

## Draft Children and Civil Status (Amendments) (Jersey) Law

Dear Joseph

Further to your emails with Neville below, I am writing in my capacity as Chair of the Jersey Family Law Association/Family Law Sub Committee (hereinafter referred to as the Committee), in response to the Chair of the Children, Education and Home Affairs Scrutiny Panel's request for comments on the review of the draft law.

Principally, I will say that the Committee welcome the changes being introduced via the draft law, which we consider are long overdue and will be of significant benefit to Jersey families and, in particular, to Jersey children.

Having reviewed the draft law and rationale/guidance notes, I do not really have any particular detail or comment of significance to add, but respond to the bullet point questions set out in the Chair's letter dated 10 January 2024 as follows:

- As far as I am aware, the Committee has not been previously been involved in the development of the draft Law;
- There do not appear to be any issues as regards the scope of the law or any omission of key aspects;
- The removal of the presumption that the husband in a marriage is the biological father of the child is welcomed; this is an old fashioned and out-dated presumption which can, currently, only be rebutted via an application by the presumptive father to the Royal Court for a declaration that the child is illegitimate. On the last occasion on which I assisted a father to make such an application (some 5 or 6 years ago), the Royal Court queried the necessity of the application, notwithstanding that the presumption of fatherhood might have implications for both the father's and the child's estate following death etc, and not least that it was a legal presumption of fatherhood which the husband, quite understandably, did not consider should continue;
- We agree with the proposal for stepparents to acquire parental rights, but only, as is proposed, where this agreed by the parents. We do not consider it would be appropriate for the Court to have the power to award parental rights to stepparents where the consent of the other parent(s) was not forthcoming; this would likely result in a significant number of such applications where the parents are in conflict. Consideration could, however, be given to the potential extension of this proposal to situations in which one or both of the parents is/are deceased;
- Whilst it is considered that the draft law provides clarity for parents regarding legal parental responsibility for children born via surrogacy prior to the law coming into effect, it would be useful in our view for some straightforward, easy to follow guidance notes to be published alongside the law;
- It is not considered that there will be a significant or detrimental effect on family court proceedings as a result of the introduction of parental orders. In many cases, those applications will be made on a consensual basis.

I trust that this assists, however please do not hesitate to contact me if I can be of any further assistance.

Kind regards

Lauren

Lauren Glynn

Counsel

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