Report to:
Utah State Legislature
Health and Human Services Interim Committee

Study of Systems and Procedures Necessary to Implement a Compact for Interstate Sharing of Putative Father Information

Prepared by:
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Office of Vital Records and Statistics

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INTRODUCTION

During the 2015 General Legislative Session, the Utah Legislature passed Senate Bill 10: Compact for Interstate Sharing of Putative Father Registry Information and Senate Joint Resolution 1: Joint Resolution Urging Interstate Sharing of Putative Father Registry Information. Copies of SB 10 and SJR 1 are included in *Attachment A*.

SB 10 required a study of electronic systems and procedures that could be used to implement a Compact for Interstate Sharing of Putative Father Registry Information. This study introduces the problem that the compact intends to solve, outlines the compact terms, evaluates systems and procedures that could be used to implement the compact, and recommends next steps in the effort to find states to join Utah in the compact.

PROBLEM SOLVED BY COMPACT

An interstate compact would assist biological fathers who have no knowledge regarding the state in which a biological mother gives birth to their child. With adoption laws varying significantly from state to state, an interstate sharing of putative father information would assist parties involved in the parentage and/or prospective adoption processes, including:

(1) biological fathers, by protecting their paternity rights, should they choose to establish paternity, obtain custody rights, and parent their child;

(2) biological mothers, by knowing if a biological father intends to assert paternity rights and parent their child;

(3) prospective adoptive parents, by knowing if a biological father intends to establish paternity, thus avoiding uncertainty with a prospective adoptive placement, and costly litigation that may result from a contested adoption;

(4) licensed adoption agencies, attorneys, social workers, and other professionals, by increasing their ability to more appropriately counsel and assist with any adoption process, and by increasing their understanding of whether or not a child is, or will likely become, legally available for adoption; and

(5) the prospective adoptive child, having greater finality, stability, and permanence in a potential adoptive placement.

As of October 2015, putative father registries exist in 32 states. A list of these states is included in *Attachment B*. Currently, state laws do not allow these states to exchange putative father information with one another. Some biological fathers living outside Utah have attempted to preserve their parental rights following the laws of their home states only to learn later that the child they fathered was placed for adoption in Utah without their knowledge or consent. If compact states shared putative father information, a

biological father registering in Utah could be notified of a birth mother's attempt to adopt his child in any of the other compact states.

COMPACT TERMS

Pursuant to SB 10, the purpose of the Compact for Interstate Sharing of Putative Father Information is to enable the sharing of putative father registry information collected by a state that is party to the compact with all other states that are parties to the compact. The compact includes the following terms:

- A party to the compact communicates information in its putative father registry about a specific putative father to other parties to the compact in a timely manner upon request by the other party.

- A party to the compact is not required to have a putative father registry in order to request putative father registry information from another party to the compact.

- Putative father registry information requested by a party to the compact from another party to the compact is subject to the laws of the requesting party governing the retention, and authorized uses of putative father information or, of the requesting party does not have a putative father registry, the laws of the party supplying the information governing the privacy, retention, and authorized uses of putative father information.

- A request for receipt of putative father information by a party to the compact from another party to the compact does not affect the application of the requesting party's laws, including laws regarding adoption or the protection of a putative father's rights, except as explicitly provided by the requesting party's laws.

- Failure by a party to the compact to provide accurate putative father information in a timely manner to another party to this compact upon request does not affect application of the requesting party's laws, including laws governing adoption and the protection of putative father's rights, except as explicitly provided by the requesting party's laws.

- Each party to the compact works with every other party to the compact to facilitate the timely communication of putative father registry information between compact parties upon request.

The compact also establishes the purpose, definitions, and procedures for compact entry, withdrawal, amendment, and severability.

COMPACT IMPLEMENTATION

This section of the study explores the electronic systems and procedures that can be used to support an interstate exchange of putative father information. A compact could be implemented with central software architecture or distributed software architecture. With central architecture, compact states would share a common putative father registry (PFR) interface. With distributed architecture, a distributed national system of PFR interfaces would communicate with each other using technical standards agreed upon between states joining a PFR compact, creating a network of PFRs communicating with each other. The central and distributed architecture models are described in the paragraphs below.

Central Architecture. The National Association for Public Health Statistics and Information Systems (NAPHSIS) has two information systems: the State and Territorial Exchange of Vital Events (STEVE) system and the Electronic Verification of Vital Events (EVVE) system. It is not feasible for STEVE to support the inter-jurisdictional exchange of putative father registry information; however, it is theoretically possible for the EVVE technology to expand to provide a central infrastructure for a national PFR system. Upon consultation with the NAPHSIS EVVE Committee, two options for expanding EVVE were identified.

- **Individual PFR System with Central PFR Interface.** Under this option, a central compact interface would be created but compact states would be responsible for housing their own PFR system. It would be necessary to enhance and upgrade the current EVVE-SI module to have connectivity with individual PFR systems located in individual states. Sharing and accessing of putative father and birth mother information between compact states would happen through a secure XML message between individual state systems and a central compact interface. Only authorized individuals in compact states who sign confidentiality agreements would have access to the central compact interface.

- **Central PFR Database with Central PFR Interface.** Under this option, compact states would store putative father information in one central PFR system. Sharing and accessing of putative father and birth mother information between compact states would happen within the central PFR system. Only authorized employees in compact states who sign confidentiality agreements would be able to search the central compact system.

Using the existing EVVE technology to create a central infrastructure under one of these options is feasible; however, states vary widely on the laws, design, use, and ownership of putative father registries. As a result, using central architecture to meet the requirements of all jurisdictions would be difficult.

To allow independence between jurisdictions and more flexibility, a distributed architecture may be the best option. The procedures necessary for states to share putative father information with a distributed architecture are described below.

Distributed Architecture. In a distributed architecture model, individual PFR systems would form a national network with separate state systems that communicate with each other using technical standards agreed upon between states joining a PFR compact. No central system would be necessary.

The compact could start between two states. In this scenario, State A and State B agree to develop technical "agents", or pieces of software, that respond to queries from other authorized agents in the PFR network. Compact states would agree on the functional requirements for these query/response agents. Requirements would include the ability to authorize queries from other query/response agents. Agents would be programmed to receive external queries, search a state's PFR, and respond to incoming queries.

To protect privacy, query responses could be limited in the event a possible match is found. Communication protocols, message formats, and standard APIs for queries and responses would be developed by compact states. Query/response agents would also contain a user interface (UI) enabling queries from authorized users in the state. Users may be limited to authorized vital records staff or may include adoption attorneys, depending on the jurisdiction.

In the future, State C could join the compact and implement a query/response agent and standard APIs. State C would authorize queries from A and B, while A and B authorize queries from C.

When an authorized attorney searches a state PFR using the standard UI, a broadcast query is sent to all other compact states authorized to receive queries. Positive responses for possible matches are received from one or more states in the compact. No private information regarding a putative father is exchanged within the system.

The exchange of putative father information with distributed architecture could include the following steps:

1. Child’s adoption proceeding begins in State A. An adoption attorney must do a paternity search because the birth father cannot be located.

2. Attorney logs into State A's PFR Agent website and submits a query to see if the child’s father possibly registered in a compact state to establish his paternity.

3. State A's PFR Agent sends a broadcast query to all other authorized PFR Agents on the network. A's Agent receives a message of a possible match in State B.

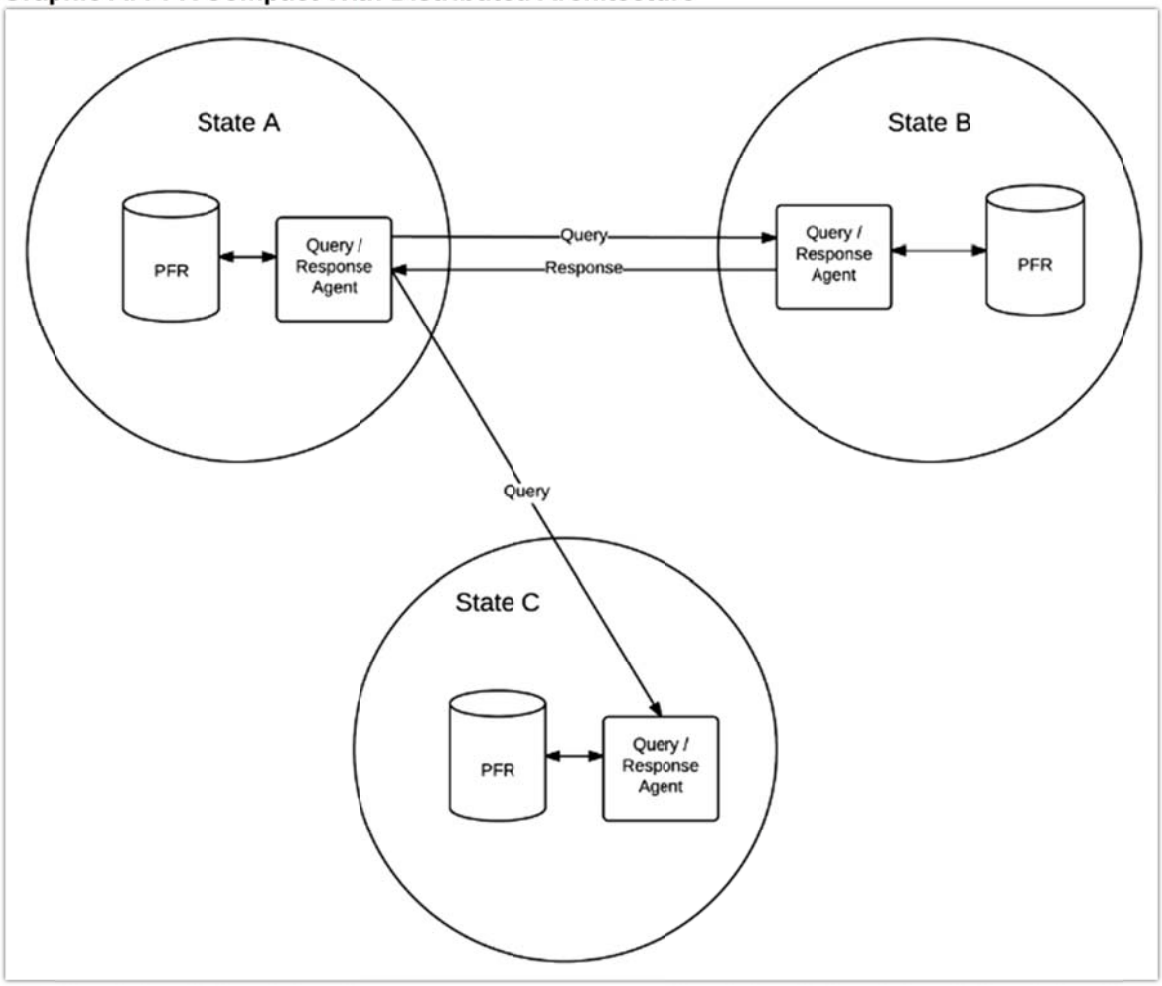
4. Attorney mails or otherwise requests a formal search of State B's PFR and submits appropriate fee.

5. State B receives the search request, confirms match status, and sends a copy of the notice of commencement of paternity proceedings to the attorney in State A.

6. Attorney in State A contacts the putative father using contact information provided by State B. Child's father is able to declare his paternal rights and intent to support the child.

Steps 3-5 of the process described above are illustrated below in Graphic A.

Graphic A. PFR Compact With Distributed Architecture



Advantages of a distributed architecture system approach include:

- System starts small and is scalable and flexible when additional states join the compact.

- Costs for developing and implementing the system are borne by individual states as they join the compact.

- No central software or components to maintain.

Disadvantages of a distributed architecture system include:

- Need to develop and agree on a comprehensive standard for software agents, functionality, and communications.

- Need to maintain a growing number of communication routes and authorized agents as the size of the network grows. Given the need for secure communications, this can become difficult depending on the technology implemented.

- Funding for initial development of a standard query/response agent is shared by a small number of states that initially join the compact.

CONCLUSION

In response to problems caused by states that cannot share putative father information, the Utah Legislature established a Compact for Interstate Sharing of Putative Father Information. Various systems and procedures that could be used to implement the compact were evaluated in this study. It appears the best option is a distributed architecture model comprised of a network of separate PFR systems located in individual compact states with separate state PFR systems that communicate with each other using technical standards agreed upon between states joining the compact.

NEXT STEPS

This study can be used as a resource in the effort to find states to join Utah in the Compact for Interstate Sharing of Putative Father Information. The following steps should be taken in this effort:

- The Uniform Law Commission should develop model state laws that promote the interstate sharing of putative father registry information. It would be easier to generate funding and legislative support for the compact if the commission were to support it.

- The sponsor of SB 10 is in communication with legislators in other states about sponsoring legislation authorizing their states to join Utah in the compact. The sponsor intends to continue efforts to educate legislators in other states about the benefits of joining the compact.

- The Utah Office of Vital Records and Statistics will consult further with NAPHSIS and potential software vendors regarding the estimated financial cost for a state to create a PFR software system capable of communicating with PFR systems in other states.

- Sources of initial and ongoing funding of the systems necessary for interstate exchange of putative father information will be identified.

For more information about this study, please contact Richard J. Oborn, MPA, at 801-538-6262 or roborn@utah.gov.

ATTACHMENT A

COMPACT FOR INTERSTATE SHARING OF PUTATIVE FATHER REGISTRY INFORMATION

2015 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Luz Escamilla

House Sponsor: Jacob L. Anderegg

LONG TITLE

General Description:

This bill enacts the Compact for Interstate Sharing of Putative Father Registry Information.

Highlighted Provisions:

This bill:

- defines terms;
- describes the purpose of the Compact for Interstate Sharing of Putative Father Registry Information;
- describes the process for entering, withdrawing from, and amending the compact;
- describes the responsibilities and privileges of states participating in the compact;
- addresses the privacy, retention, and use of putative father registry information shared under the compact;
- includes a severability clause; and
- requires the state registrar, appointed by the Department of Health, to study the procedures necessary to implement the Compact for Interstate Sharing of Putative Father Registry Information.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

30 AMENDS:
31 **26-2-3**, as last amended by Laws of Utah 2013, Chapter 474
32 ENACTS:
33 **78B-6-121.5**, Utah Code Annotated 1953
34

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35 *Be it enacted by the Legislature of the state of Utah:*
36 Section 1. Section **26-2-3** is amended to read:
37 **26-2-3. Department duties and authority.**
38 (1) As used in this section:
39 (a) "Compact" means the Compact for Interstate Sharing of Putative Father Registry
40 Information created in Section 78B-6-121.5, effective on May 10, 2016.
41 (b) "Putative father":
42 (i) means the same as that term is as defined in Section 78B-6-121.5; and
43 (ii) includes an unmarried biological father.
44 (c) "State registrar" means the state registrar of vital records appointed under
45 Subsection (2)(e).
46 (d) "Unmarried biological father" means the same as that term is defined in Section
47 78B-6-103.
48 [~~(1)~~] (2) The department shall:
49 (a) provide offices properly equipped for the preservation of vital records made or
50 received under this chapter;
51 (b) establish a statewide vital records system for the registration, collection,
52 preservation, amendment, and certification of vital records and other similar documents
53 required by this chapter and activities related to them, including the tabulation, analysis, and
54 publication of vital statistics;
55 (c) prescribe forms for certificates, certification, reports, and other documents and
56 records necessary to establish and maintain a statewide system of vital records;
57 (d) prepare an annual compilation, analysis, and publication of statistics derived from

58 vital records; and
59 (e) appoint a state registrar to direct the statewide system of vital records.
60 [~~(2)~~] (3) The department may:
61 (a) divide the state from time to time into registration districts; and
62 (b) appoint local registrars for registration districts who under the direction and
63 supervision of the state registrar shall perform all duties required of them by this chapter and
64 department rules.
65 [~~(3)~~] (4) The state registrar appointed under Subsection [~~(1)(e)~~] (2)(e) shall[~~, during the~~
66 ~~2013 interim, report to the Health and Human Services Interim Committee on the feasibility of~~
67 ~~partnering with the public legal notice website described in Subsection 45-1-101(2)(b) to create~~
68 ~~a national putative father registry.~~]:
69 (a) with the input of Utah stakeholders and the Uniform Law Commission, study the
70 following items for the state's implementation of the compact:
71 (i) the feasibility of using systems developed by the National Association for Public
72 Health Statistics and Information Systems, including the State and Territorial Exchange of
73 Vital Events (STEVE) system and the Electronic Verification of Vital Events (EVVE) system,
74 or similar systems, to exchange putative father registry information with states that are parties
75 to the compact;
76 (ii) procedures necessary to share putative father information, located in the
77 confidential registry maintained by the state registrar, upon request from the state registrar of
78 another state that is a party to the compact;
79 (iii) procedures necessary for the state registrar to access putative father information
80 located in a state that is a party to the compact, and share that information with persons who
81 request a certificate from the state registrar;
82 (iv) procedures necessary to ensure that the name of the mother of the child who is the
83 subject of a putative father's notice of commencement, filed pursuant to Section 78B-6-121, is
84 kept confidential when a state that is a party to the compact accesses this state's confidential
85 registry through the state registrar; and

86 (v) procedures necessary to ensure that a putative father's registration with a state that
87 is a party to the compact is given the same effect as a putative father's notice of commencement
88 filed pursuant to Section 78B-6-121; and
89 (b) report to the Health and Human Services Interim Committee before November 1,
90 2015, on the study items described in Subsection (4)(a).
91 Section 2. Section **78B-6-121.5** is enacted to read:
92 **78B-6-121.5. Compact for Interstate Sharing of Putative Father Registry**
93 **Information -- Severability clause.**
94 COMPACT FOR INTERSTATE SHARING
95 OF PUTATIVE FATHER REGISTRY INFORMATION
96 ARTICLE I
97 PURPOSE
98 This compact enables the sharing of putative father registry information collected by a
99 state that is a party to the compact with all other states that are parties to the compact.
100 ARTICLE II
101 DEFINITIONS
102 (1) "Putative father" means a man who may be the biological father of a child because
103 the man had a sexual relationship with a woman to whom he is not married.
104 (2) "Putative father registry" mean a registry of putative fathers maintained and used by
105 a state as part of its legal process for protecting a putative father's rights.
106 (3) "State" includes a state, district, or territory of the United States.
107 ARTICLE III
108 ENTRY, WITHDRAWAL, AND AMENDMENTS
109 (1) A state is a party to this compact upon enactment of this compact by the state into
110 state law.
111 (2) Upon providing at least 60 days' notice of withdrawal from this compact to each
112 party to the compact and repealing the compact from state law, a state is no longer party to this
113 compact.

114 (3) This compact is amended upon enactment of the amendment into state law by each
115 party to the compact.
116 ARTICLE IV
117 INTERSTATE SHARING OF PUTATIVE FATHER REGISTRY INFORMATION
118 (1) A party to this compact shall communicate information in its putative father
119 registry about a specific putative father to any other party to this compact in a timely manner
120 upon request by the other party.
121 (2) A party to this compact is not required to have a putative father registry in order to
122 request putative father registry information from another party to the compact.
123 (3) Putative father registry information requested by a party to this compact from
124 another party to this compact is subject to the laws of the requesting party governing the
125 privacy, retention, and authorized uses of putative father information or, if the requesting party
126 does not have a putative father registry, the laws of the party supplying the information
127 governing the privacy, retention, and authorized uses of putative father information.
128 (4) Notwithstanding Article IV, Subsection (3) of this compact, the request for or
129 receipt of putative father registry information by a party to this compact from another party to
130 this compact does not affect the application of the requesting party's laws, including laws
131 regarding adoption or the protection of a putative father's rights, except as explicitly provided
132 by the requesting party's laws.
133 (5) Failure by a party to this compact to provide accurate putative father registry
134 information in a timely manner to another party to this compact upon request does not affect
135 application of the requesting party's laws, including laws governing adoption and the protection
136 of a putative father's rights, except as explicitly provided by the requesting party's laws.
137 (6) Each party to this compact shall work with every other party to this compact to
138 facilitate the timely communication of putative father registry information between compact
139 parties upon request.
140 ARTICLE V
141 SEVERABILITY

142 The provisions of this compact are severable. If any provision of this compact or the
143 application of any provision of this compact to any person or circumstance is held invalid by a
144 final decision of a court of competent jurisdiction for a state that is a member of this compact,
145 the remainder of this compact shall be given effect within that state without the invalid
146 provision or application. If a provision of this compact is severed in one or more states as a
147 result of one or more court decisions, the provision shall remain in force in all other states that
148 are parties to this compact.
149 Section 3. **Effective date.**
150 (1) Except as provided in Subsection (2), this bill takes effect on May 12, 2015.
151 (2) The actions affecting Section 78B-6-121.5 take effect on May 10, 2016.

JOINT RESOLUTION URGING INTERSTATE SHARING OF PUTATIVE FATHER REGISTRY INFORMATION

2015 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Luz Escamilla

House Sponsor: Jacob L. Anderegg

LONG TITLE

General Description:

This joint resolution of the Legislature urges actions to promote the interstate sharing of putative father registry information.

Highlighted Provisions:

This resolution:

- urges each state, district, and territory of the United States to enact the Compact for Interstate Sharing of Putative Father Registry Information;
- urges the Uniform Law Commission to develop model state laws that promote the interstate sharing of putative father registry information; and
- urges Congress to enact legislation that promotes the interstate sharing of putative father registry information, while respecting state control over related public policies.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah:

WHEREAS, "putative father" means a man who may be the biological father of a child because the man had a sexual relationship with a woman to whom he is not married;

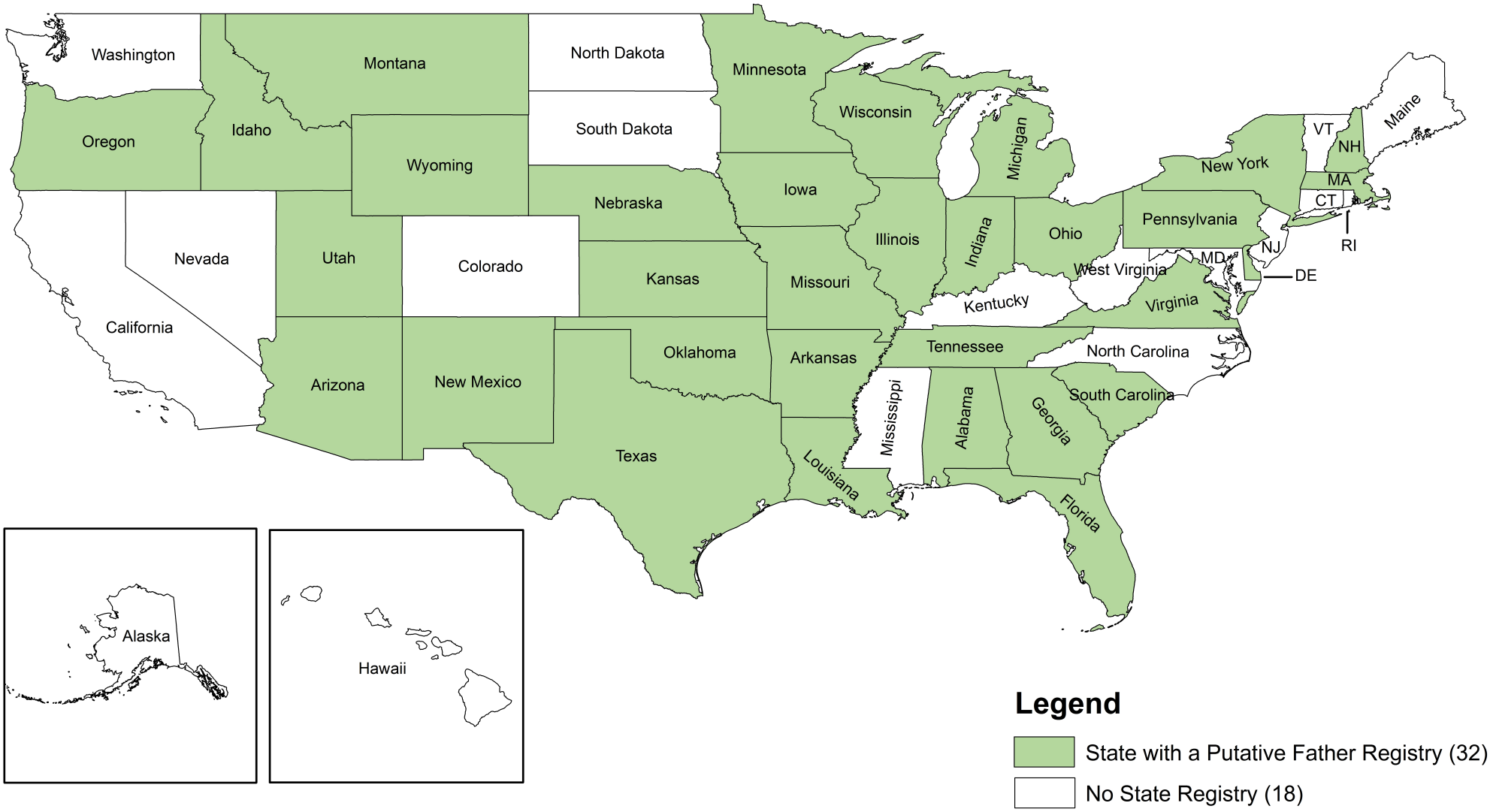
WHEREAS, "putative father registry" means a registry of putative fathers maintained and used by a state as part of its legal process for protecting a putative father's rights;

WHEREAS, "state" includes a state, district, or territory of the United States;

30 WHEREAS, because states do not share putative father registry information, a putative
31 father must register with the state in which his child will be born to preserve the putative
32 father's rights;
33 WHEREAS, a putative father may not know in which state his child will be born if the
34 child's mother does not inform him of where she intends to give birth or if she misleads him
35 about where she intends to give birth;
36 WHEREAS, without accurate information about where his child will be born, a
37 putative father does not know in which state he must register to preserve his rights;
38 WHEREAS, the United States Congress has not yet enacted legislation facilitating the
39 interstate sharing of putative father registry information;
40 WHEREAS, Utah has created the Compact for Interstate Sharing of Putative Father
41 Registry Information, which any state, district, or territory of the United States may join by
42 enacting the compact into state law:
43 NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah
44 urges each state, district, and territory of the United States to enact the Compact for Interstate
45 Sharing of Putative Father Registry Information.
46 BE IT FURTHER RESOLVED that the Legislature of the state of Utah urges the
47 Uniform Law Commission to develop model state laws that promote the interstate sharing of
48 putative father registry information.
49 BE IT FURTHER RESOLVED that the Legislature of the state of Utah urges the
50 United States Congress to enact legislation that promotes the interstate sharing of putative
51 father registry information, while respecting state control over related public policies.
52 BE IT FURTHER RESOLVED that a copy of this resolution be sent to the legislative
53 bodies of each state, district, and territory of the United States; the Uniform Law Commission;
54 the Majority Leader of the United States Senate; the Speaker of the United States House of
55 Representatives; and the members of Utah's congressional delegation.

ATTACHMENT B

States with a Putative Father Registry



Updated October 8, 2015