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MEMORANDUM

To: House Committee on Judiciary

From: Office of Revisor of Statutes

Date: February 13, 2023

Subject: Bill Brief on HB 2409

HB 2409 enacts the Kansas uniform parentage act (2017) and repeals the Kansas parentage act.

Section 1 names the act. Section 2 provides definitions used throughout the act. Section 3 applies the act to adjudications or determinations of parentage and provides the act does not create, affect, enlarge or diminish parental rights under the laws of the state other than the act.

Section 4 provides a district court may adjudicate parentage under the act.

Section 5 provides that the court shall apply Kansas law to adjudicate parentage regardless of the place of birth, residence or conception of the child. Section 6 provides that proceedings under the act are subject to Kansas laws regarding disclosure of information. Section 7 provides that a provision of the act applicable to a father-child relationship applies to a mother-child relationship and vice-versa. Section 8 provides that a parent-child relationship is established between an individual and a child if the individual gives birth to the child, there is a presumption of parentage unless otherwise overcome, the individual is adjudicated a parent of the child, the individual adopts the child, the individual acknowledges parentage unless an exception applies or the individual's parentage is established by the provisions related to assisted reproduction.

Section 9 provides that a parent-child relationship extends equally to every parent and child, regardless of marital status. Section 10 provides that unless parental rights are terminated, a parent-child relationship established under the act applies for all purposes except as otherwise provided.

Section 11 provides that an individual is presumed to be a parent if (1) the individual and the woman who gave birth to the child are married and the child is born during the marriage, (2) the individual and the woman who gave birth to the child were married and the child is born not

later than 300 days after the marriage is terminated, or (3) the individual and the woman who gave birth to the child marry each other after the birth of the child, the individual asserted parentage and the assertion is on record with the register of vital statistics or the individual agreed to and is the named parent on the birth certificate, or (4) the individual resided in the same household with the child for the first two years of the child's life. A presumption made under this section may be overcome under provisions of the act.

Section 12 allows a woman who gave birth to a child and an alleged genetic father, an intended parent under the provisions related to assisted reproduction, or a presumed parent to sign an acknowledgement of parentage. Section 13 provides the requirements for that acknowledgement. Section 14 provides that a presumed or alleged genetic parent may sign a denial of parentage and the section contains rules governing the validity of such denial. Section 15 allows documents to be filed together or separately. Section 16 provides that an acknowledgement acts as an adjudication of parentage and confers rights and duties of a parent and a denial acts as an adjudication of nonparentage and discharges the person from all right and duties. Section 17 allows vital statistics to charge a filing fee for acknowledgments and denials. Section 18 prohibits the court from ratifying an unchallenged acknowledgment.

Section 19 contains provisions related to rescinding an acknowledgement or denial and provides the process for rescinding those. Section 20 governs challenges of acknowledgments or denials. Section 21 provides who is a party to a proceeding challenging an acknowledgment or denial and sets rules governing the proceedings. Section 22 gives full faith and credit to acknowledgments and denials from other states. Section 23 requires the office of vital statistics in conjunction with the secretary of children and families to create forms for acknowledgments and denials. Section 24 allows the office of vital statistics to release records to certain individuals and agencies. Section 25 gives the office of vital statistics rule and regulation authority. Section 26 creates the hospital-based program for voluntary acknowledgment, requires birthing hospitals to participate in the program and allows other hospitals to participate.

Sections 27 provides definitions for sections 27 through 38, which are related to genetic testing. Section 28 provides that sections 27 through 38 apply when a person voluntarily submits to testing or is ordered by the court or child-support agency to be tested. Testing shall not be used to challenge parentage under the assisted reproduction sections or establish parentage of a donor. Section 29 outlines when the court shall order the child and another individual to be tested. Section 30 specifies the scientific requirements for the test. Section 31 relates to documentation from the testing laboratory. Section 32 provides that test results that establish

parentage. Section 33 provides the requirements for paying for genetic testing. Section 34 requires an order of additional testing on request of an individual who contests the results. If genetic testing identified an individual as a parent, additional testing shall not be ordered. Section 35 relates to court orders to obtain specimens for genetic testing. Section 36 authorizes genetic testing of a deceased person for good cause. Section 37 governs identical sibling testing. Section 38 provides that release of reports of testing is controlled by the state's disclosure laws.

Section 39 provides that proceedings under the act are governed by the state's civil procedure rules. Section 40 provides who has standing to bring an action under the act. Section 41 governs notice of the proceedings and Sections 42 and 43 cover jurisdiction and venue. Section 44 provide the requirements for pleadings under the act. Section 45 authorizes the responding party to file an answer and file a cross-claim.

Section 46 provides the rules regarding admitting a report of genetic testing into court. Section 47 relates to proceedings to determine whether an alleged genetic parent who is not a presumed parent in the parent and Section 48 governs the timing of those proceedings. Section 49 relates to proceedings on challenges to acknowledgments. Section 50 provides the rules governing proceedings when a child has an adjudicated parent. Sections 51 and 52 cover proceedings to adjudicate an individual's parentage of a child. Section 53 contains provisions related to instances in which a woman alleges that a man committed a sexual assault against the woman that resulted in the woman giving birth to a child.

Section 54 authorizes the court to issue temporary orders for child support in certain situations. Section 55 governs combining proceedings. Section 56 provides that orders issued under the revised Kansas code for care of children or the revised Kansas juvenile justice code take precedence over parentage orders. Section 57 provides that a child is a permissive party and the court may appoint a guardian ad litem. Section 58 provides that the court shall adjudicate parentage without a jury. Section 59 lists the court orders the court may make when adjudging that a party is a parent. Section 60 covers to what extend court orders apply under the act. Sections 61 through 68 govern proceedings related to children conceived by assisted reproduction. Sections 69 through 74 provide guidelines and requirements for donor banks and fertility clinics.

Section 75 provides for uniformity of law in apply and construing the act. Section 76 provides to what extend this act modifies or supersedes other uniform acts. Section 77 applies the act to proceedings commenced before July 1, 2023. Section 78 provides that it is the intent of the legislature that the provisions of the act be severable. Sections 79 through 92 make updates to

existing statutes that reference the Kansas parentage act to update those references to this act.
The bill also repeals the current Kansas parentage act.