conservatee and third to a parent of the proposed conservatee.⁷² Someone who can establish a parent-child relationship under Family Code section 7611 could be included in the line of priority. If a client is executing documents, like a power of attorney, that nominates a conservator or sets the preference for conservators, it could be useful to expressly include or exclude presumed children or parents, as the case may be.

In post-death administration, trustees are required to provide notice to all “heirs” of a deceased settlor, as well as a true and complete copy of the terms of the irrevocable trust to any “heir” who requests it.⁷³ The trustee “shall have discretion to make a good faith determination by any reasonable means of the heirs of the deceased settlor in the absence of a final judicial determination of heirship known to the trustee.”⁷⁴ An “heir” is defined as “any person, including the surviving spouse, who is entitled to take property of the decedent by intestate succession under this code.”⁷⁵ As a result, trustees and fiduciaries must be advised how to evaluate whether any person may qualify as a “child” or a “parent” under Probate Code section 6453 via UPA presumptions—rather than limiting notice and heirship analysis to biological or adoptive relationships. Evidence of receipt into the home and public acknowledgement can be decisive. Failure to identify and notify a person who plausibly qualifies under Probate Code section 6453 risks defective administration and later challenges.

VI. IMPLICATIONS FOR DISPUTES

Modern parentage laws expand the class of individuals who may assert claims to a decedent’s estate, giving rise to a potentially wide and indeterminate range of factual scenarios. For example, take the facts in *Estate of Martino* and add facts that the petitioner had a child and the petitioner predeceased the decedent. The step-grandchild could have a claim to one third of the decedent’s estate as the issue of a deceased child.⁷⁶

Moreover, a person claiming to be the child or a parent of a decedent pursuant to Family Code section 7611 is almost surely going to qualify as an “interested person” under various sections of the Probate Code. That application expands who might be entitled to notice,⁷⁷ who might have standing to assert claims, who needs to be involved in settling and releasing claims and to whom fiduciaries may have liability.⁷⁸

Litigation practitioners should analyze their clients’ potential claims in bringing post-death actions. When defending post-death actions, litigators should carefully assess the universe of relevant individuals to determine

whether anyone could assert a child-parent relationship pursuant to the UPA.

VII. THE REALITY OF FAMILIES—PAST AND PRESENT

Thinking outside a two-parent, heteronormative box is not new; it is necessary to represent clients competently. Families have long been formed through remarriage, kinship caregiving, community networks, and, today, assisted reproduction and LGBTQ parenting. Functional doctrines—psychological parentage, de facto parentage, and “receive-and-hold-out” presumptions—reflect that courts have protected children’s primary attachments for decades. Modern multiparent statutes and UPA updates continue that trajectory. Empirical work shows that multiparent recognition often involves familiar circumstances such as re-partnering and extended-family caregiving, not exotic hypotheticals.⁷⁹

VIII. CONCLUSION

Estate of Martino confirms that California intestacy rules embrace the functional parentage model found in the UPA. Because Probate Code section 6453 integrates UPA presumptions and California recognizes the possibility of more than two legal parents, stepchildren and others may qualify as “children,” “siblings,” “issue,” or “parents” for inheritance even without adoption or genetics. The practical response is precise drafting, careful administration, and considered litigation to ensure that client intent—not default presumptions—controls.

Key practitioner takeaways:

- Draft precisely: define “child,” “issue,” and “parent” in alignment with (or intentionally departing from) California’s UPA; avoid biology-only phrasing; and address multiparent possibilities explicitly.⁸⁰
- Intake smarter: add questionnaire prompts to surface functional parent-child relationships and nontraditional caregiving histories early.
- Administer carefully: in probate and trust administration, give notice consistent with Probate Code section 6453 and evaluate evidence of receipt-and-hold-out under Family Code section 7611, subdivision (d); don’t assume adoption or genetics are dispositive.
- Mindset shift: plan and litigate for the family as it exists—not the family as presumed. As professors Courtney Joslin and Douglas NeJaime observe, “multiparent laws enable courts to protect parent-child relationships as they exist in the world,”

a policy aim that aligns with the child-centered design of modern parentage statutes.⁸¹

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- 01 Special thanks to Justin Hilton, Attorney at Lathrop GPM LLP.
- 02 *Estate of Martino* (2023) 96 Cal.App.5th 596, 601.

In this appeal, we conclude that Zambito has standing to claim natural parentage heirship even though he is not the Decedent’s biological child. We further conclude that section 6454, which provides a pathway for intestate succession by stepchildren and foster children, does not operate to foreclose other available statutory methods for a stepchild to establish a right to intestate succession.

- 03 *In re M.C.* (2011) 195 Cal.App.4th 197.
- 04 Sen. Bill No. 274 (2013-2014 Reg. Sess.) section 1 (amending Fam. Code, sections 3040, 4052.5, 4057, 7601, 7612, 8617).

The Legislature finds and declares all of the following: ...
(b) The purpose of this bill is to abrogate *In re M.C.* (2011) 195 Cal.App.4th 197 insofar as it held that where there are more than two people who have a claim to parentage under the Uniform Parentage Act, courts are prohibited from recognizing more than two of these people as the parents of a child, regardless of the circumstances.

Id. at section 1, subdivision (b).

- 05 Conn. Gen. Stat. Ann., section 46b-475, subd. (c); Mass. Gen. Laws Ann., ch. 209C, section 26, subd. (c); Vt. Stat. Ann., tit. 15C, section 206, subd. (b); Wash. Rev. Code Ann., section 26.26A.460, subd. (3).
- 06 Conn. Gen. Stat. Ann., sections 46b-490, 46b-491 (de facto parentage); Del. Code Ann., tit. 13, section 8-201, subd. (c); D.C. Code Ann., sections 16-831.01, 16-831.03 (de facto parent defined; action by de facto parent); Me. Rev. Stat. Ann., tit. 19-A, section 1853, subd. (2) (de facto parentage); Vt. Stat. Ann., tit. 15C, section 501 (de facto parentage); Wash. Rev. Code Ann., section 26.26A.440 (de facto parentage).
- 07 New York recognized a three-parent arrangement in *Dawn M. v. Michael M.* (N.Y. Sup. Ct. 2017) 55 Misc.3d 865; New Jersey also recognized a three-parent arrangement in *D.G. v. K.S.* (Ch. Div. 2015) 444 N.J. Super. 423.
- 08 U.S. Census Bureau, *California: 2020 Census* <<https://www.census.gov/library/stories/state-by-state/california.html>>; U.S.

- Census Bureau, *2020 Census Apportionment Results Delivered to the President* (Apr. 26, 2021) <<https://www.census.gov/newsroom/press-releases/2021/2020-census-apportionment-results.html>> (last visited June 30, 2026).
- 09 Joslin & NeJaime, *Multiparenthood* (2024) 99 N.Y.U. L.Rev. 1242 (hereafter *Multiparenthood*).
 - 10 The Uniform Parentage Act can be found in 9B West's Uniform Laws Annotated (1987) Uniform Parentage Act, p. 287.
 - 11 *In re M.C.* (2011) 195 Cal.App.4th 197.
 - 12 *Id.* at p. 211.
 - 13 *Id.* at p. 214.
 - 14 Fam. Code, section 7601, subd. (b).
 - 15 Fam. Code, section 7601, subd. (c).
 - 16 Fam. Code, section 7601, subd. (d).
 - 17 Fam. Code, sections 7610-7611.5.
 - 18 Fam. Code, section 7611.
 - 19 Fam. Code, section 7611, subd. (d).
 - 20 Fam. Code, section 7630, subd. (b).
 - 21 Fam. Code, section 7540, subd. (a).
 - 22 Fam. Code, section 7612, subd. (c); *M.M. v. D.V.* (2021) 66 Cal. App.5th 733, 742 ("A request to be adjudged a third parent is governed by section 7612, subdivision (c).").
 - 23 Fam. Code, section 7612, subd. (c).
 - 24 See U. Law Comn. (2017) U. Parentage Act <<https://www.uniformlaws.org/committees/community-home/librarydocuments?communitykey=c4f37d2d-4d20-4be0-8256-22dd73af068f&tab=librarydocuments>> (as of Mar. 16, 2026).
 - 25 See 9B West's U. Laws Ann. (2017) U. Parentage Act, section 609.
 - 26 See Conn. Gen. Stat. Ann., sections 46b-490, 46b-491 (de facto parentage); Del. Code Ann., tit. 13, section 8-201, subd. (c); D.C. Code Ann., sections 16-831.01, 16-831.03 (de facto parent defined; action by de facto parent); Me. Rev. Stat. Ann., tit. 19-A, section 1853, subd. (2) (de facto parentage); Vt. Stat. Ann., tit. 15C, section 501 (de facto parentage); Wash. Rev. Code Ann., section 26.26A.440 (de facto parentage).
 - 27 Prob. Code, section 6400 ("Any part of the estate of a decedent not effectively disposed of by will passes to the decedent's heirs as prescribed in this part.").
 - 28 See *Estate of Joseph* (1998) 17 Cal.4th 203, 209 (quoting from *Recommendation Relating to Wills & Intestate Succession* (Dec. 1982) 16 Cal. L.Revision Com. Rep., pp. 2318, 2319; see also *Estate of Burden* (2007) 146 Cal.App.4th 1021, 1027.
 - 29 Fam. Code, section 297.5, subd. (a); see also Prob. Code, section 37.
 - 30 Prob. Code, section 6401, subd (c)(1).
 - 31 Prob. Code, section 6401, subd. (c)(2).
 - 32 Prob. Code, section 6401, subd. (c)(3).
 - 33 Prob. Code, section 6402, subd. (a).
 - 34 Prob. Code, section 26.
 - 35 Prob. Code, section 50.
 - 36 Prob. Code, section 54.
 - 37 Prob. Code, sections 6450-6455.
 - 38 Prob. Code, section 6450, subd. (a).
 - 39 Prob. Code, section 6450, subd. (b).
 - 40 Prob. Code, section 6453, subd. (a).
 - 41 Prob. Code, section 6453, subd. (b).
 - 42 *Estate of Burden, supra*, 146 Cal.App.4th at p. 1027 (citing *Estate of Sanders* (1992) 2 Cal.App.4th 462, 474).
 - 43 Prob. Code, sections 249.5, 6453, subd. (c).
 - 44 See exceptions to the Conclusive Marital/Domestic Partnership Presumption; Fam. Code, sections 7540, subd. (b), 7541.
 - 45 *Estate of Martino, supra*, 96 Cal.App.5th at p. 601.
 - 46 *Id.* at pp. 601-602.
 - 47 *Estate of Martino, supra*, 96 Cal.App.5th at p. 602.
 - 48 *Id.* at pp. 602-603.
 - 49 *Id.* at p. 603.
 - 50 *Ibid.*
 - 51 *Estate of Martino, supra*, 96 Cal.App.5th at p. 603.
 - 52 *Ibid.*
 - 53 *Ibid.*
 - 54 *Ibid.*
 - 55 *Estate of Martino, supra*, 96 Cal.App.5th at pp. 604-608 (citing Prob. Code, section 11700:
At any time after letters are first issued to a general personal representative and before an order for final distribution is made, the personal representative, or any person claiming to be a beneficiary or otherwise entitled to distribution of a share of the estate, may file a petition for a court determination of the persons entitled to distribution of the decedent's estate.).
 - 56 *Estate of Martino, supra*, 96 Cal.App.5th at pp. 608-612.
 - 57 *Estate of Martino, supra*, 96 Cal.App.5th at pp. 612-613.
 - 58 *Id.* at p. 614 (citing Fam. Code, section 7601, subd. (c)).
 - 59 Fam. Code, section 7612, subd. (c).
 - 60 *Estate of Martino, supra*, 96 Cal.App.5th at p. 614.
 - 61 *Estate of Martino, supra*, 96 Cal.App.5th at p. 615, fn. 9; *Estate of Franco* (2023) 87 Cal.App.5th 1270.
 - 62 *Estate of Franco, supra*, 87 Cal.App.5th at pp. 1277-1283.
 - 63 *Estate of Martino, supra*, 96 Cal.App.5th at p. 609.
 - 64 Fam. Code, section 7601, subd. (c).
 - 65 *C.A. v. C.P. et al.* (2018) 29 Cal.App.5th 27, 44.

- 66 See Prob. Code, section 6453 (defining “natural parent”).
- 67 *Estate of Martino, supra*, 96 Cal.App.5th at p. 615, fn. 9.
- 68 Prob. Code, section 21620.
- 69 Prob. Code, section 1820, subd. (a)(5).
- 70 Prob. Code, section 2450, subd. (b).
- 71 Prob. Code, section 2651.
- 72 Prob. Code, section 1812, subd. (b)(3)–(5).
- 73 Prob. Code, sections 16061.5, subd. (a)(1), 16061.7, subd. (b)(2).
- 74 Prob. Code, section 16061.5, subd. (b).
- 75 Prob. Code, section 44.
- 76 Prob. Code, sections 240, 6402, subd. (a).
- 77 Prob. Code, sections 801, 12522, 17100, 17105.
- 78 Prob. Code, section 10380.
- 79 See *Multiparenthood, supra*, 99 N.Y.U. L.Rev.
- 80 See Fam. Code, sections 7601, 7611, subd. (d), 7612; see also Prob. Code, section 6453.
- 81 Joslin & NeJaime, *The Next Normal: States Will Recognize Multiparent Families* (Feb. 15, 2022) U.C. Davis, <<https://law.ucdavis.edu/faculty-blog/next-normal-states-will-recognize-multiparent-families>> (as of April 15, 2026); see *Multiparenthood, supra*, 99 N.Y.U. L.Rev.



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