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## UB Viewpoint – Changing Roles of Fatherhood

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## UB Viewpoint - Changing roles of fatherhood

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The recent celebration of Father's Day triggered the usual commentary about the expanded role of today's fathers. Most agree that men are participating more in family life than did their fathers and the once clearly defined roles of mother as caregiver and father as breadwinner have eroded. The law, which once only recognized men married to the mothers as legal fathers, has redefined fatherhood to reflect these changes. A series of Supreme Court decisions beginning with *Stanley v. Illinois* in 1972, recognized that unmarried fathers linked by both biology and involvement in a child's life had rights that should be recognized under the law. The law has also given limited recognition to the "social" or "functional" father who is not connected to the child by either marriage or biology. More recently, legislation has been enacted to create social and economic supports for both married and unmarried fathers. These developments reflect a multidimensional legal conception of fatherhood but recent decisions and statutes threaten to push fatherhood into a narrow box based on biology. This new definition of fatherhood has developed in the context of cases in which men assumed the role of father and later, often after many years, seek genetic testing to be relieved of the obligations of fatherhood. Maryland is one of a handful of states that has opted to define fathers by biology to resolve paternity challenges. In a 2000 case, *Langston v. Riffe*, the Court of Appeals interpreted 1995 amendments to the paternity statute to set aside paternity judgments when tests excluded legal fathers as biological fathers. Finding the best interests of the child standard irrelevant to such determinations, the Court held that, unless the man knew he was not the biological father when he consented, DNA testing is available on demand. If DNA tests exclude the legal father, paternity judgments are set aside even when children are left fatherless. In 2002 the Court of Appeals revisited the issue *Walter v. Gunter* holding that, although the father questioned his paternity before his consent, a genetic test "extinguished" parenthood. The court vacated the child support order, including more than \$11,000 in arrearages. Maryland's legal definition of fatherhood does not serve the interests of the state, families or children. The state's interest in collecting child support is undermined when courts set aside longstanding paternity judgments and remove the obligation to pay past or future child support. Relationships among family members are destabilized when children can be subjected to genetic testing at any time. Most importantly, the interests of children are not served by an approach that recognizes fathers only as sources of financial support linked by biology. During its last two sessions, the General Assembly quickly rejected bills that would modify the current approach to these disputes and strike a balance between fairness to fathers and the best interests of children. These bills deserve a closer look to protect Maryland's children.

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