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The amendments to § 7612 provide that when a child has both a presumed parent and a parent who has signed a Voluntary Declaration of Paternity, the courts must consider both claims and must weigh the competing claims based on the same standards applied in all other cases when there are competing claims of parentage.

AB 1394 amends Family Code § 7612, adding a paragraph (d) which allows a *presumed parent* pursuant to § 7611 to file a petition to set aside a Voluntary Declaration of Paternity. The petition would need to be filed within 2 years of the execution of the declaration. AB 1394 also adds paragraph (e) to § 7612, which invalidates *Declarations of Paternity* if the child already had a presumed parent under § 7540 or § 7611 at the time the *declaration* was signed or if the man signing the *declaration* is a sperm donor.

In ruling upon the petition, a court will be required to take into consideration “the validity of the declaration” and the best interests of the child as enumerated in § 7575(b). The court must also weigh the nature, duration and quality of the petitioning party’s relationship with the child and the relationship’s ongoing benefits or detriments to the child. As in § 7612(b), in the event of any conflict between the presumption under § 7611 and the voluntary *declaration*, the weightier considerations of policy and logic shall control.

The Bill also amends § 7573 to allow cases that fall under § 7612 to be potentially exempted from the general requirement that Paternity Declarations have the “same force and effect” as a Paternity Judgment.