

**HOUSE . . . . . No. 139**

**The Commonwealth of Massachusetts**

PRESENTED BY:

*Kay Khan*

*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to parentage to promote children's security.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Kay Khan</i>	<i>11th Middlesex</i>
<i>Cynthia Stone Creem</i>	<i>First Middlesex and Norfolk</i>
<i>Danielle W. Gregoire</i>	<i>4th Middlesex</i>
<i>Kevin G. Honan</i>	<i>17th Suffolk</i>
<i>David Paul Linsky</i>	<i>5th Middlesex</i>
<i>Alice Hanlon Peisch</i>	<i>14th Norfolk</i>
<i>William C. Galvin</i>	<i>6th Norfolk</i>
<i>Ruth B. Balsler</i>	<i>12th Middlesex</i>
<i>Michael J. Barrett</i>	<i>Third Middlesex</i>
<i>Michelle L. Ciccolo</i>	<i>15th Middlesex</i>
<i>Julian Cyr</i>	<i>Cape and Islands</i>
<i>Marjorie C. Decker</i>	<i>25th Middlesex</i>
<i>Mindy Domb</i>	<i>3rd Hampshire</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>
<i>James K. Hawkins</i>	<i>2nd Bristol</i>
<i>Jack Patrick Lewis</i>	<i>7th Middlesex</i>
<i>Liz Miranda</i>	<i>5th Suffolk</i>
<i>Lenny Mirra</i>	<i>2nd Essex</i>

<i>Denise Provost</i>	<i>27th Middlesex</i>
<i>Rebecca L. Rausch</i>	<i>Norfolk, Bristol and Middlesex</i>
<i>Lindsay N. Sabadosa</i>	<i>1st Hampshire</i>
<i>Steven Ultrino</i>	<i>33rd Middlesex</i>

**HOUSE . . . . . No. 139**

By Ms. Khan of Newton, a petition (accompanied by bill, House, No. 139) of Kay Khan and others relative to the adjudication or determination of parentage. Children, Families and Persons with Disabilities.

**The Commonwealth of Massachusetts**

**In the One Hundred and Ninety-First General Court  
(2019-2020)**

An Act relative to parentage to promote children's security.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 The General Laws is hereby amended by inserting the following new chapter, chapter  
2 209E, after chapter 209D:

3 ARTICLE 1

4 GENERAL PROVISIONS

5 SECTION 101. SHORT TITLE. This Act may be cited as the Massachusetts  
6 Parentage Act.

7 SECTION 102. DEFINITIONS. In this Act:

8 (1) "Acknowledged parent" means an individual who has established a parent-child  
9 relationship under Article 3.

10           (2) “Adjudicated parent” means an individual who has been adjudicated to be a parent of  
11 a child by a court with jurisdiction.

12           (3) “Alleged genetic parent” means an individual who is alleged to be, or alleges that the  
13 individual is, a genetic parent or possible genetic parent of a child whose parentage has not been  
14 adjudicated. The term includes an alleged genetic father and alleged genetic mother. The term  
15 does not include:

16           (A) a presumed parent;

17           (B) an individual whose parental rights have been terminated or declared not to exist; or

18           (C) a donor.

19           (4) “Assisted reproduction” means a method of causing pregnancy other than sexual  
20 intercourse and includes but is not limited to:

21           (A) intrauterine, intracervical insemination, or vaginal insemination;

22           (B) donation of gametes;

23           (C) donation of embryos;

24           (D) in-vitro fertilization and transfer of embryos; and

25           (E) intracytoplasmic sperm injection.

26           (5) “Birth” includes stillbirth.

27           (6) “Child” means an individual of any age whose parentage may be determined under  
28 this act.

29 (7) “Child-support agency” means a government entity, public official, or private agency,  
30 authorized to provide parentage-establishment services under Title IV-D of the Social Security  
31 Act, 42 U.S.C. Sections 651 through 669.

32 (8) “Combined relationship index” means the product of all tested relationship indices.

33 (9) “Determination of parentage” means establishment of a parent-child relationship by a  
34 judicial or administrative proceeding or signing of a valid acknowledgment of parentage under  
35 Article 3.

36 (10) “Donor” means an individual who provides a gamete or gametes or an embryo or  
37 embryos intended for assisted reproduction or gestation, whether or not for consideration. This  
38 term does not include:

39 (A) a person who gives birth to a child conceived by assisted reproduction, except as  
40 otherwise provided in Article 7; or

41 (B) a parent or intended parent under Article 6 or Article 7.

42 (11) “Embryo” means a cell or group of cells containing a diploid complement of  
43 chromosomes or a group of such cells, not including a gamete, that has the potential to develop  
44 into a live born human being if transferred into the body of a person under conditions in which  
45 gestation may be reasonably expected to occur.

46 (12) “Ethnic or racial group” means, for the purpose of genetic testing, a recognized  
47 group that an individual identifies as the individual’s ancestry or part of the ancestry or that is  
48 identified by other information.

49 (13) “Gamete” means sperm, egg, or any part of a sperm or egg.

50 (14) “Genetic testing” means an analysis of genetic markers to identify or exclude a  
51 genetic relationship.

52 (15) “Hypothesized genetic relationship” means an asserted genetic relationship between  
53 an individual and a child.

54 (16) “Individual” means a natural person of any age.

55 (17) “Intended parent” means an individual, married or unmarried, who manifests an  
56 intent to be legally bound as a parent of a child conceived by assisted reproduction or a  
57 gestational carrier agreement.

58 (18) “Marriage” includes any legal relationship that provides substantially the same  
59 rights, benefits, and responsibilities as marriage and is recognized as valid in the state or  
60 jurisdiction in which it was entered.

61 (19) “Parent” means an individual who has established parentage that meets the  
62 requirements of this act.

63 (20) “Parentage” or “parent-child relationship” means the legal relationship between a  
64 child and a parent of the child.

65 (21) “Presumed parent” means an individual who under Section 204 is presumed to be a  
66 parent of a child, unless the presumption is overcome in a judicial proceeding, a valid denial of  
67 parentage is made under Article 3, or a court adjudicates the individual to be a parent.

68 (22) “Probability of parentage” means, for the ethnic or racial group to which an  
69 individual alleged to be a parent belongs, the probability that a hypothesized genetic relationship  
70 is supported, compared to the probability that a genetic relationship is supported between the

71 child and a random individual of the ethnic or racial group used in the hypothesized genetic  
72 relationship, expressed as a percentage incorporating the combined relationship index and a prior  
73 probability.

74 (23) “Record” means information that is inscribed on a tangible medium or that is stored  
75 in an electronic or other medium and is retrievable in perceivable form.

76 (24) “Relationship index” means a likelihood ratio that compares the probability of a  
77 genetic marker given a hypothesized genetic relationship and the probability of the genetic  
78 marker given a genetic relationship between the child and a random individual of the ethnic or  
79 racial group used in the hypothesized genetic relationship.

80 (25) “Sign” means, with intent to authenticate or adopt a record to:

81 (A) execute or adopt a tangible symbol; or

82 (B) attach to or logically associate with the record an electronic symbol, sound, or  
83 process.

84 (26) “Signatory” means an individual who signs a record.

85 (27) “Transfer” means a procedure for assisted reproduction by which an embryo or  
86 sperm is placed in the body of the person who will give birth to the child.

87 (28) “Witnessed” means that at least one individual who is authorized to sign has signed  
88 a record to verify that the individual personally observed a signatory sign the record.

89 SECTION 103. SCOPE.

90 (1) This act applies to an adjudication or determination of parentage.

91 (2) This act does not create, affect, enlarge, or diminish parental rights or duties under  
92 law of this state other than this act.

93 SECTION 104. AUTHORIZED COURT. The Probate and Family Court Department  
94 may adjudicate parentage under this act.

95 SECTION 105. APPLICABLE LAW. The court shall apply the law of this state to  
96 adjudicate parentage. The applicable law does not depend on:

97 (1) the place of birth of the child; or

98 (2) the past or present residence of the child.

99 SECTION 106. DATA PRIVACY. A proceeding under this act is subject to law of this  
100 state other than this act which governs the health, safety, privacy, and liberty of a child or other  
101 individual who could be affected by disclosure of information that could identify the child or  
102 other individual, including address, telephone number, digital contact information, place of  
103 employment, Social Security number, and the child's day-care facility or school.

104 SECTION 107. ESTABLISHMENT OF PARENTAGE. To the extent practicable, a  
105 provision of this act applicable to a father-child relationship applies to a mother-child  
106 relationship and a provision of this act applicable to a mother-child relationship applies to a  
107 father-child relationship. This act is intended to allow access to establish parentage in a gender  
108 neutral manner.

109 ARTICLE 2

110 PARENT-CHILD RELATIONSHIP



111 SECTION 201. ESTABLISHMENT OF PARENT-CHILD RELATIONSHIP. A parent-  
112 child relationship is established between an individual and a child by any of the following:

113 (1) Birth: the individual gives birth to the child, except as otherwise provided in Article 7;

114 (2) Presumption: there is a presumption under Section 204 of the individual's parentage of the  
115 child, unless the presumption is overcome in a judicial proceeding or a valid denial of parentage  
116 is made under Article 3;

117 (3) Adjudication: the individual is adjudicated a parent of the child under Article 5;

118 (4) Adoption: the individual adopts the child pursuant to Chapter 210;

119 (5) Acknowledgment: the individual acknowledges parentage of the child under Article  
120 3, unless the acknowledgment is rescinded under Section 308 or successfully challenged under  
121 Article 3 or 5;

122 (6) De Facto Parentage: the individual is adjudicated a de facto parent of the child under  
123 Section 509;

124 (7) Assisted reproduction: the individual consents to assisted reproduction under Article  
125 6; or

126 (8) Gestational or genetic surrogacy agreement: the individual is an intended parent who  
127 consents to a gestational or genetic surrogacy agreement under Article 7.

128 SECTION 202. NONDISCRIMINATION. Every child has the same rights under law as  
129 any other child without regard to the marital status or gender of the parents or the circumstances  
130 of the birth of the child.

131 SECTION 203. CONSEQUENCES OF ESTABLISHING PARENTAGE. Unless  
132 parental rights have been terminated or an exception has been stated explicitly in this act, a  
133 parent-child relationship established under this act applies for all purposes, including the rights  
134 and duties of parentage.

135 SECTION 204. PRESUMPTION OF PARENTAGE.

136 (a) An individual is presumed to be a parent of a child if:

137 (1) except as otherwise provided under Article 7:

138 (A) the individual and the person who gave birth to the child are married to each other  
139 and the child is born during the marriage, whether the marriage is or could be declared invalid;

140 (B) the individual and the person who gave birth to the child were married to each other  
141 and the child is born not later than 300 days after the marriage is terminated by death, divorce, or  
142 annulment, whether the marriage is or could be declared invalid; or

143 (C) the individual and the person who gave birth to the child married each other after the  
144 birth of the child, whether the marriage is or could be declared invalid, the individual at any time  
145 asserted parentage of the child, and:

146 (i) the assertion is in a record filed with the Department of Public Health; or

147 (ii) the individual agreed to be and is named as a parent of the child on the birth  
148 certificate of the child; or

149 (2) the individual and the person who gave birth are unmarried and the child is born to  
150 them and, while the child is under the age of majority, the individual, jointly with the person who  
151 gave birth, received the child into their home and openly held out the child as their child.

152 (b) A presumption of parentage under this section may be overcome, and competing  
153 claims to parentage may be resolved, only by an adjudication under Article 5 or a valid denial of  
154 parentage under Article 3.

155 ARTICLE 3

156 VOLUNTARY ACKNOWLEDGMENT OF PARENTAGE

157 SECTION 301. ACKNOWLEDGMENT OF PARENTAGE. An individual who gave  
158 birth to a child and an alleged genetic parent, an intended parent under Article 6, or a presumed  
159 parent may sign an acknowledgement of parentage to establish parentage of a child.

160 SECTION 302. EXECUTION OF ACKNOWLEDGMENT OF PARENTAGE.

161 (a) An acknowledgment of parentage under Section 301 must:

162 (1) be in a record signed by the person who gave birth to the child and by the individual  
163 seeking to establish a parent-child relationship, and the signatures must be attested by a notarial  
164 officer or witnessed;

165 (2) state that the child whose parentage is being acknowledged:

166 (A) does not have a presumed parent other than the individuals seeking to establish the  
167 parent-child relationship or has a presumed parent whose full name is stated; and

168 (B) does not have another acknowledged parent, adjudicated parent, or individual who is  
169 a parent of the child under Article 6 or 7 other than the person who gave birth to the child; and

170 (3) state that the signatories understand that the acknowledgment is the equivalent of an  
171 adjudication of parentage of the child and that a challenge to the acknowledgment is permitted  
172 only under limited circumstances and is barred two years after the effective date of the  
173 acknowledgment.

174 (b) An acknowledgment of parentage is void if, at the time of signing:

175 (1) an individual other than the individual seeking to establish parentage is a presumed  
176 parent, unless a denial of parentage by the presumed parent in a signed record is filed with the  
177 Department of Public Health; or

178 (2) an individual, other than the person who gave birth to the child or the individual  
179 seeking to establish parentage, is an acknowledged or adjudicated parent or a parent under  
180 Article 6 or 7.

181 SECTION 303. DENIAL OF PARENTAGE. A presumed parent or alleged genetic  
182 parent may sign a denial of parentage in a record only in the limited circumstances set forth in  
183 this section. A denial of parentage is valid only if:

184 (1) an acknowledgment of parentage by another individual has been filed pursuant to this  
185 Article;

186 (2) the signature of the presumed parent or alleged genetic parent is attested by a notary  
187 or witnessed; and

188 (3) the presumed parent or alleged genetic parent has not previously:

189 (A) completed a valid acknowledgment of parentage, unless the previous  
190 acknowledgment was rescinded under Section 308 or challenged successfully under Section 309;  
191 or

192 (B) been adjudicated to be a parent of the child.

193 SECTION 304. RULES FOR ACKNOWLEDGMENT OR DENIAL OF PARENTAGE.

194 (a) An acknowledgment of parentage and a denial of parentage may be contained in a  
195 single document or may be in counterparts and may be filed with the Department of Public  
196 Health separately or simultaneously. If filing of the acknowledgment and denial both are  
197 required under this act, neither is effective until both are filed.

198 (b) An acknowledgment of parentage or denial of parentage may be signed before or after  
199 the birth of the child.

200 (c) Subject to subsection (a), an acknowledgment of parentage or denial of parentage  
201 takes effect on the birth of the child or filing of the document with the Department of Public  
202 Health whichever occurs later.

203 (d) An acknowledgment of parentage or denial of parentage signed by a minor is valid if  
204 the acknowledgment complies with this act.

205 SECTION 305. EFFECT OF ACKNOWLEDGMENT OR DENIAL OF PARENTAGE.

206 (a) Except as otherwise provided in Sections 308 and 309, an acknowledgment of  
207 parentage that complies with this article and is filed with the Department of Public Health is the  
208 equivalent of a court adjudication of parentage of the child and confers on the acknowledged  
209 parent all rights and duties of a parent.

210 (b) Except as otherwise provided in Sections 308 and 309, a denial of parentage by a  
211 presumed parent or alleged genetic parent which complies with this article and is filed with the  
212 Department of Public Health with an acknowledgment of parentage that complies with this  
213 article is equivalent to an adjudication of non-parentage of the presumed parent or alleged  
214 genetic parent and discharges the presumed parent or alleged genetic parent from all rights and  
215 duties of a parent.

216 SECTION 306. NO FILING FEE. The Department of Public Health may not charge a  
217 fee for filing an acknowledgment of parentage or denial of parentage.

218 SECTION 307. RATIFICATION BARRED. A court conducting a judicial proceeding  
219 or an administrative agency conducting an administrative proceeding is not required or permitted  
220 to ratify an unchallenged acknowledgment of parentage.

221 SECTION 308. PROCEDURE FOR RESCISSION.

222 (a) A signatory may rescind an acknowledgment of parentage or denial of parentage by  
223 filing with the Department of Public Health a rescission in a signed record which is attested by a  
224 notary or witnessed, before the earlier of:

225 (1) 60 days after the effective date under Section 304 of the acknowledgment or denial;

226 or

227 (2) the date of the first hearing before a court in a proceeding, to which the signatory is a  
228 party, to adjudicate an issue relating to the child, including a proceeding that establishes support.

229 (b) If an acknowledgment of parentage is rescinded under subsection (a), an associated  
230 denial of parentage is invalid, and the Department of Public Health shall notify the individual

231 who gave birth to the child and the individual who signed a denial of parentage of the child that  
232 the acknowledgment has been rescinded. Failure to give the notice required by this subsection  
233 does not affect the validity of the rescission.

234 SECTION 309. CHALLENGE AFTER EXPIRATION OF PERIOD FOR  
235 RESCISSION.

236 (a) After the period for rescission under Section 308 expires, but not later than two years  
237 after the effective date under Section 304 of an acknowledgment of parentage or denial of  
238 parentage, a signatory of the acknowledgment or denial may commence a proceeding to  
239 challenge the acknowledgment or denial, including a challenge brought under Section 614, only  
240 on the basis of fraud, duress, or material mistake of fact.

241 (b) A challenge to an acknowledgment of parentage or denial of parentage by an  
242 individual who was not a signatory to the acknowledgment or denial is governed by Section 610.

243 SECTION 310. PROCEDURE FOR CHALLENGE BY SIGNATORY.

244 (a) Every signatory to an acknowledgment of parentage and any related denial of  
245 parentage must be made a party to a proceeding to challenge the acknowledgment or denial.

246 (b) By signing an acknowledgment of parentage or denial of parentage, a signatory  
247 submits to personal jurisdiction in this state in a proceeding to challenge the acknowledgment or  
248 denial, effective on the filing of the acknowledgment or denial with the Department of Public  
249 Health.

250 (c) The court may not suspend the legal responsibilities arising from an acknowledgment  
251 of parentage, including the duty to pay child support, during the pendency of a proceeding to

252 challenge the acknowledgment or a related denial of parentage, unless the party challenging the  
253 acknowledgment or denial shows good cause.

254 (d) A party challenging an acknowledgment of parentage or denial of parentage has the  
255 burden of proof by clear and convincing evidence.

256 (e) If the court determines that a party has satisfied the burden of proof under subsection  
257 (d), the court shall order the Department of Public Health to amend the birth record of the child  
258 to reflect the legal parentage of the child.

259 (f) A proceeding to challenge an acknowledgment of parentage or denial of parentage  
260 must be conducted under Article 5.

261 SECTION 311. FULL FAITH AND CREDIT. This state shall give full faith and credit  
262 to an acknowledgment of parentage or denial of parentage effective in another state if the  
263 determination, acknowledgment or denial was in a signed record and otherwise complies with  
264 law of the other state.

265 SECTION 312. FORMS FOR ACKNOWLEDGMENT AND DENIAL OF  
266 PARENTAGE.

267 (a) The Department of Public Health shall develop forms for an acknowledgment of  
268 parentage and denial of parentage consistent with this act.

269 (b) A valid acknowledgment of parentage or denial of parentage is not affected by a later  
270 modification of the form under subsection (a).

271 SECTION 313. RELEASE OF INFORMATION. The Department of Public Health may  
272 release information relating to an acknowledgment of parentage or denial of parentage to a



273 signatory of the acknowledgment or denial, the child, a court, federal agency, and child-support  
274 agency of this or another state.

275 SECTION 314. ADOPTION OF RULES. The Department of Public Health may adopt  
276 rules to implement this act.

277 ARTICLE 4

278 GENETIC TESTING

279 SECTION 401. SCOPE OF ARTICLE; LIMITATION ON USE OF GENETIC  
280 TESTING.

281 (a) This article governs genetic testing of an individual in a proceeding to adjudicate  
282 parentage, whether the individual:

283 (1) voluntarily submits to testing; or

284 (2) is tested under an order of the court or a child-support agency. (b) Genetic testing  
285 shall not be used:

286 (A) to challenge the parentage of an individual who is a parent under Article 6 or 7; or

287 (B) to establish the parentage of an individual who is a donor.

288

289 SECTION 402. AUTHORITY TO ORDER OR DENY GENETIC TESTING.

290 (a) Except as otherwise provided in this Article or Article 5, in a proceeding under this  
291 act to determine parentage, the court shall order the child and any other individual to submit to  
292 genetic testing if a request for testing is supported by the sworn statement of a party:

293 (1) alleging a reasonable possibility that the individual is the child’s genetic parent; or

294 (2) denying genetic parentage of the child and stating facts establishing a reasonable  
295 possibility that the individual is not a genetic parent.

296 (b) A child-support agency may order genetic testing only if there is no presumed,  
297 acknowledged, or adjudicated parent of a child other than the individual who gave birth to the  
298 child.

299 (c) The court or child-support agency may not order in utero genetic testing.

300 (d) If two or more individuals are subject to court-ordered genetic testing, the court may  
301 order that testing be completed concurrently or sequentially.

302 (e) Genetic testing of an individual who gave birth to a child is not a condition precedent  
303 to testing of the child and an individual whose genetic parentage of the child is being determined.  
304 If the individual who gave birth is unavailable or declines to submit to genetic testing, the court  
305 may order genetic testing of the child and each individual whose genetic parentage of the child is  
306 being adjudicated.

307 (f) In a proceeding to adjudicate the parentage of a child having a presumed parent or an  
308 individual who claims to be a parent under Section 509, or to challenge an acknowledgment of  
309 parentage, the court may deny a motion for genetic testing of the child and any other individual  
310 after considering the factors in Section 513(a) and (b).

311

312 (g) If an individual requesting genetic testing is barred under Article 5 from establishing  
313 the individual's parentage, the court shall deny the request for genetic testing.

314 (h) An order under this section for genetic testing is enforceable by contempt.

315 SECTION 403. REQUIREMENTS FOR GENETIC TESTING.

316 (a) Genetic testing must be of a type reasonably relied on by experts in the field of  
317 genetic testing and performed in a testing laboratory accredited by:

318 (1) the AABB, formerly known as the American Association of Blood Banks, or a  
319 successor to its functions; or

320 (2) an accrediting body designated by the Secretary of the United States Department of  
321 Health and Human Services.

322 (b) A specimen used in genetic testing may consist of a sample or a combination of  
323 samples of blood, buccal cells, bone, hair, or other body tissue or fluid. The specimen used in the  
324 testing need not be of the same kind for each individual undergoing genetic testing.

325 (c) Based on the ethnic or racial group of an individual undergoing genetic testing, a  
326 testing laboratory shall determine the databases from which to select frequencies for use in  
327 calculating a relationship index. If an individual or a child-support agency objects to the  
328 laboratory's choice, the following rules apply:

329 (1) Not later than 30 days after receipt of the report of the test, the objecting individual or  
330 child-support agency may request the court to require the laboratory to recalculate the  
331 relationship index using an ethnic or racial group different from that used by the laboratory.

332 (2) The individual or the child-support agency objecting to the laboratory's choice under  
333 this subsection shall:

334 (A) if the requested frequencies are not available to the laboratory for the ethnic or racial  
335 group requested, provide the requested frequencies compiled in a manner recognized by  
336 accrediting bodies; or

337 (B) engage another laboratory to perform the calculations.

338 (3) The laboratory may use its own statistical estimate if there is a question which ethnic  
339 or racial group is appropriate. The laboratory shall calculate the frequencies using statistics, if  
340 available, for any other ethnic or racial group requested.

341 (d) If, after recalculation of the relationship index under subsection (c) using a different  
342 ethnic or racial group, genetic testing under Section 406 does not identify an individual as a  
343 genetic parent of a child, the court may require an individual who has been tested to submit to  
344 additional genetic testing to identify a genetic parent.

345 SECTION 404. REPORT OF GENETIC TESTING.

346 (a) A report of genetic testing must be in a record and signed under penalty of perjury by  
347 a designee of the testing laboratory. A report complying with the requirements of this Article is  
348 self-authenticating.

349 (b) Documentation from a testing laboratory of the following information is sufficient to  
350 establish a reliable chain of custody and allow the results of genetic testing to be admissible  
351 without testimony:

352 (1) the name and photograph of each individual whose specimen has been taken;

353 (2) the name of the individual who collected each specimen;

354 (3) the place and date each specimen was collected;

355 (4) the name of the individual who received each specimen in the testing laboratory; and

356 (5) the date each specimen was received.

357 SECTION 405. GENETIC TESTING RESULTS; CHALLENGE TO RESULTS.

358 (a) Subject to a challenge under subsection (b), an individual is identified under this act  
359 as a genetic parent of a child if genetic testing complies with this article and the results of the  
360 testing disclose:

361 (1) the individual has at least a 99 percent probability of parentage, using a prior  
362 probability of 0.50, as calculated by using the combined relationship index obtained in the  
363 testing; and

364 (2) a combined relationship index of at least 100 to 1.

365 (b) An individual identified under subsection (a) as a genetic parent of the child may  
366 challenge the genetic testing results only by other genetic testing satisfying the requirements of  
367 this article which:

368 (1) excludes the individual as a genetic parent of the child; or  
369 (2) identifies another individual as a possible genetic parent of the child other than:  
370 (A) the individual who gave birth to the child; or  
371 (B) the individual identified under subsection (a).  
372 (c) Except as otherwise provided in Section 410, if more than one individual other than  
373 the individual who gave birth is identified by genetic testing as a possible genetic parent of the  
374 child, the court shall order each individual to submit to further genetic testing to identify a  
375 genetic parent.

376 SECTION 406. COST OF GENETIC TESTING.

377 (a) Subject to assessment of fees under Article 5, payment of the cost of initial genetic  
378 testing must be made in advance:

379 (1) by a child-support agency in a proceeding in which the child-support agency is  
380 providing services;

381 (2) by the individual who made the request for genetic testing;

382 (3) as agreed by the parties; or

383 (4) as ordered by the court.

384 (b) If the cost of genetic testing is paid by a child-support agency, the agency may seek  
385 reimbursement from the genetic parent whose parent-child relationship is established.

386 SECTION 407. ADDITIONAL GENETIC TESTING. The court or child-support  
387 agency shall order additional genetic testing on request of an individual who contests the result  
388 of the initial testing under Section 405. If initial genetic testing under Section 405 identified an  
389 individual as a genetic parent of the child, no other court or agency may order additional testing  
390 unless the contesting individual pays for the testing in advance.

391 SECTION 408. GENETIC TESTING WHEN SPECIMEN NOT AVAILABLE.

392 (a) Subject to subsection (b), if a genetic-testing specimen is not available from an  
393 alleged genetic parent of a child, an individual seeking genetic testing demonstrates good cause,  
394 and the court finds that the circumstances are just, the court may order any of the following  
395 individuals to submit specimens for genetic testing:

396 (1) a parent of the alleged genetic parent;

397 (2) a sibling of the alleged genetic parent;

398 (3) another relative of the alleged genetic parent as the court deems necessary to complete  
399 genetic testing.

400 (b) To issue an order under this section, the court must find that a need for genetic testing  
401 outweighs the legitimate interests of the individual sought to be tested.

402

403 SECTION 409. DECEASED INDIVIDUAL. If an individual seeking genetic testing  
404 demonstrates good cause, the court may order genetic testing of a deceased individual.

405 SECTION 410. IDENTICAL SIBLINGS.

406 (a) If the court finds there is reason to believe that an alleged genetic parent has an  
407 identical sibling and evidence that the sibling may be a genetic parent of the child, the court may  
408 order genetic testing of the sibling.

409 (b) If more than one sibling is identified under Section 405 as a genetic parent of the  
410 child, the court may rely on nongenetic evidence to adjudicate which sibling is a genetic parent  
411 of the child.

#### 412 SECTION 411. CONFIDENTIALITY OF GENETIC TESTING.

413 (a) A report of genetic testing for parentage is exempt from public inspection and  
414 copying, shall not be a public record as defined in section seven of chapter four, and shall be kept  
415 confidential and released only as provided in this act.

416 (b) A person shall not intentionally release a report of genetic testing or the genetic  
417 material of another person for a purpose not relevant to a parentage proceeding without the  
418 written permission of the person who furnished the genetic material or a court order. A person  
419 who violates this section shall be punished by imprisonment in a jail or house of correction for  
420 not more than six months or by a fine of not more than one thousand dollars.

421

### 422 ARTICLE 5

#### 423 PROCEEDING TO ADJUDICATE PARENTAGE

#### 424 SECTION 501. PROCEEDING AUTHORIZED.



425 (a) A proceeding may be commenced to adjudicate the parentage of a child. Except as  
426 otherwise provided in this act, the proceeding is governed by the Massachusetts Rules of  
427 Domestic Relations Procedure.

428 (b) A proceeding to adjudicate the parentage of a child born under a surrogacy agreement  
429 is governed by Article 7.

430 SECTION 502. STANDING TO MAINTAIN PROCEEDING.

431 Except as otherwise provided in Article 3 and Sections 508 through 511, a proceeding to  
432 adjudicate parentage may be maintained by:

433 (1) the child;

434 (2) the individual who gave birth to the child, unless a court has adjudicated that the  
435 individual is not a parent;

436 (3) an individual who is a parent under this act;

437 (4) an individual whose parentage of the child is to be adjudicated;

438 (5) if the child is or was a recipient of any type of public assistance, by the IV–D agency  
439 as set forth in chapter 119A on behalf of the department of transitional assistance, the department  
440 of children and families, the division of medical assistance or any other public assistance  
441 program of the commonwealth;

442 (6) by the authorized agent of the department of children and families or any agency  
443 licensed under chapter 15D provided that the child is in their custody; or,

444 (7) a representative authorized by law of this state other than this act to act for an  
445 individual who otherwise would be entitled to maintain a proceeding but is deceased,  
446 incapacitated, or a minor.

447 SECTION 503. NOTICE OF PROCEEDING.

448 (a) The petitioner shall give notice of a proceeding to adjudicate parentage under Article  
449 5 to the following individuals:

450 (1) the individual who gave birth to the child, unless a court has adjudicated that this  
451 individual is not a parent;

452 (2) an individual who is a parent of the child under this act;

453 (3) a presumed, acknowledged, or adjudicated parent of the child;

454 (4) an individual whose parentage of the child is to be adjudicated; and

455 (5) the child, if the child is above the age of 14.

456 (b) An individual entitled to notice under subsection (a) has a right to intervene in the  
457 proceeding.

458 (c) Lack of notice required by subsection (a) does not render a judgment void. Lack of  
459 notice does not preclude an individual entitled to notice under subsection (a) from bringing a  
460 proceeding under Section 511(b).

461 (d) Notice shall be by first-class mail to the individual's last known address.

462 SECTION 504. PERSONAL JURISDICTION.

463 (a) The court may adjudicate an individual’s parentage of a child only if the court has  
464 personal jurisdiction over the individual.

465 (b) A court of this state with jurisdiction to adjudicate parentage may exercise personal  
466 jurisdiction over a nonresident individual, or the guardian or conservator of the individual, if the  
467 conditions prescribed in G. L. c. 209D, §2-201 are satisfied.

468

469 (c) Lack of jurisdiction over one individual does not preclude the court from making an  
470 adjudication of parentage binding on another individual.

471 SECTION 505. VENUE. Venue for a proceeding to adjudicate parentage is in the  
472 county of this state in which:

473 (1) the child resides or is located or, for the purposes of Article 6 or 7 of this act, is or  
474 will be born;

475 (2) any parent or intended parent resides;

476 (3) the respondent resides or is located if the child does not reside in this state; or

477 (4) a proceeding has been commenced for administration of the estate of an individual  
478 who is or may be a parent under this act.

479 SECTION 506. ADMISSIBILITY OF RESULTS OF GENETIC TESTING.

480 (a) Except as otherwise provided in Section 402(b), the court shall admit a report of  
481 genetic testing ordered by the court under Section 403 as evidence of the truth of the facts  
482 asserted in the report.

483 (b) A party may object to the admission of a report described in subsection (a), not later  
484 than 14 days after the party receives the report. The party shall cite specific grounds for  
485 exclusion.

486 (c) A party that objects to the results of genetic testing may call a genetic-testing expert to  
487 testify in person or by another method approved by the court. Unless the court orders otherwise,  
488 the party offering the testimony bears the expense for the expert testifying.

489 (d) Admissibility of a report of genetic testing is not affected by whether the testing was  
490 performed:

491 (1) voluntarily or under an order of the court or a child-support agency; or

492 (2) before, on, or after commencement of the proceeding.

493 SECTION 507. ADJUDICATING PARENTAGE OF CHILD WITH ALLEGED  
494 GENETIC PARENT.

495 (a) A proceeding to determine whether an alleged genetic parent who is not a presumed  
496 parent is a parent of a child may be commenced:

497 (1) before the child attains 18 years of age; or

498 (2) after the child attains 18 years of age, but only if the child initiates the proceeding.

499 (b) Except as otherwise provided in Section 514, this subsection applies in a proceeding  
500 described in subsection (a) if the individual who gave birth to the child is the only other  
501 individual with a claim to parentage of the child. The court shall adjudicate an alleged genetic  
502 parent to be a parent of the child if the alleged genetic parent:

503 (1) is identified under Section 406 as a genetic parent of the child and the identification is  
504 not successfully challenged under Section 406;

505 (2) admits parentage in a pleading, when making an appearance, or during a hearing, the  
506 court accepts the admission, and the court determines the alleged genetic parent to be a parent of  
507 the child;

508 (3) declines to submit to genetic testing ordered by the court or a child-support agency, in  
509 which case the court may adjudicate the alleged genetic parent to be a parent of the child even if  
510 the alleged genetic parent denies a genetic relationship with the child;

511 (4) is in default after service of process and the court determines the alleged genetic  
512 parent to be a parent of the child; or

513 (5) is neither identified nor excluded as a genetic parent by genetic testing and, based on  
514 other evidence, the court determines the alleged genetic parent to be a parent of the child.

515 (c) Except as otherwise provided in Section 514 and subject to other limitations in this  
516 part, if in a proceeding involving an alleged genetic parent, at least one other individual in  
517 addition to the individual who gave birth to the child has a claim to parentage of the child, the  
518 court shall adjudicate parentage under Section 513.

519 SECTION 508. ADJUDICATING PARENTAGE OF CHILD WITH PRESUMED  
520 PARENT.

521 (a) A proceeding to determine whether a presumed parent is a parent of a child may be  
522 commenced:

523 (1) before the child attains 18 years of age; or

524 (2) after the child attains 18 years of age, but only if the child initiates the proceeding.

525 (b) A presumption of parentage under Section 204 cannot be overcome after the child  
526 attains two years of age unless the court determines:

527 (1) the presumed parent is not a genetic parent, never resided with the child, and never  
528 held out the child as the presumed parent's child; or

529 (2) the child has more than one presumed parent.

530 (c) Except as otherwise provided in Section 514, the following rules apply in a  
531 proceeding to adjudicate a presumed parent's parentage of a child if the individual who gave  
532 birth to the child is the only other individual with a claim to parentage of the child:

533 (1) If no party to the proceeding challenges the presumed parent's parentage of the child,  
534 the court shall adjudicate the presumed parent to be a parent of the child.

535 (2) If the presumed parent is identified under Section 406 as a genetic parent of the child  
536 and that identification is not successfully challenged under Section 406, the court shall adjudicate  
537 the presumed parent to be a parent of the child.

538 (3) If the presumed parent is not identified under Section 406 as a genetic parent of the  
539 child and the presumed parent or the individual who gave birth to the child challenges the  
540 presumed parent's parentage of the child, the court shall adjudicate the parentage of the child in  
541 the best interest of the child based on the factors under Section 513(a) and (b).

542 (d) Except as otherwise provided in Section 514 and subject to other limitations in this  
543 part, if in a proceeding to adjudicate a presumed parent's parentage of a child, another individual

544 in addition to the individual who gave birth to the child asserts a claim to parentage of the child,  
545 the court shall adjudicate parentage under Section 513.

546 SECTION 509. ADJUDICATING CLAIM OF DE FACTO PARENTAGE OF CHILD.

547 (a) A proceeding to establish parentage of a child under this section may be commenced  
548 only by an individual who:

549 (1) is alive when the proceeding is commenced; and

550 (2) claims to be a de facto parent of the child.

551 (b) An individual who claims to be a de facto parent of a child must commence a  
552 proceeding to establish parentage of a child under this section:

553 (1) before the child attains 18 years of age; and

554 (2) while the child is alive.

555 (c) The following rules govern standing of an individual who claims to be a de facto  
556 parent of a child to maintain a proceeding under this section:

557 (1) The individual must file an initial verified pleading alleging specific facts that support  
558 the claim to parentage of the child asserted under this section. The verified pleading must be  
559 served on all parents and legal guardians of the child and any other party to the proceeding.

560 (2) An adverse party, parent, or legal guardian may file a pleading in response to the  
561 pleading filed under paragraph (1). A responsive pleading must be verified and must be served  
562 on parties to the proceeding.

563 (3) Unless the court finds a hearing is necessary to determine disputed facts material to  
564 the issue of standing, the court shall determine, based on the pleadings under paragraphs (1) and  
565 (2), whether the individual has alleged facts sufficient to satisfy by a preponderance of the  
566 evidence the requirements of paragraphs (1) through (7) of subsection (d).

567 If the court holds a hearing under this subsection, the hearing must be held on an  
568 expedited basis. The court may order an interim order concerning contact between the child and  
569 an individual with standing seeking adjudication under this section as a de facto parent of the  
570 child.

571 (d) In a proceeding to adjudicate parentage of an individual who claims to be a de facto  
572 parent of the child, if there is only one other individual who is a parent or has a claim to  
573 parentage of the child, the court shall adjudicate the individual who claims to be a de facto parent  
574 to be a parent of the child if the individual demonstrates by clear-and convincing evidence that:

575 (1) the individual resided with the child as a regular member of the child's household for  
576 a significant period;

577 (2) the individual engaged in consistent caretaking of the child;

578 (3) the individual undertook full and permanent responsibilities of a parent of the child  
579 without expectation of financial compensation;

580 (4) the individual held out the child as the individual's child;

581 (5) the individual established a bonded and dependent relationship with the child which is  
582 parental in nature;



583 (6) another parent of the child fostered or supported the bonded and dependent  
584 relationship required under paragraph (5); and

585 (7) continuing the relationship between the individual and the child is in the best interest  
586 of the child.

587 (e) Subject to other limitations in this part, if in a proceeding to adjudicate parentage of  
588 an individual who claims to be a de facto parent of the child, there is more than one other  
589 individual who is a parent or has a claim to parentage of the child and the court determines that  
590 the requirements of subsection (d) are satisfied, the court shall adjudicate parentage under  
591 Section 513.

592 (f) The adjudication of a person as a de facto parent under this section does not  
593 disestablish the parentage of any other parent.

594 SECTION 510. ADJUDICATING PARENTAGE OF CHILD WITH  
595 ACKNOWLEDGED PARENT.

596 (a) If a child has an acknowledged parent, a proceeding to challenge the acknowledgment  
597 of parentage or a denial of parentage, brought by a signatory to the acknowledgment or denial, is  
598 governed by Sections 309 and 310.

599 (b) If a child has an acknowledged parent, the following rules apply in a proceeding to  
600 challenge the acknowledgment of parentage or a denial of parentage brought by an individual,  
601 other than the child, who has standing under Section 502 and was not a signatory to the  
602 acknowledgment or denial:

603 (1) The individual must commence the proceeding not later than two years after the  
604 effective date of the acknowledgment.

605 (2) The court may permit the proceeding only if the court finds permitting the proceeding  
606 is in the best interest of the child.

607 (3) If the court permits the proceeding, the court shall adjudicate parentage under Section  
608 513.

609 SECTION 511. ADJUDICATING PARENTAGE OF CHILD WITH ADJUDICATED  
610 PARENT.

611 (a) If a child has an adjudicated parent, a proceeding to challenge the adjudication,  
612 brought by an individual who was a party to the adjudication or received notice under Section  
613 503, is governed by the rules governing a collateral attack on a judgment.

614 (b) If a child has an adjudicated parent, the following rules apply to a proceeding to  
615 challenge the adjudication of parentage brought by an individual, other than the child, who has  
616 standing under Section 502 and was not a party to the adjudication and did not receive notice  
617 under Section 503:

618 (1) The individual must commence the proceeding not later than two years after the  
619 effective date of the adjudication.

620 (2) The court may permit the proceeding only if the court finds permitting the proceeding  
621 is in the best interest of the child.

622 (3) If the court permits the proceeding, the court shall adjudicate parentage under Section  
623 513.

624 SECTION 512. ADJUDICATING PARENTAGE OF CHILD OF ASSISTED  
625 REPRODUCTION.

626 An individual who is a parent under Article 6 or the individual who gave birth to the  
627 child may bring a proceeding to adjudicate parentage. If the court determines the individual is a  
628 parent under Article 6, the court shall adjudicate the individual to be a parent of the child.

629 SECTION 513. ADJUDICATING COMPETING CLAIMS OF PARENTAGE.

630 (a) Except as otherwise provided in Section 514, in a proceeding to adjudicate competing  
631 claims of, or challenges under Section 508(c), 510, or 511 to, parentage of a child by two or  
632 more individuals, the court shall adjudicate parentage in the best interest of the child, based on:

633 (1) the age of the child;

634 (2) the length of time during which each individual assumed the role of parent of the  
635 child;

636 (3) the nature of the relationship between the child and each individual;

637 (4) the harm to the child if the relationship between the child and each individual is not  
638 recognized;

639 (5) the basis for each individual's claim to parentage of the child; and

640 (6) other equitable factors arising from the disruption of the relationship between the  
641 child and each individual or the likelihood of other harm to the child.

642 (b) If an individual challenges parentage based on the results of genetic testing, in  
643 addition to the factors listed in subsection (a), the court shall consider:

644 (1) the facts surrounding the discovery that the individual might not be a genetic parent of  
645 the child; and

646 (2) the length of time between the time that the individual was placed on notice that the  
647 individual might not be a genetic parent and the commencement of the proceeding.

648 (c) The court may adjudicate a child to have more than two parents under this act if the  
649 court finds that it is in the best interests of the child to do so. A finding of best interests of the  
650 child under this subsection does not require a finding of unfitness of any parent or person seeking  
651 an adjudication of parentage.

652 SECTION 514. PRECLUDING ESTABLISHMENT OF PARENTAGE BY  
653 PERPETRATOR OF SEXUAL ASSAULT.

654 (a) In this section, “sexual assault” shall include offenses under sections 22 to 23B,  
655 inclusive, of chapter 265 or section 2, 3, 4 or 17 of chapter 272, and similar offenses in other  
656 jurisdictions.

657 (b) In a proceeding in which a person is alleged to have committed a sexual assault that  
658 resulted in the birth of a child, the individual giving birth may seek to preclude the establishment  
659 of the other person’s parentage.

660 (c) This section shall not apply if:

661 (1) the person alleged to have committed the sexual assault has previously been  
662 adjudicated to be a parent of the child; or

663 (2) after the birth of the child, the person alleged to have committed the sexual assault  
664 established a bonded and dependent relationship with the child which is parental in nature.

665 (d) Unless Section 309 or 507 applies, a person giving birth must file a pleading making  
666 an allegation under subsection (b) not later than two years after the birth of the child. The  
667 individual may file the pleading only in a proceeding to establish parentage under this act.

668 (e) An allegation under subsection (b) may be proved by:

669 (1) evidence that the person alleged to have committed the sexual assault was convicted  
670 of a sexual assault, or a comparable crime in another jurisdiction, against the person giving birth  
671 and the child was born not later than 300 days after the sexual assault; or

672 (2) clear and convincing evidence that the person sexually assaulted the person who gave  
673 birth to the child and the child was born not later than 300 days after the sexual assault,  
674 regardless of whether criminal charges were brought against the person.

675 (f) Subject to subsections (a) through (d), if the court determines that an allegation has  
676 been proved under subsection (e), the court shall:

677 (1) adjudicate that the person alleged to have committed the sexual assault is not a parent  
678 of the child;

679 (2) require the Department of Public Health to amend the birth certificate if requested by  
680 the person giving birth and

681 (3) require the person alleged to have committed the sexual assault to pay child support,  
682 birth-related costs, or both, unless the person giving birth requests otherwise.

683 SECTION 515. TEMPORARY ORDER.

684 (a) In a proceeding under this article, the court may issue a temporary order for child  
685 support if the order is consistent with law of this state other than this act and the individual  
686 ordered to pay support is:

687 (1) a presumed parent of the child;

688 (2) petitioning to be adjudicated a parent;

689 (3) identified as a genetic parent through genetic testing under Section 506; (4) an alleged  
690 genetic parent who has declined to submit to genetic testing; (5) shown by a preponderance of  
691 the evidence to be a parent of the child; or (6) a parent under this act.

692 (b) A temporary order may include a provision for custody and visitation under law of  
693 this state other than this act.

694

695 SECTION 516. COMBINING PROCEEDINGS.

696 (a) Except as otherwise provided in subsection (b), the court may combine a proceeding  
697 to adjudicate parentage under this act with a proceeding for adoption, termination of parental  
698 rights, care and protection, child custody or visitation, guardianship, child support, divorce,  
699 annulment, separation, administration of an estate, or other appropriate proceeding.

700 (b) A respondent may not combine a proceeding described in subsection (a) with a  
701 proceeding to adjudicate parentage brought under the Uniform Interstate Family Support Act  
702 (Chapter 209D).

703 SECTION 517. PROCEEDING BEFORE BIRTH. Except as otherwise provided in  
704 Article 7, a proceeding to adjudicate parentage may be commenced before the birth of the child  
705 and an order or judgment may be entered before birth, but enforcement of the order or judgment  
706 of parentage must be stayed until the birth of the child.

707 SECTION 518. COURT TO ADJUDICATE PARENTAGE. The court shall adjudicate  
708 parentage of a child without a jury.

709 SECTION 519. HEARING; INSPECTION OF RECORDS.

710 (a) On request of a party and for good cause, the court may close a proceeding under this  
711 article to the public.

712 (b) A final order in a proceeding under this article is available for public inspection.  
713 Other papers and records are available for public inspection only with the consent of the parties  
714 or by court order.

715 SECTION 520. DISMISSAL FOR WANT OF PROSECUTION. The court may dismiss  
716 a proceeding under this act for want of prosecution only without prejudice. An order of dismissal  
717 for want of prosecution purportedly with prejudice is void and has only the effect of a dismissal  
718 without prejudice.

719 SECTION 521. ORDER ADJUDICATING PARENTAGE.

720 (a) In a proceeding under this article, the court shall issue a final judgment adjudicating  
721 whether a person alleged or claiming to be a parent is the parent of a child.

722 (b) A final judgment under subsection (a) of this section shall identify the child by name  
723 and date of birth.

724 (c) On request of a party and for good cause, the court in a proceeding under this article  
725 may order the name of the child changed.

726 (d) If the final judgment under subsection (a) of this section is at variance with the child's  
727 birth certificate, the court shall order the Department of Public Health to issue an amended birth  
728 certificate.

729 SECTION 522. BINDING EFFECT OF DETERMINATION OF PARENTAGE.

730 (a) Except as otherwise provided in subsection (b):

731 (1) a signatory to an acknowledgment of parentage or denial of parentage is bound by the  
732 acknowledgment and denial as provided in Article 3; and

733 (2) a party to an adjudication of parentage by a court acting under circumstances that  
734 satisfy the jurisdiction requirements of G. L. c. 209D, §2-201, and any individual who received  
735 notice of the proceeding are bound by the adjudication.

736 (b) A child is not bound by a determination of parentage under this act unless:

737 (1) the determination was based on an un-rescinded acknowledgment of parentage and  
738 the acknowledgment is consistent with the results of genetic testing;

739 (2) the determination was based on a finding consistent with the results of genetic testing,  
740 and the consistency is declared in the determination or otherwise shown;

741 (3) the determination of parentage or un-rescinded acknowledgment of parentage was  
742 made under Article 6 or 7; or



743 (4) the child was a party or was represented by an attorney, guardian ad litem, or similar  
744 individual in the proceeding in which the child’s parentage was adjudicated.

745 (c) In a proceeding for divorce or annulment, the court is deemed to have made an  
746 adjudication of parentage of a child if the court acts under circumstances that satisfy the  
747 jurisdiction requirements of G. L. c. 209D, §2-201 and the final order:

748 (1) expressly identifies the child as a “child of the marriage” or “issue of the marriage” or  
749 includes similar words indicating that both spouses are parents of the child; or

750 (2) provides for support of the child by a spouse unless that spouse’s parentage is  
751 disclaimed specifically in the order.

752 (d) Except as otherwise provided in subsection (b) or Section 511, a determination of  
753 parentage may be asserted as a defense in a subsequent proceeding seeking to adjudicate  
754 parentage of an individual who was not a party to the earlier proceeding.

755 (e) A party to an adjudication of parentage may challenge the adjudication only under law  
756 of this state other than this act relating to appeal, vacation of judgment, or other judicial review.

757 ARTICLE 6

758 ASSISTED REPRODUCTION

759 SECTION 601. SCOPE OF ARTICLE. This article does not apply to the birth of a child  
760 conceived by sexual intercourse or assisted reproduction under a surrogacy agreement under  
761 Article 7.

762 SECTION 602. PARENTAL STATUS OF DONOR. A donor is not a parent of a child  
763 conceived through assisted reproduction.

764 SECTION 603. PARENTAGE OF CHILD OF ASSISTED REPRODUCTION. An  
765 individual who consents under Section 604 to assisted reproduction by a person with the intent to  
766 be a parent of a child conceived by the assisted reproduction is a parent of the child.

767 SECTION 604. CONSENT TO ASSISTED REPRODUCTION.

768 (a) An individual who intends to be a parent of a child born through assisted reproduction  
769 shall consent to such in a signed record that is executed by each intended parent and provides  
770 that the signatories consent to the use of assisted reproduction to conceive a child with the intent  
771 to parent the child.

772 (b) Failure to consent in a record as provided by subsection (a), before, on, or after birth  
773 of the child, does not preclude the court from finding consent to parentage if the court finds by a  
774 preponderance of the evidence that:

775 (1) prior to conception or birth of the child, the parties agreed that they both intended to  
776 be the parents of the child;

777 (2) the person voluntarily participated in and consented to the procedures that resulted in  
778 the conception of the child; or

779 (3) the person resided with the child after birth and undertook to develop a parental  
780 relationship with the child.

781 SECTION 605. LIMITATION ON SPOUSE'S DISPUTE OF PARENTAGE.

782 (a) Except as otherwise provided in subsection (b), an individual who, at the time of a  
783 child's birth, is the spouse of the person who gave birth to the child by assisted reproduction may  
784 not challenge the individual's parentage of the child unless:

785 (1) not later than two years after the birth of the child, the spouse commences a  
786 proceeding to adjudicate the spouse's parentage of the child; and

787 (2) the court finds the spouse did not consent to the assisted reproduction, before, on, or  
788 after birth of the child, or withdrew consent under Section 607.

789 (b) A proceeding to challenge a spouse's parentage of a child born by assisted  
790 reproduction may be commenced at any time if the court determines:

791 (1) the spouse neither provided a gamete for, nor consented to, the assisted reproduction;

792 (2) the spouse and the person who gave birth to the child have not cohabited since the  
793 probable time of assisted reproduction; and

794 (3) the spouse never openly held out the child as the spouse's child.

795 (c) This section applies to a spouse's dispute of parentage even if the spouse's marriage is  
796 declared invalid after assisted reproduction occurs.

797 SECTION 606. EFFECT OF CERTAIN LEGAL PROCEEDINGS REGARDING  
798 MARRIAGE. If a marriage of a person who gives birth to a child conceived by assisted  
799 reproduction is terminated through divorce or annulment before transfer or implantation of  
800 gametes or embryos to the person giving birth, a former spouse of the person giving birth is not a  
801 parent of the child unless the former spouse consented in a record that the former spouse would

802 be a parent of the child if assisted reproduction were to occur after a divorce or annulment, and  
803 the former spouse did not withdraw consent under Section 607.

804 SECTION 607. WITHDRAWAL OF CONSENT.

805 (a) An individual who consents under Section 604 to assisted reproduction may withdraw  
806 consent any time before a transfer or implantation of gametes or embryos that results in a  
807 pregnancy, by giving notice in a record of the withdrawal of consent to the person who agreed to  
808 give birth to a child conceived by assisted reproduction and to any clinic or health-care provider  
809 who may be facilitating the assisted reproduction. Failure to give notice to the clinic or health-  
810 care provider does not affect a determination of parentage under this act.

811 (b) An individual who withdraws consent under subsection (a) is not a parent of the child  
812 under this article.

813 SECTION 608. PARENTAL STATUS OF DECEASED INDIVIDUAL.

814 (a) If an individual who intends to be a parent of a child conceived by assisted  
815 reproduction dies during the period between the transfer or implantation of a gamete or embryo  
816 and the birth of the child, the individual's death does not preclude the establishment of the  
817 individual's parentage of the child if the individual otherwise would be a parent of the child  
818 under this act.

819 (b) If an individual who consented in a record to assisted reproduction by a person who  
820 agreed to give birth to a child dies before a transfer or implantation of gametes or embryos, the  
821 deceased individual is a parent of a child conceived by the assisted reproduction only if:

822 (1) either:

823 (A) the individual consented in a record that if assisted reproduction were to occur after  
824 the death of the individual, the individual would be a parent of the child; or

825 (B) the individual's intent to be a parent of a child conceived by assisted reproduction  
826 after the individual's death is established by a preponderance of the evidence; and

827 (2) either:

828 (A) the embryo is in utero not later than 36 months after the individual's death; or

829 (B) the child is born not later than 45 months after the individual's death.

830

831 SECTION 609. LABORATORY ERROR.

832 If due to a laboratory error the child is not genetically related to either of the intended  
833 parents, the intended parent or parents are the parents of the child unless otherwise determined  
834 by the court.

835 ARTICLE 7

836 PARENTAGE BY SURROGACY AGREEMENT PART 1

837 GENERAL REQUIREMENTS SECTION 701. DEFINITIONS.

838 In this article:

839 (1) "Genetic surrogate" means a person who is not an intended parent and who agrees to  
840 become pregnant through assisted reproduction using the surrogate's own gamete, under a  
841 genetic surrogacy agreement as provided in this article.

842 (2) “Gestational surrogate” means a person who is not an intended parent and who agrees  
843 to become pregnant through assisted reproduction using gametes that are not the surrogate’s  
844 own, under a gestational surrogacy agreement as provided in this article.

845 (3) “Surrogacy agreement” means an agreement between one or more intended parents  
846 and a person who is not an intended parent in which the person agrees to become pregnant  
847 through assisted reproduction and which provides that each intended parent is a parent of a child  
848 conceived under the agreement. Unless otherwise specified, the term refers to both a gestational  
849 surrogacy agreement and a genetic surrogacy agreement.

850 SECTION 702. ELIGIBILITY TO ENTER GESTATIONAL OR GENETIC  
851 SURROGACY AGREEMENT.

852 (a) To execute an agreement to act as a gestational or genetic surrogate, a person must:

853 (1) be at least 21 years of age;

854 (2) previously have given birth to at least one child;

855 (3) complete a medical evaluation related to the surrogacy arrangement by a licensed  
856 medical doctor;

857 (4) complete a mental-health consultation by a licensed mental-health professional; and

858 (5) have independent legal representation of the person’s choice regarding the terms of  
859 the surrogacy agreement and the potential legal consequences of the agreement and that is paid  
860 for by the intended parent or parents.

861 (b) To execute a surrogacy agreement, each intended parent, whether or not genetically  
862 related to the child, must:

863 (1) be at least 21 years of age;

864 (2) complete a medical evaluation related to the surrogacy arrangement by a licensed  
865 medical doctor;

866 (3) complete a mental-health consultation by a licensed mental health professional; and

867 (4) have independent legal representation of the intended parent's choice regarding the  
868 terms of the surrogacy agreement and the potential legal consequences of the agreement.

869 SECTION 703. REQUIREMENTS OF GESTATIONAL OR GENETIC SURROGACY  
870 AGREEMENT: PROCESS.

871 A surrogacy agreement must be executed in compliance with the following rules:

872 (1) At least one party must be a resident of this state or, if no party is a resident of this  
873 state, at least one medical evaluation or procedure or mental-health consultation under the  
874 agreement must occur in this state, or the birth is anticipated to or does occur in this state.

875 (2) A surrogate and each intended parent must meet the requirements of Section 702.

876 (3) Each intended parent, the surrogate, and the surrogate's spouse, if any, must be parties  
877 to the agreement. However, the failure of the spouse of the surrogate to be a party to the  
878 agreement shall not violate this provision if such failure is for reason of prolonged unexplained  
879 absence or separation, legal separation, incapacity, or circumstances constituting an unreasonable  
880 burden on the surrogate.

881 (4) The agreement must be in a record signed by each party listed in paragraph (3).

882 (5) The surrogate and each intended parent must acknowledge in a record receipt of a  
883 copy of the agreement.

884 (6) The signature of each party to the agreement must be attested by a notary or  
885 witnessed.

886 (7) The surrogate and the intended parent or parents must have independent legal  
887 representation regarding the terms of the surrogacy agreement and the potential legal  
888 consequences of the agreement, and each counsel must be identified in the surrogacy agreement.

889 (8) The intended parent or parents must pay for independent legal representation for the  
890 surrogate.

891 (9) The agreement must be executed before a medical procedure occurs related to the  
892 surrogacy agreement, other than the medical evaluation and mental health consultation required  
893 by Section 702.

894

895 SECTION 704. REQUIREMENTS OF GESTATIONAL OR GENETIC SURROGACY  
896 AGREEMENT: CONTENT.

897 (a) A surrogacy agreement must comply with the following requirements:

898 (1) A surrogate agrees to attempt to become pregnant by means of assisted reproduction.



899           (2) Except as otherwise provided in Sections 711, 714, and 715, the surrogate and the  
900 surrogate's spouse or former spouse, if any, have no claim to parentage of a child conceived by  
901 assisted reproduction under the agreement.

902           (3) The surrogate's spouse, if any, must acknowledge and agree to comply with the  
903 obligations imposed on the surrogate by the agreement.

904           (4) Except as otherwise provided in Sections 711, 714, and 715, the intended parent or, if  
905 there are two intended parents, each one jointly and severally, immediately on birth will be the  
906 exclusive parent or parents of the child, regardless of number of children born or gender or  
907 mental or physical condition of each child.

908           (5) Except as otherwise provided in Sections 711, 714, and 715, the intended parent or, if  
909 there are two intended parents, each parent jointly and severally, immediately on birth will  
910 assume responsibility for the financial support of the child, regardless of number of children born  
911 or gender or mental or physical condition of each child.

912           (6) The agreement must include information providing that the intended parent(s) will be  
913 responsible for the surrogacy-related expenses, including medical expenses, of the surrogate and  
914 the medical expenses of the child.

915           (7) The agreement must permit the surrogate to make all health and welfare decisions  
916 regarding the surrogate and the surrogate's pregnancy.

917           (8) The agreement must include information about each party's right under this article to  
918 terminate the surrogacy agreement.

919           (b) A surrogacy agreement may provide for:

- 920 (1) payment of consideration and reasonable expenses; and
- 921 (2) reimbursement of specific expenses if the agreement is terminated under this article.
- 922 (c) A right created under a surrogacy agreement is not assignable and there is no third-
- 923 party beneficiary of the agreement other than the child.

924 SECTION 705. SURROGACY AGREEMENT: EFFECT OF SUBSEQUENT

925 CHANGE OF MARITAL STATUS.

926 (a) Unless a surrogacy agreement expressly provides otherwise:

927 (1) the marriage of a surrogate after the agreement is signed by all parties does not affect

928 the validity of the agreement, her spouse's consent to the agreement is not required, and the

929 surrogate's spouse is not a presumed parent of a child conceived by assisted reproduction under

930 the agreement; and

931 (2) the divorce or annulment of the surrogate after the agreement is signed by all parties

932 does not affect the validity of the agreement.

933 (b) Unless a surrogacy agreement expressly provides otherwise:

934 (1) the marriage of an intended parent after the agreement is signed by all parties does not

935 affect the validity of a surrogacy agreement, the consent of the spouse of the intended parent is

936 not required, and the spouse of the intended parent is not, based on the agreement, a parent of a

937 child conceived by assisted reproduction under the agreement; and

938 (2) the divorce or annulment of an intended parent after the agreement is signed by all  
939 parties does not affect the validity of the agreement and, except as otherwise provided in Section  
940 714, the intended parents are the parents of the child.

941 SECTION 706. INSPECTION OF DOCUMENTS. Unless the court orders otherwise, a  
942 petition and any other document related to a surrogacy agreement filed with the court under this  
943 part are not open to inspection by any individual other than the parties to the proceeding, a child  
944 conceived by assisted reproduction under the agreement upon attaining the age of eighteen, or  
945 their attorneys. A court may not authorize an individual to inspect a document related to the  
946 agreement, unless required by exigent circumstances. The individual seeking to inspect the  
947 document may be required to pay the expense of preparing a copy of the document to be  
948 inspected.

949 SECTION 707. EXCLUSIVE, CONTINUING JURISDICTION. During the period  
950 after the execution of a surrogacy agreement until 90 days after the birth of a child conceived by  
951 assisted reproduction under the agreement, a court of this state conducting a proceeding under  
952 this act has exclusive, continuing jurisdiction over all matters arising out of the agreement. This  
953 section does not give the court jurisdiction over a child-custody or child-support proceeding if  
954 jurisdiction is not otherwise authorized by law of this state other than this act.

955 PART 2

956 SPECIAL RULES FOR GESTATIONAL SURROGACY AGREEMENT

957 SECTION 708. TERMINATION OF GESTATIONAL SURROGACY AGREEMENT.

958 (a) A party to a gestational surrogacy agreement may terminate the agreement, at any  
959 time before an embryo transfer, by giving notice of termination in a record to all other parties. If  
960 an embryo transfer does not result in a pregnancy, a party may terminate the agreement at any  
961 time before a subsequent embryo transfer.

962 (b) Unless a gestational surrogacy agreement provides otherwise, on termination of the  
963 agreement under subsection (a), the parties are released from the agreement, except that each  
964 intended parent remains responsible for expenses that are reimbursable under the agreement and  
965 incurred by the gestational surrogate through the date of termination.

966 (c) Except in a case involving fraud, neither a gestational surrogate nor the surrogate's  
967 spouse or former spouse, if any, is liable to the intended parent or parents for a penalty or  
968 liquidated damages, for terminating a gestational surrogacy agreement under this section.

969 SECTION 709. PARENTAGE UNDER GESTATIONAL SURROGACY  
970 AGREEMENT.

971 (a) Except as otherwise provided in subsection (c) or Section 710(b) or 712, on birth of a  
972 child conceived by assisted reproduction under a gestational surrogacy agreement, each intended  
973 parent is, by operation of law, a parent of the child. Parental rights shall vest exclusively in the  
974 intended parent or parents immediately upon birth of the resulting child.

975 (b) Except as otherwise provided in subsection (c) or Section 712, neither a gestational  
976 surrogate nor the surrogate's spouse or former spouse, if any, is a parent of the child.

977 (c) If a child is alleged to be a genetic child of the person who agreed to be a gestational  
978 surrogate, the court shall order genetic testing of the child. If the child is a genetic child of the  
979 person who agreed to be a gestational surrogate, parentage must be determined based on Articles  
980 1 through 5.

981 (d) Except as otherwise provided in subsection (c) or Section 710(b) or 712, if, due to a  
982 clinical or laboratory error, a child conceived by assisted reproduction under a gestational  
983 surrogacy agreement is not genetically related to an intended parent or a donor who donated to  
984 the intended parent or parents, each intended parent, and not the gestational surrogate and the  
985 surrogate's spouse or former spouse, if any, is a parent of the child, subject to any other claim of  
986 parentage.

987 SECTION 710. GESTATIONAL SURROGACY AGREEMENT: PARENTAGE OF  
988 DECEASED INTENDED PARENT.

989 (a) Section 709 applies to an intended parent even if the intended parent died during the  
990 period between the transfer of a gamete or embryo and the birth of the child.

991 (b) Except as otherwise provided in Section 712, an intended parent is not a parent of a  
992 child conceived by assisted reproduction under a gestational surrogacy agreement if the intended  
993 parent dies before the transfer of a gamete or embryo unless:

994 (1) the agreement provides otherwise; and

995 (2) the transfer of a gamete or embryo occurs not later than 36 months after the death of  
996 the intended parent or birth of the child occurs not later than 45 months after the death of the  
997 intended parent.

998 SECTION 711. GESTATIONAL SURROGACY AGREEMENT: ORDER OR  
999 JUDGMENT OF PARENTAGE.

1000 (a) Except as otherwise provided in Sections 709(c) or 712, before, on, or after the birth  
1001 of a child conceived by assisted reproduction under a gestational surrogacy agreement, any party  
1002 to the agreement may commence a proceeding in the Probate and Family Court in the county  
1003 where the intended parents(s) reside, where the gestational surrogate resides or where the  
1004 resulting child is born or expected to be born for an order or judgment:

1005 (1) declaring that each intended parent is a parent of the child and ordering that parental  
1006 rights and duties vest immediately on the birth of the child exclusively in each intended parent;

1007 (2) declaring that the gestational surrogate and the surrogate's spouse or former spouse, if  
1008 any, are not the parents of the child;

1009 (3) designating the content of the birth record in accordance with Chapter 46 and  
1010 directing the Department of Public Health to designate each intended parent as a parent of the  
1011 child;

1012 (4) to protect the privacy of the child and the parties, declaring that the court record and  
1013 related pleadings are not open to inspection and shall be impounded except as authorized under  
1014 Section 706;

1015 (5) if necessary, that the child be surrendered to the intended parent or parents; (6) if  
1016 necessary, that the hospital where the child will be or has been born, treat

1017 the intended parent(s) as the sole legal parent(s) for the purpose of naming and medical  
1018 decisions; and

1019 (7) for other relief the court determines necessary and proper.

1020 (b) The court may issue an order or judgment under subsection (a) before the birth of the  
1021 child. The court may stay enforcement of the order or judgment until the birth of the child.

1022 (c) Neither this state or the Department of Public Health nor any town clerk nor the  
1023 hospital where the child is to be born is a necessary party to a proceeding under subsection (a).

1024 (d) Sworn affidavits of the parties and the assisted reproductive physician demonstrating  
1025 the intent of the parties for the intended parent(s) to be the sole legal parent(s) of the child and  
1026 that the child was born pursuant to assisted reproduction shall be sufficient to permit such a  
1027 finding, and a hearing shall not be required unless the court requires additional information  
1028 which cannot reasonably be ascertained without a hearing.

1029

1030 (e) The court shall, within thirty (30) days of the filing of the petition, grant the petition  
1031 upon a finding that the intent of the parties was for the intended parent(s) to be the sole legal  
1032 parent(s) of the child and that the child was conceived through assisted reproduction pursuant to  
1033 a gestational surrogacy agreement. Such parentage orders issued under this section shall  
1034 conclusively establish or affirm, where applicable, the parent-child relationship.

1035 SECTION 712. EFFECT OF GESTATIONAL SURROGACY AGREEMENT.

1036 (a) A gestational surrogacy agreement that substantially complies with Sections 702, 703,  
1037 and 704 is enforceable.

1038 (b) If a child was conceived by assisted reproduction under a gestational surrogacy  
1039 agreement that does not substantially comply with Sections 802, 803, and 804, the court shall

1040 determine the rights and duties of the parties to the agreement consistent with the intent of the  
1041 parties at the time of execution of the agreement. Each party to the agreement and any individual  
1042 who at the time of the execution of the agreement was a spouse of a party to the agreement has  
1043 standing to maintain a proceeding to adjudicate an issue related to the enforcement of the  
1044 agreement.

1045 (c) Except as expressly provided in a gestational surrogacy agreement or subsection (d)  
1046 or (e), if the agreement is breached by the gestational surrogate or one or more intended parents,  
1047 the non-breaching party is entitled to the remedies available at law or in equity.

1048 (d) Specific performance is not a remedy available for breach by a gestational surrogate  
1049 of a provision in the agreement that the gestational surrogate be impregnated, terminate or not  
1050 terminate a pregnancy, or submit to medical procedures.

1051 (e) Except as otherwise provided in subsection (d), if an intended parent is determined to  
1052 be a parent of the child, specific performance is a remedy available for:

1053

1054 (1) breach of the agreement by a gestational surrogate which prevents the intended parent  
1055 from exercising immediately on birth of the child the full rights of parentage; or

1056 (2) breach by the intended parent which prevents the intended parent's acceptance,  
1057 immediately on birth of the child conceived by assisted reproduction under the agreement, of the  
1058 duties of parentage.

1059 PART 3

1060 SPECIAL RULES FOR GENETIC SURROGACY AGREEMENT



1061 SECTION 713. REQUIREMENTS TO VALIDATE GENETIC SURROGACY  
1062 AGREEMENT.

1063 (a) Except as otherwise provided in Section 716, to be enforceable, a genetic surrogacy  
1064 agreement must be validated by the Probate and Family Court. A proceeding to validate the  
1065 agreement must be commenced before assisted reproduction related to the surrogacy agreement.

1066 (b) The court shall issue an order validating a genetic surrogacy agreement if the court  
1067 finds that:

1068 (1) Sections 702, 703, and 704 are satisfied; and

1069 (2) all parties entered into the agreement voluntarily and understand its terms.

1070 (c) An individual who terminates a genetic surrogacy agreement under Section 714 shall  
1071 file notice of the termination with the court. On receipt of the notice, the court shall vacate any  
1072 order issued under subsection (b). An individual who does not notify the court of the termination  
1073 of the agreement is subject to sanctions.

1074 SECTION 714. TERMINATION OF GENETIC SURROGACY AGREEMENT.

1075 (a) A party to a genetic surrogacy agreement may terminate the agreement as follows:

1076 (1) An intended parent who is a party to the agreement may terminate the agreement at  
1077 any time before a gamete or embryo transfer by giving notice of termination in a record to all  
1078 other parties. If a gamete or embryo transfer does not result in a pregnancy, a party may  
1079 terminate the agreement at any time before a subsequent gamete or embryo transfer. The notice  
1080 of termination must be attested by a notarial officer or witnessed.(2) A genetic surrogate who is a  
1081 party to the agreement may withdraw consent to the agreement any time before 72 hours after the

1082 birth of a child conceived by assisted reproduction under the agreement. To withdraw consent,  
1083 the genetic surrogate must execute a notice of termination in a record stating the surrogate's  
1084 intent to terminate the agreement. The notice of termination must be attested by a notary or  
1085 witnessed and be delivered to each intended parent any time before 72 hours after the birth of the  
1086 child.

1087 (b) On termination of the genetic surrogacy agreement under subsection (a), the parties  
1088 are released from all obligations under the agreement except that each intended parent remains  
1089 responsible for all expenses incurred by the surrogate through the date of termination which are  
1090 reimbursable under the agreement. Unless the agreement provides otherwise, the surrogate is not  
1091 entitled to any non-expense related compensation paid for serving as a surrogate.

1092 (c) Except in a case involving fraud, neither a genetic surrogate nor the surrogate's  
1093 spouse or former spouse, if any, is liable to the intended parent or parents for a penalty or  
1094 liquidated damages, for terminating a genetic surrogacy agreement under this section.

1095 SECTION 715. PARENTAGE UNDER VALIDATED GENETIC SURROGACY  
1096 AGREEMENT.

1097 (a) Unless a genetic surrogate exercises the right under Section 714 to terminate a genetic  
1098 surrogacy agreement, each intended parent is a parent of a child conceived by assisted  
1099 reproduction under an agreement validated under Section 713.

1100 (b) Unless a genetic surrogate exercises the right under Section 714 to terminate the  
1101 genetic surrogacy agreement, on proof of a court order issued under Section 713 validating the  
1102 agreement and on petition of any party to the agreement no early than 72 hours after the birth,  
1103 the court shall make an order:

1104 (1) declaring that each intended parent is a parent of a child conceived by assisted  
1105 reproduction under the agreement and ordering that parental rights and duties vest exclusively in  
1106 each intended parent;

1107 (2) declaring that the genetic surrogate and the surrogate's spouse or former spouse, if  
1108 any, are not parents of the child;

1109 (3) designating the contents of the birth certificate in accordance with Chapter 46 and  
1110 directing the Department of Public Health to designate each intended parent as a parent of the  
1111 child;

1112 (4) to protect the privacy of the child and the parties, declaring that the court record is not  
1113 open to inspection except as authorized under Section 706;

1114 (5) if necessary, that the child be surrendered to the intended parent or parents; and

1115 (6) for other relief the court determines necessary and proper.

1116 (c) If a genetic surrogate terminates under Section 714(a)(2) a genetic surrogacy  
1117 agreement, parentage of the child conceived by assisted reproduction under the agreement must  
1118 be determined under Articles 1 through 5.

1119 (d) Except as otherwise provided in subsection (e) or Section 717, if, due to a clinical or  
1120 laboratory error, a child conceived by assisted reproduction under a genetic surrogacy agreement  
1121 is not genetically related to an intended parent or a donor who donated to the intended parent or  
1122 parents, each intended parent, and not the genetic surrogate and the surrogate's spouse or former  
1123 spouse, if any, is a parent of the child, subject to any other claim of parentage.

1124 (e) If a child born to a genetic surrogate is alleged not to have been conceived by assisted  
1125 reproduction, the court shall order genetic testing to determine the genetic parentage of the child.  
1126 If the child was not conceived by assisted reproduction, parentage must be determined under  
1127 Articles 1 through 5, and unless the genetic surrogacy agreement provides otherwise, the  
1128 surrogate is not entitled to any non-expense related compensation paid for serving as a surrogate.

1129 (f) Unless a genetic surrogate exercises the right under Section 714 to terminate the  
1130 genetic surrogacy agreement, if an intended parent fails to file notice required under Section  
1131 714(a), the genetic surrogate or the state IV-D agency may file with the court, not later than 60  
1132 days after the birth of a child conceived by assisted reproduction under the agreement, notice that  
1133 the child has been born to the genetic surrogate. Unless the genetic surrogate has properly  
1134 exercised the right under Section 714 to withdraw consent to the agreement, on proof of a court  
1135 order issued under Section 713 validating the agreement, the court shall order that each intended  
1136 parent is a parent of the child.

1137 SECTION 716. EFFECT OF NONVALIDATED GENETIC SURROGACY  
1138 AGREEMENT.

1139 (a) A genetic surrogacy agreement, whether or not in a record, that is not validated under  
1140 Section 713 is enforceable only to the extent provided in this section and Section 718.

1141 (b) If all parties agree, a court may validate a genetic surrogacy agreement after assisted  
1142 reproduction has occurred but before the birth of a child conceived by assisted reproduction  
1143 under the agreement.

1144 (c) If a child conceived by assisted reproduction under a genetic surrogacy agreement that  
1145 is not validated under Section 713 is born and the genetic surrogate, consistent with Section

1146 714(a)(2), withdraws her consent to the agreement before 72 hours after the birth of the child, the  
1147 court shall adjudicate the parentage of the child under Articles 1 through 5.

1148 (d) If a child conceived by assisted reproduction under a genetic surrogacy agreement  
1149 that is not validated under Section 713 is born and a genetic surrogate does not withdraw her  
1150 consent to the agreement, consistent with Section 714(a)(2), before 72 hours after the birth of the  
1151 child, the genetic surrogate is not automatically a parent and the court shall adjudicate parentage  
1152 of the child based on the best interest of the child, taking into account the factors in Section  
1153 513(a) and the intent of the parties at the time of the execution of the agreement.

1154 (e) The parties to a genetic surrogacy agreement have standing to maintain a proceeding  
1155 to adjudicate parentage under this section.

1156 SECTION 717. GENETIC SURROGACY AGREEMENT: PARENTAGE OF  
1157 DECEASED INTENDED PARENT.

1158 (a) Except as otherwise provided in Section 715 or 716, on birth of a child conceived by  
1159 assisted reproduction under a genetic surrogacy agreement, each intended parent is, by operation  
1160 of law, a parent of the child, notwithstanding the death of an intended parent during the period  
1161 between the transfer of a gamete or embryo and the birth of the child.

1162 (b) Except as otherwise provided in Section 715 or 716, an intended parent is not a parent  
1163 of a child conceived by assisted reproduction under a genetic surrogacy agreement if the  
1164 intended parent dies before the transfer of a gamete or embryo unless:

1165 (1) the agreement provides otherwise; and

1166 (2) the transfer of the gamete or embryo occurs not later than 36 months after the death of  
1167 the intended parent, or birth of the child occurs not later than 45 months after the death of the  
1168 intended parent.

1169 SECTION 718. BREACH OF GENETIC SURROGACY AGREEMENT.

1170 (a) Subject to Section 714(b), if a genetic surrogacy agreement is breached by a genetic  
1171 surrogate or one or more intended parents, the non-breaching party is entitled to the remedies  
1172 available at law or in equity.

1173 (b) Specific performance is not a remedy available for breach by a genetic surrogate of a  
1174 requirement of a validated or non-validated genetic surrogacy agreement that the surrogate be  
1175 impregnated, terminate or not terminate a pregnancy, or submit to medical procedures.

1176 (c) Except as otherwise provided in subsection (b), specific performance is a remedy  
1177 available for:

1178 (1) breach of a validated genetic surrogacy agreement by a genetic surrogate of a  
1179 requirement which prevents an intended parent from exercising the full rights of parentage 72  
1180 hours after the birth of the child; or

1181 (2) breach by an intended parent which prevents the intended parent's acceptance of  
1182 duties of parentage 72 hours after the birth of the child.

1183 ARTICLE 8

1184 MISCELLANEOUS PROVISIONS

1185 SECTION 801. UNIFORMITY OF APPLICATION AND CONSTRUCTION. In  
1186 applying and construing this uniform act, consideration must be given to the need to promote  
1187 uniformity of the law with respect to its subject matter among states that enact it.

1188 SECTION 802. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND  
1189 NATIONAL COMMERCE ACT. This act modifies, limits, or supersedes the Electronic  
1190 Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001 et seq., but does not  
1191 modify limit, or supersede Section 101(c) of that act, 15 U.S.C. Section 7001(c), or authorize  
1192 electronic delivery of any of the notices described in Section 103(b) of that act, 15 U.S.C.  
1193 Section 7003(b).

1194 SECTION 803. TRANSITIONAL PROVISION. This act applies to a pending  
1195 proceeding to adjudicate parentage commenced before the effective date of this act for an issue  
1196 on which a judgment has not been entered.

1197 SECTION 804. REPEALS; CONFORMING AMENDMENTS. Insofar as the provisions  
1198 of this act differ from provisions regarding the establishment of parentage in Chapter  
1199 209C, the provisions of this act shall supersede Chapter 209C.

1200 SECTION 805. EFFECTIVE DATE. This act takes effect sixty days after enactment.