

**HOUSE . . . . . No. 4750**

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House bill No. 4672, as changed by the House committee on Bills in the Third Reading and as amended and passed to be engrossed. June 12, 2024.

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**The Commonwealth of Massachusetts**

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**In the One Hundred and Ninety-Third General Court  
(2023-2024)**  
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An Act to ensure legal parentage equality.

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

1           SECTION 1. Section 4B of chapter 46 of the General Laws is hereby repealed.

2           SECTION 2. Section 13 of said chapter 46, as appearing in the 2022 Official Edition, is  
3 hereby amended by striking out, in lines 53 to 56, inclusive, the words “paternity by a court or  
4 administrative agency of competent jurisdiction in the commonwealth and the court orders the  
5 state registrar to amend the birth certificate to include the information relating to the father” and  
6 inserting in place thereof the following words:- parentage by a court or administrative agency of  
7 competent jurisdiction in the commonwealth and the court orders the state registrar to originally  
8 issue or to amend the birth certificate to include the information relating to the parentage of the  
9 child.

10           SECTION 2A. Chapter 209C of the General Laws is hereby amended by striking out the  
11 title, as so appearing, and inserting in place thereof the following title: NONMARITAL  
12 CHILDREN AND PARENTAGE OF CHILDREN.

13 SECTION 3. Section 1 of said chapter 209C, as so appearing, is hereby amended by  
14 inserting after the first sentence the following sentence:- Every child shall have the same rights  
15 and protections under law to parentage without regard to the marital status, gender, gender  
16 identity or sexual orientation of their parents or the circumstances of their birth, including  
17 whether they were born as a result of assisted reproduction or surrogacy.

18 SECTION 4. Said section 1 of said chapter 209C, as so appearing, is hereby further  
19 amended by striking out, in lines 7 and 8, 14, 15 and 17, the word “paternity”, each time it  
20 appears, and inserting in place thereof, in each instance, the following word:- parentage.

21 SECTION 5. Said section 1 of said chapter 209C, as so appearing, is hereby further  
22 amended by striking out, in lines 11 and 20, the words “child born out of wedlock”, each time  
23 they appear, and inserting in place thereof, in each instance, the following words:- nonmarital  
24 child.

25 SECTION 6. Said section 1 of said chapter 209C, as so appearing, is hereby further  
26 amended by striking out, in lines 11 and 12, the words “a man and woman” and inserting in place  
27 thereof the following word:- persons.

28 SECTION 7. Said section 1 of said chapter 209C, as so appearing, is hereby further  
29 amended by striking out, in lines 20 and 25, the word “his”, each time it appears, and inserting in  
30 place thereof, in each instance, the following word:- their.

31 SECTION 8. Said chapter 209C is hereby further amended by inserting after section 1 the  
32 following section:-

33 Section 1A. For purposes of this chapter, unless the context clearly indicates otherwise,  
34 the following terms shall have the following meanings:

35           “Acknowledged parent”, a person who has established a parent-child relationship through  
36 a voluntary acknowledgement of parentage.

37           “Adjudicated parent”, a person who has been adjudicated to be a parent of a child by a  
38 court with jurisdiction.

39           “Alleged genetic parent”, a person who is alleged to be or alleges to be a genetic parent  
40 of a child whose parentage has not been adjudicated. The term includes a putative parent, an  
41 alleged genetic father and an alleged genetic mother. The term does not include a presumed  
42 parent, an individual whose parental rights have been terminated or declared not to exist, or a  
43 donor as defined in section 27.

44           “Assisted reproduction”, a method of causing pregnancy other than sexual intercourse,  
45 which includes, but is not limited to, artificial insemination, intrauterine, intracervical or vaginal  
46 insemination, donation of gametes or embryos, in vitro fertilization and transfer of embryos, and  
47 intracytoplasmic sperm injection.

48           “Donor”, a person who provides a gamete or embryo intended for use in assisted  
49 reproduction or gestation, whether or not for consideration; provided, however, that this term  
50 does not include a person who consents to assisted reproduction with the intent to be a parent of  
51 the resulting child.

52           “Genetic surrogacy agreement”, a surrogacy agreement involving a genetic surrogate.

53           “Genetic surrogate”, a person who is not an intended parent and agrees to become  
54 pregnant through assisted reproduction using their own gamete under a genetic surrogacy  
55 agreement as provided in this chapter.

56 “Gestational surrogacy agreement”, a surrogacy agreement involving a gestational  
57 surrogate.

58 “Gestational surrogate”, a person who is not an intended parent and agrees to become  
59 pregnant through assisted reproduction using gametes that are not their own under a gestational  
60 surrogacy agreement as provided in this chapter.

61 “Intended parent”, a person, whether married or unmarried, who manifests an intent to be  
62 legally bound as a parent of a child resulting from assisted reproduction.

63 “Nonmarital child”, any child born to persons who are not married to each other.

64 “Parent”, a person who has established parentage of a child through: (a) birth except as  
65 otherwise provided in sections 28 to 28P, inclusive; (b) presumption pursuant to section 6; (c)  
66 adjudication by a court of competent jurisdiction; (d) adoption pursuant to chapter 210; (e)  
67 acknowledgement pursuant to section 11; (f) de facto parentage pursuant to section 25; (g)  
68 assisted reproduction pursuant to section 27; or (h) surrogacy pursuant to sections 28 to 28P,  
69 inclusive.

70 “Parentage” or “parent-child relationship”, the legal relationship between a child and a  
71 parent of the child.

72 “Presumed parent”, a person who under section 6 is presumed to be a parent of a child,  
73 unless the presumption is overcome in a judicial proceeding, a valid denial of parentage is made  
74 under section 11 or a court adjudicates the person to be a parent.

75 “Surrogacy agreement”, an agreement between 1 or more intended parents and a person  
76 who is not an intended parent in which that person agrees to become pregnant through assisted

77 reproduction and which provides that each intended parent is a parent of a child conceived under  
78 the agreement.

79 “Surrogate”, a genetic surrogate or gestational surrogate.

80 SECTION 9. Section 2 of said chapter 209C, as appearing in the 2022 Official Edition, is  
81 hereby amended by striking out, in line 1, the word “Paternity” and inserting in place thereof the  
82 following word:- Parentage.

83 SECTION 10. Said section 2 of said chapter 209C, as so appearing, is hereby further  
84 amended by striking out, in lines 5, 6, 12, 13, 16 and 18, the word “paternity”, each time it  
85 appears, and inserting in place thereof, in each instance, the following word:- parentage.

86 SECTION 11. Section 3 of said chapter 209C, as so appearing, is hereby amended by  
87 striking out, in lines 3, 7, 32, 35 and 36 and 51, the word “paternity”, each time it appears, and  
88 inserting in place thereof, in each instance, the following word:- parentage.

89 SECTION 12. Said section 3 of said chapter 209C, as so appearing, is hereby further  
90 amended by inserting after the word “parentage”, in line 4, the following words:- under this  
91 chapter.

92 SECTION 13. Said section 3 of said chapter 209C, as so appearing, is hereby further  
93 amended by striking out, in line 13, the word “his” and inserting in place thereof the following  
94 word:- their.

95 SECTION 14. Section 4 of said chapter 209C, as so appearing, is hereby amended by  
96 striking out, in lines 1 and 11, the word “paternity”, each time it appears, and inserting in place  
97 thereof, in each instance, the following word:- parentage.

98 SECTION 15. Section 5 of said chapter 209C, as so appearing, is hereby amended by  
99 striking out, in lines 1 and 2, 19, 55, 60 and 62, the word “paternity”, each time it appears, and  
100 inserting in place thereof, in each instance, the following word:- parentage.

101 SECTION 16. Said section 5 of said chapter 209C, as so appearing, is hereby further  
102 amended by striking out, in line 3, the word “mother” and inserting in place thereof the following  
103 words:- person who gave birth.

104 SECTION 17. Said section 5 of said chapter 209C, as so appearing, is hereby further  
105 amended by striking out, in lines 4 and 9, the word “father”, each time it appears, and inserting in  
106 place thereof, in each instance, the following words:- other parent.

107 SECTION 18. Said section 5 of said chapter 209C, as so appearing, is hereby further  
108 amended by striking out, in lines 4 and 21, the word “himself”, each time it appears, and  
109 inserting in place thereof, in each instance, the following word:- themselves.

110 SECTION 19. Said section 5 of said chapter 209C, as so appearing, is hereby further  
111 amended by striking out, in line 7, the words “mother if the mother” and inserting in place  
112 thereof the following words:- person who gave birth if that person.

113 SECTION 20. Said section 5 of said chapter 209C, as so appearing, is hereby further  
114 amended by striking out, in line 17, the words “mother of the child” and inserting in place  
115 thereof the following words:- person who gave birth.

116 SECTION 21. Said section 5 of said chapter 209C, as so appearing, is hereby further  
117 amended by striking out, in lines 21 and 22, the words “father unless he is or was the mother’s

118 husband” and inserting in place thereof the following words:- parent unless they are or were the  
119 spouse.

120 SECTION 22. Said section 5 of said chapter 209C, as so appearing, is hereby further  
121 amended by striking out subsection (b) and inserting in place thereof the following subsection:-

122 (b) Voluntary acknowledgments of parentage may be executed by the person who gave  
123 birth and either an alleged genetic parent, presumed parent or intended parent as provided in this  
124 chapter, whether either or both is a minor, and may be registered pursuant to section 11 only if  
125 the signatures of both signatories are notarized. If the person who gave birth to the child was or  
126 is married and the child’s birth occurs during the marriage or within 300 days of its termination  
127 by divorce, a voluntary acknowledgment of parentage naming the other parent may be executed  
128 by the person who gave birth and the other parent only if the person who gave birth and their  
129 spouse or former spouse at the time of the child’s birth or conception sign an affidavit denying  
130 that the spouse is the parent of the child; provided, however, that where the marriage has been  
131 terminated by annulment or by the death of either spouse, parentage of the other parent may only  
132 be established by filing a complaint to establish parentage as provided in this chapter. Prior to  
133 signing a voluntary acknowledgment of parentage at the hospital or thereafter at the office of the  
134 city or town clerk as part of the birth registration process pursuant to section 3C of chapter 46,  
135 with the department of transitional assistance, with the IV–D agency set forth in chapter 119A,  
136 with any agency designated by the federal Secretary of Health and Human Services or with any  
137 official of a court, a person who gave birth and the other parent shall receive notice orally, or  
138 through the use of video or audio equipment, and in writing of alternatives to signing the  
139 acknowledgment, including the availability of genetic marker testing, as well as the benefits and  
140 responsibilities with respect to child support, custody and visitation that may arise from signing

141 the acknowledgment, and subsequently filing the acknowledgment with the court or with the  
142 registrar of vital records and statistics as provided in this chapter.

143 SECTION 23. Section 6 of said chapter 209C, as so appearing, is hereby amended by  
144 striking out, in lines 1 and 2, the words “In all actions under this chapter a man is presumed to be  
145 the father of a child and must be joined as a party” and inserting in place thereof the following  
146 words:- A person is presumed to be the parent of a child and shall be joined as a party in all  
147 actions under this chapter.

148 SECTION 24. Said section 6 of said chapter 209C, as so appearing, is hereby further  
149 amended by striking out, in lines 3, 6, 11, 14, 16 and 18, the word “he”, each time it appears, and  
150 inserting in place thereof, in each instance, the following words:- the person.

151 SECTION 25. Said section 6 of said chapter 209C, as so appearing, is hereby further  
152 amended by striking out, in line 3, 7, 12 and 19, the word “mother”, each time it appears, and  
153 inserting in place thereof, in each instance, the following words:- person who gave birth.

154 SECTION 26. Said section 6 of said chapter 209C, as so appearing, is hereby further  
155 amended by striking out, in line 17, the word “paternity” and inserting in place thereof the  
156 following word:- parentage.

157 SECTION 27. Said section 6 of said chapter 209C, as so appearing, is hereby further  
158 amended by striking out, in lines 21 to 23, inclusive, the words “he has acknowledged paternity  
159 in a parental responsibility claim as provided in section four A of chapter two hundred and ten  
160 and the mother” and inserting in place thereof the following words:- the person has  
161 acknowledged parentage in a parental responsibility claim as provided in section 4A of chapter  
162 210 and the person who gave birth.



163 SECTION 28. Said section 6 of said chapter 209C, as so appearing, is hereby further  
164 amended by striking out, in lines 25 to 27, inclusive, the words “his consent and the consent of  
165 the child’s mother, he is named as the child’s father” and inserting in place thereof the following  
166 words:- the person’s consent and the consent of the person who gave birth, the person is named  
167 as the child’s parent.

168 SECTION 29. Said section 6 of said chapter 209C, as so appearing, is hereby further  
169 amended by striking out subsection (b) and inserting in place thereof the following subsection:-

170 (b) Notwithstanding subsection (a), a spouse or former spouse shall not be required to be  
171 joined as a party if that person’s non-parentage of the child has previously been adjudicated in a  
172 proceeding between the spouse and the person who gave birth to the child in a court or  
173 administrative agency of competent jurisdiction.

174 SECTION 30. Section 7 of said chapter 209C, as so appearing, is hereby amended by  
175 striking out, in lines 3 and 4 and in line 8, the word “paternity”, each time it appears, and  
176 inserting in place thereof, in each instance, the word:- parentage.

177 SECTION 31. Section 8 of said chapter 209C, as so appearing, is hereby amended by  
178 striking out, in lines 1, 2, 5 and 15, the word “paternity”, each time it appears, and inserting in  
179 place thereof, in each instance, the following word:- parentage.

180 SECTION 32. Said section 8 of said chapter 209C, as so appearing, is hereby further  
181 amended by striking out, in line 4, the word “his” and inserting in place thereof the following  
182 words:- the defendant’s.

183 SECTION 33. Said section 8 of said chapter 209C, as so appearing, is hereby further  
184 amended by striking out, in line 7, the words “mother or putative father submits” and inserting in  
185 place thereof the following words:- person who gave birth or alleged genetic parent submits  
186 sufficient evidence of parentage, which may include evidence.

187 SECTION 34. Said section 8 of said chapter 209C, as so appearing, is hereby further  
188 amended by striking out, in lines 12 and 13, the words “father or mother” and inserting in place  
189 thereof the following word:- parent.

190 SECTION 35. Said section 8 of said chapter 209C, as so appearing, is hereby further  
191 amended by striking out, in line 16, the word “mother” and inserting in place thereof the  
192 following words:- person who gave birth.

193 SECTION 36. Section 9 of said chapter 209C, as so appearing, is hereby amended by  
194 striking out, in line 21, the word “his” and inserting in place thereof the following words:- the  
195 defendant’s.

196 SECTION 37. Said section 9 is hereby further amended by striking out, in line 27, the  
197 word “mother” and inserting in place thereof the following words: another parent.

198 SECTION 38. Subsection (a) of section 10 of said chapter 209C, as so appearing, is  
199 hereby amended by striking out the first paragraph and inserting in place thereof the following  
200 paragraph:-

201 Upon or after an adjudication or voluntary acknowledgment of parentage, the court may  
202 award custody to either parent or to them jointly or to another suitable person as hereafter further  
203 specified as may be appropriate in the best interests of the child.

204 SECTION 39. Said section 10 of said chapter 209C, as so appearing, is hereby further  
205 amended by striking out subsection (b) and inserting in place thereof the following subsection:-

206 (b) Prior to or in the absence of an adjudication or voluntary acknowledgment of  
207 parentage, the person who gave birth shall have custody of a nonmarital child. In the absence of  
208 an order or judgment of a probate and family court relative to custody, the person who gave birth  
209 shall continue to have custody of a nonmarital child after an adjudication of parentage or  
210 voluntary acknowledgment of parentage.

211 SECTION 40. Section 11 of said chapter 209C, as so appearing, is hereby amended by  
212 striking out, in line 2, the words “putative father” and inserting in place thereof the following  
213 words:- alleged genetic parent, presumed parent or intended parent.

214 SECTION 41. Said section 11 of said chapter 209C, as so appearing, is hereby further  
215 amended by striking out, in line 3, the words “mother of” and inserting in place thereof the  
216 following words:- person who gave birth to.

217 SECTION 42. Said section 11 of said chapter 209C, as so appearing, is hereby further  
218 amended by striking out, in lines 7, 16, 20, 22 and 37, the word “paternity”, each time it appears,  
219 and inserting in place thereof, in each instance, the following word:- parentage.

220 SECTION 43. Said section 11 of said chapter 209C, as so appearing, is hereby further  
221 amended by striking out, in line 21, the words “by such putative father and mother”.

222 SECTION 44. Subsection (a) of said section 11 of said chapter 209C, as so appearing, is  
223 hereby amended by striking out the tenth sentence and inserting in place thereof the following  
224 sentence:- If either party rescinds the acknowledgment in a timely fashion and the basis of the

225 acknowledgment was genetic parentage, the court shall order genetic marker testing and proceed  
226 to adjudicate parentage or nonparentage in accordance with this chapter; provided, however, that  
227 the rescinded acknowledgment shall constitute the proper showing required for an order to  
228 submit to such testing; and provided further, that the rescinded acknowledgment shall be  
229 admissible as evidence of the alleged genetic parent's parentage and shall serve as sufficient  
230 basis for admitting the report of the results of genetic marker tests.

231 SECTION 45. Said section 11 of said chapter 209C, as so appearing, is hereby further  
232 amended by striking out, in line 56, the word "nonpaternity" and inserting in place thereof the  
233 following word:- nonparentage.

234 SECTION 46. Said section 11 of said chapter 209C, as so appearing, is hereby further  
235 amended by striking out, in line 59, the words "a mother and father" and inserting in place  
236 thereof the following word:- parents.

237 SECTION 47. Section 12 of said chapter 209C, as so appearing, is hereby amended by  
238 striking out, in line 2, the word "paternity" and inserting in place thereof the following word:-  
239 parentage.

240 SECTION 48. Section 13 of said chapter 209C, as so appearing, is hereby amended by  
241 striking out, in lines 1 and 2, the words "paternity or in which paternity" and inserting in place  
242 thereof the following words:- parentage or in which parentage.

243 SECTION 49. Said section 13 of said chapter 209C, as so appearing, is hereby further  
244 amended by striking out, in lines 7 to 9, inclusive, the words "father is adjudicated not to be the  
245 father of the child; provided, however, that the child, the child's mother, the person adjudicated  
246 to be the father" and inserting in place thereof the following words:- parent is adjudicated not to

247 be the parent of the child; provided, however, that the child, the person who gave birth to the  
248 child, the person adjudicated to be the parent.

249 SECTION 50. Said chapter 209C is hereby further amended by striking out section 14  
250 and inserting in place thereof the following section:-

251 Section 14. Except as otherwise provided in this chapter, an action to establish parentage  
252 of a child may be instituted during pregnancy but shall only be filed by the person to give birth  
253 or their representative or by the IV-D agency as set forth in chapter 119A on behalf of the person  
254 to give birth. In the case of any complaint brought prior to the birth of the child, no final  
255 judgment on the issue of parentage shall be made until after the birth of the child; provided,  
256 however, that the court may order temporary support or health care coverage.

257 SECTION 51. Section 16 of said chapter 209C, as appearing in the 2022 Official Edition,  
258 is hereby amended by striking out subsections (c), (d) and (e) and inserting in place thereof the  
259 following 3 subsections:-

260 (c) In an action pursuant to this chapter, the person who gave birth and the alleged  
261 genetic parent shall be competent to testify and no privilege or disqualification created under  
262 chapter 233 shall prohibit testimony by a spouse or former spouse which is otherwise competent.  
263 If the person who gave birth is or was married, both that person and their spouse or former  
264 spouse may testify to parentage of the child.

265 (d) In an action to establish parentage, testimony relating to sexual access to the person  
266 who gave birth by an unidentified person at any time or by an identified person at any time other  
267 than the probable time of conception of the child is inadmissible in evidence unless offered by  
268 the person who gave birth.

269 (e) In an action to establish parentage based on alleged genetic parentage, the court may  
270 view the person who gave birth, the child and the alleged genetic parent to note any resemblance  
271 among the parties notwithstanding the absence of expert testimony.

272 SECTION 52. Said section 16 of said chapter 209C, as so appearing, is hereby further  
273 amended by striking out, in line 25, the word “mother” and inserting in place thereof the  
274 following words:- person who gave birth.

275 SECTION 53. Said section 16 of said chapter 209C, as so appearing, is hereby further  
276 amended by striking out, in line 36, the word “paternity” and inserting in place thereof the  
277 following word:- parentage.

278 SECTION 54. Section 17 of said chapter 209C, as so appearing, is hereby amended by  
279 striking out, in lines 1 and 2, the words “paternity of a child born out of wedlock” and inserting  
280 in place thereof the following words:- parentage of a nonmarital child based on alleged genetic  
281 parentage.

282 SECTION 55. Said section 17 of said chapter 209C, as so appearing, is hereby further  
283 amended by striking out, in lines 4, 9, 10, 13, 26 and 28, the word “mother”, each time it  
284 appears, and inserting in place thereof, in each instance, the following words:- person who gave  
285 birth.

286 SECTION 56. Said section 17 of said chapter 209C, as so appearing, is hereby further  
287 amended by striking out, in lines 4, 9, 10, 13, 26, 28, 31, 48 and 49, the words “putative father”,  
288 each time they appear, and inserting in place thereof, in each instance, the following words:-  
289 alleged genetic parent.

290 SECTION 56A. Said section 17 of said chapter 209C, as so appearing, is hereby further  
291 amended by striking out, in lines 21 and 22, the words “putative father’s” and inserting in place  
292 thereof the following words:- alleged genetic parent’s

293 SECTION 57. Said section 17 of said chapter 209C, as so appearing, is hereby further  
294 amended by striking out, in lines 22 and 30, the word “paternity”, each time it appears, and  
295 inserting in place thereof, in each instance, the following words:- genetic parentage.

296 SECTION 58. Said section 17 of said chapter 209C, as so appearing, is hereby further  
297 amended by striking out, in lines 31 and 32 and in line 49, the first time it appears, the word  
298 “father” and inserting in place thereof, in each instance, the following word:- parent.

299 SECTION 59. Said section 17 of said chapter 209C, as so appearing, is hereby further  
300 amended by adding the following sentence:- Genetic testing shall not be used to challenge the  
301 parentage of an individual who is a parent under sections 25, 27 and 28 to 28P, inclusive, or to  
302 establish the parentage of an individual who is a donor as provided in said sections.

303 SECTION 60. Section 21 of said chapter 209C, as so appearing, is hereby amended by  
304 striking out, in line 4, the word “paternity” and inserting in place thereof the following word:-  
305 parentage.

306 SECTION 61. Section 23 of said chapter 209C, as so appearing, is hereby amended by  
307 striking out, in lines 1, 10, 11 and 14, the word “paternity”, each time it appears, and inserting in  
308 place thereof, in each instance, the following word:- parentage.

309 SECTION 62. Said chapter 209C is hereby further amended by adding the following 20  
310 sections:-

311 Section 25. (a) This section shall apply to nonmarital and marital children.

312 (b) A proceeding to adjudicate parentage of a child under this section may be  
313 commenced only by a person who: (i) is alive when the proceeding is commenced; and (ii)  
314 claims to be a de facto parent of the subject child.

315 (c) A proceeding under this section must be commenced during a child's lifetime and  
316 before the child attains 18 years of age.

317 (d) Proceedings under this section shall be governed by the Massachusetts Rules of  
318 Domestic Relations Procedure.

319 (e) All parents, legal guardians and legal custodians of the subject child shall be entitled  
320 to notice.

321 (f) The plaintiff shall file a verified complaint alleging specific facts to support each  
322 element required to establish de facto parentage as set forth in subsection (i), along with any  
323 other pleadings, affidavits or information required by the court. The verified complaint shall be  
324 served on all parents, legal guardians and legal custodians of the child and any other party to the  
325 proceeding. Prior to an adjudication of the merits, and within 60 days of the commencement of a  
326 proceeding under this section, the court shall determine, based on the pleadings, whether the  
327 plaintiff has alleged facts sufficient to satisfy each element required to establish de facto  
328 parentage. Upon request made by a party entitled to notice or upon the court's own initiative, the  
329 court may hold a hearing on the sufficiency of the pleadings. If the court holds a hearing under  
330 this subsection, the hearing shall be held on an expedited basis. Failure of a pleading to meet  
331 these standards is grounds for the court to enter a sua sponte judgment of dismissal without  
332 prejudice.



333 (g) Prior to an adjudication of the merits, and within 60 days of the commencement of a  
334 proceeding under this section, the court shall determine whether the plaintiff has standing to seek  
335 an adjudication of parentage of a child under this section. Upon request made by a party entitled  
336 to notice or upon the court's own initiative, the court may hold a hearing on the issue of standing.  
337 There shall be a rebuttable presumption against standing and a hearing shall be required if the  
338 court finds by a preponderance of the evidence that:

339 (i) the plaintiff is or was the defendant of an abuse prevention order issued after notice  
340 and hearing pursuant to chapter 209A, protection order issued pursuant to section 34B or 34C of  
341 chapter 208 or harassment prevention order issued pursuant to chapter 258E involving the child,  
342 a parent of the child or a household member of the child;

343 (ii) the department of children and families has made a determination supporting an  
344 allegation of abuse against the plaintiff with respect to the subject child or another child in the  
345 household;

346 (iii) a defendant is engaged or has engaged in military service as defined in 50 U.S.C.  
347 App. 511 within the past 3 years, unless the defendant consents in writing and such written  
348 consent is filed with the complaint;

349 (iv) a defendant executed a military family care plan and but for the plan the plaintiff  
350 would not meet 1 or more of the requirements of subsection (i), unless the defendant consents in  
351 writing and such written consent is filed with the complaint;

352 (v) the plaintiff is or was the foster parent or guardian of the child and but for the  
353 plaintiff's role as foster parent or guardian, the plaintiff would not meet 1 or more of the  
354 requirements of subsection (i); or

355 (vi) the plaintiff engaged in duress, coercion or threat of harm to establish any element of  
356 de facto parentage as set forth in subsection (i).

357 If the court holds a hearing under this subsection, the hearing shall be held on an  
358 expedited basis.

359 (h) A plaintiff may file and serve a motion seeking a temporary order of contact between  
360 the subject child and the plaintiff contemporaneously with the complaint. After a hearing, the  
361 court may enter a temporary order concerning contact between the child and the plaintiff. No  
362 temporary order shall issue before a determination of standing; provided, however, that a hearing  
363 on the motion may occur on the same date as any hearing under subsections (f) or (g).

364 (i) Subject to subsection (j), the court shall adjudicate a plaintiff with standing in a  
365 proceeding commenced under this section to be a legal parent of the subject child if the plaintiff  
366 demonstrates by clear and convincing evidence that:

367 (i) the plaintiff resided with the child as a regular member of the child's household for at  
368 least 3 years or 40 per cent of the child's life, whichever is shorter; provided, however, that the  
369 period is not less than 2 years except in extraordinary circumstances for good cause shown in the  
370 court's discretion;

371 (ii) the plaintiff engaged in consistent caregiving of the child, including, but not limited  
372 to, shaping the child's daily routine, addressing the child's developmental needs and providing  
373 for the child's education and medical care, individually or cooperatively with another parent;

374 (iii) the plaintiff undertook full and permanent responsibilities of a parent of the child  
375 without expectation or payment of financial compensation;

376 (iv) the plaintiff held out the child as the plaintiff's child;

377 (v) the plaintiff established a bonded and dependent relationship with the child which is  
378 parental in nature;

379 (vi) each parent of the child consented to the bonded and dependent relationship required  
380 under clause (v). Consent shall include that each parent, over a period of not less than 6 months:

381 (A) held out the plaintiff as a parent of the child; and (B) engaged in shared decision making  
382 with the plaintiff regarding significant issues of the child's education, health and welfare;

383 provided, however, that the court may determine that a parent has impliedly consented where  
384 that parent has not, without good cause, meaningfully engaged with the subject child through

385 direct contact, participation in decision making or regular financial support for a period of 2  
386 years; provided further, that good cause may include evidence that the parent attempted to

387 meaningfully engage with the subject child by regularly requesting contact or participation in  
388 decision making but was prevented by another person; and provided further, that a notarized

389 document affirming consent executed by a parent shall be evidence of that parent's consent; and  
390 (vii) adjudicating the plaintiff to be the child's parent is in the best interest of the child.

391 In making this determination, the court shall consider evidence of past or present abuse by the  
392 plaintiff toward a parent or the child as a factor contrary to the best interest of the child. A

393 finding by a preponderance of the evidence that the plaintiff engaged in duress, coercion or threat  
394 of harm in order to establish any of the elements of clauses (i) through (vi), inclusive, shall be

395 considered evidence of abuse. A finding by a preponderance of the evidence that a pattern or  
396 serious incident of abuse as defined in section 10 by the plaintiff against a parent or child has

397 occurred shall create a rebuttable presumption that it is not in the best interest of the child that

398 the plaintiff be adjudicated a parent. Where there is credible evidence of abuse and the court  
399 adjudicates the plaintiff to be a parent of the subject child, the court shall make detailed written  
400 findings on the presence and nature of the abuse, its effect on the child and its impact on the  
401 plaintiff's parenting ability.

402 (j) Subject to other limitations in this section, if in a proceeding to adjudicate the plaintiff  
403 as a de facto parent, there is more than 1 defendant parent and the court determines that the  
404 requirements of subsection (i) are satisfied, the court shall adjudicate parentage under subsection  
405 (c) of section 26.

406 (k) The adjudication of a plaintiff as a de facto parent under this section shall not affect  
407 the legal parentage of any other parent to the child and shall not be considered evidence of  
408 parental unfitness of a defendant parent to the child.

409 (l) Custody, parenting time, visitation and child support shall be determined in  
410 accordance with applicable laws, rules, regulations, orders and guidelines.

411 (m) Nothing in this section shall be interpreted to preclude an action in equity pursuant to  
412 section 6 of chapter 215 to establish a third party right to visitation.

413 Section 26. (a) In a proceeding to adjudicate competing claims of, or challenges to,  
414 parentage of a child by 2 or more persons, the court shall adjudicate parentage in the best interest  
415 of the child, based on:

416 (i) the age of the child;

417 (ii) the length of time during which each person assumed the role of parent of the child;

418 (iii) the nature of the relationship between the child and each person;

419 (iv) the harm to the child if the relationship between the child and each person is not  
420 recognized;

421 (v) the basis for each person's claim to parentage of the child; and

422 (vi) other equitable factors arising from the disruption of the relationship between the  
423 child and each person or the likelihood of other harm to the child.

424 (b) If a person challenges parentage based on the results of genetic testing, in addition to  
425 the factors listed in subsection (a), the court shall consider:

426 (i) the facts surrounding the discovery that the person might not be a genetic parent of the  
427 child; and

428 (ii) the length of time between the time that the person was placed on notice that the  
429 person might not be a genetic parent and the commencement of the proceeding.

430 (c) The court may adjudicate a child to have more than 2 parents if the court finds that it  
431 is in the best interest of the child. A finding of best interest of the child under this section does  
432 not require a finding of unfitness of any parent or person seeking an adjudication of parentage.

433 (d) Custody, parenting time, visitation and child support shall be determined in  
434 accordance with applicable laws, rules, regulations, orders and guidelines.

435 Section 27. (a) This section shall apply to nonmarital and marital children. This section  
436 shall not apply to the birth of a child conceived by sexual intercourse or assisted reproduction by  
437 surrogacy agreement under sections 28 through 28P, inclusive.

438 (b) Venue for a proceeding to adjudicate parentage under this section shall be in the  
439 county in which: (i) the child resides, was born or will be born; (ii) any parent or intended parent  
440 resides; or (iii) a proceeding has been commenced for administration of the estate of a person  
441 who is or may be a parent under this chapter.

442 (c) A donor is not a parent of a child conceived through assisted reproduction by  
443 virtue of the donor's genetic connection. A donor may not establish the donor's parentage by  
444 signing an acknowledgment pursuant to this chapter. A donor shall not be entitled to notice in a  
445 proceeding under this chapter.

446 (d) A person who consents to assisted reproduction with the intent to be a parent of a  
447 child conceived by the assisted reproduction is a parent of the child. Consent to assisted  
448 reproduction may be established either by: (i) a record signed by the person giving birth to a  
449 child conceived by assisted reproduction and by an intended parent before, on, or after the birth  
450 of the child; or (ii) a finding by the court, by a preponderance of the evidence, that (A) prior to  
451 conception or birth of the child, the parties agreed that they would be parents of the child, or (B)  
452 the person who seeks to be a parent of the child, together with the person giving birth,  
453 voluntarily participated in and consented to the assisted reproduction that resulted in the  
454 conception of the child.

455 (e)(i) Except as provided in paragraph (ii), a person who, at the time of a child's birth, is  
456 the spouse of the person who gave birth to the child by assisted reproduction may not challenge  
457 their parentage of the child unless, not later than 2 years after the birth of the child, they  
458 commence a proceeding to adjudicate their own parentage of the child and the court finds that

459 they did not consent to the assisted reproduction, before, on, or after birth of the child, or  
460 withdrew consent under subsection (g).

461 (ii) A proceeding to adjudicate a spouse's parentage of a child born by assisted  
462 reproduction may be commenced at any time if the court determines that: (A) the spouse neither  
463 provided a gamete for, nor consented to, the assisted reproduction; (B) the spouse and the person  
464 who gave birth to the child have not cohabited since the probable time of assisted reproduction;  
465 and (C) the spouse never openly held out the child as their child. This subsection applies to a  
466 spouse's dispute of parentage even if the spouse's marriage is declared invalid after assisted  
467 reproduction occurs.

468 (f) A person who has commenced an action for divorce, or a person who has been served  
469 with a complaint for divorce, may begin assisted reproduction pursuant to this section, provided  
470 at least 60 days have elapsed since service of the complaint. In such cases, the spouse shall not  
471 be a parent of any child born as a result of the assisted reproduction unless both parties consent  
472 in writing to be parents of that child after commencement of the divorce action. A married  
473 person proceeding with assisted reproduction pursuant to this section shall not utilize gametes of  
474 their spouse unless their spouse consents in writing to the use of their gametes for assisted  
475 reproduction by the married person after commencement of a divorce action.

476 (g) A person who consents under subsection (d) to assisted reproduction may withdraw  
477 consent any time before a transfer or implantation of gametes or embryos that results in a  
478 pregnancy by giving notice in writing of their withdrawal of consent to the person who agreed to  
479 give birth to a child conceived by assisted reproduction and to any clinic or healthcare provider  
480 facilitating the assisted reproduction; provided, however, that failure to give notice to a clinic or

481 healthcare provider shall not affect a determination of parentage under this section. A person  
482 who withdraws consent in accordance with this subsection is not a parent of the child under this  
483 section.

484 (h)(i) If a person who intends to be a parent of a child conceived by assisted reproduction  
485 dies during the period between the transfer or implantation of a gamete or embryo and the birth  
486 of the child, the person's death does not preclude the establishment of their parentage of the child  
487 if the person otherwise would be a parent of the child under this section.

488 (ii) If a person who consented in writing to assisted reproduction by a person who agreed  
489 to give birth to a child dies before a transfer or implantation of gametes or embryos, the deceased  
490 person is a parent of a child conceived by the assisted reproduction only if: (A) either (1) the  
491 person consented in writing that if assisted reproduction were to occur after their death, they  
492 would be a parent of the child, or (2) the person's intent to be a parent of a child conceived by  
493 assisted reproduction after their death is established by a preponderance of the evidence; and (B)  
494 either (1) the embryo is in utero not later than 36 months after the person's death, or (2) the child  
495 is born not later than 45 months after the person's death.

496 (i) If due to a clinical or laboratory error the child is not genetically related to either the  
497 intended parent or parents or any donor who donated to the intended parent or parents, the  
498 intended parent or parents are the parents of the child unless otherwise determined by the court.

499 (j) Genetic testing, including genetic marker testing pursuant to section 11, shall not be  
500 used: (i) to challenge the parentage of a person who is a parent under this section; or (ii) to  
501 establish the parentage of a person who is a donor.



502 (k)(i) A person giving birth or a person who is or claims to be a parent under this section  
503 may commence a proceeding prior to or after the birth of a child to obtain a judgment: (A)  
504 declaring that the intended parent or parents are the parent or parents of the resulting child  
505 immediately upon birth of the child and ordering that parental rights and responsibilities vest  
506 exclusively in the intended parent or parents immediately upon birth of the child; and (B)  
507 designating the contents of the birth certificate and directing the department of public health to  
508 designate the intended parent or parents as the parent or parents of the resulting child.

509 (ii) A judgment issued before the birth of the resulting child shall not take effect until the  
510 birth of the resulting child. Nothing in this subsection shall be construed to limit the court's  
511 authority to issue other orders under any other provision of the general laws.

512 (iii) Neither the state, the department of public health nor the hospital where the child is  
513 or is expected to be born shall be a necessary party to a proceeding under this section.

514 (iv) The burden of proof in proceedings under this section shall be by a preponderance of  
515 the evidence.

516 (l) On request of a party, the court shall close a proceeding under this section to the  
517 general public. Section 13 shall govern segregation of, access to and inspection of complaints,  
518 pleadings, papers, documents and reports filed in connection with an action pursuant to this  
519 section, and docket entries.

520 (m) In a proceeding under this section, the court shall issue a final judgment adjudicating  
521 whether a person alleged or claiming to be a parent is the parent of a child. On request of a party,  
522 and subject to other applicable laws, the court in a proceeding under this section may order the

523 name of the child changed. If the final judgment is at variance with the child's birth certificate,  
524 the court shall order the department of public health to issue an amended birth certificate.

525 (n) Custody, parenting time, visitation, and child support for a nonmarital child shall be  
526 determined in accordance with applicable laws, rules, regulations, orders and guidelines.

527 Section 28. (a) Sections 28 through 28P, inclusive, shall apply to nonmarital and marital  
528 children. This section shall not apply to the birth of a child conceived by sexual intercourse or  
529 assisted reproduction under section 27.

530 (b) Venue for proceedings under sections 28 through 28P, inclusive, shall be in the  
531 county in which: (i) the child resides, is born or is expected to be born; (ii) a parent or intended  
532 parent resides; (iii) a person acting as a surrogate resides; or (iv) a proceeding has been  
533 commenced for administration of the estate of a person who is or may be a parent under this  
534 chapter.

535 Section 28A. (a) In order to execute a surrogacy agreement to act as a surrogate, a person  
536 shall: (i) be at least 21 years of age; (ii) have previously given birth to at least 1 child; (iii)  
537 complete a medical evaluation by a licensed physician related to surrogacy; and (iv) complete a  
538 mental health consultation by a licensed mental health professional that is independent of the  
539 health care providers or facility undertaking any assisted reproduction procedure contemplated  
540 by the surrogacy agreement.

541 (b) In order to execute a surrogacy agreement as an intended parent, whether or not  
542 genetically related to the child, a person shall: (i) be at least 21 years of age; and (ii) complete a  
543 mental health consultation by a licensed mental health professional that is independent of the

544 health care providers or facility undertaking any assisted reproduction procedure contemplated  
545 by the surrogacy agreement.

546 Section 28B. A surrogacy agreement is enforceable only if it meets the following  
547 requirements:

548 (a) the prospective surrogate, their spouse, if any, and each intended parent are parties to  
549 the agreement;

550 (b) the prospective surrogate and each intended parent meet the eligibility requirements  
551 of section 28A;

552 (c) at least 1 party is a resident of the commonwealth or, if no party is a resident of the  
553 commonwealth, at least 1 medical evaluation, medical procedure or mental health consultation  
554 under the agreement occurs in the commonwealth.

555 (d) the agreement is in writing and signed by all parties;

556 (e) the agreement is executed before a medical procedure attempting to achieve a  
557 pregnancy in the prospective surrogate occurs, other than the medical evaluation and mental  
558 health consultation required by section 28A and, in every instance, before transfer of embryos or  
559 gametes;

560 (f) the signature of each party to the agreement is attested by a notary;

561 (g) each party to the agreement signs a written acknowledgment of having received a  
562 copy of the agreement;

563 (h) the prospective surrogate, their spouse, if any, and each intended parent have  
564 independent legal representation regarding the terms and potential legal consequences of the  
565 surrogacy agreement, paid for by the intended parent or parents, and each counsel shall be  
566 identified in the surrogacy agreement. A single attorney for the prospective surrogate and their  
567 spouse and a single attorney for the intended parents is sufficient to meet this requirement,  
568 provided the representation otherwise conforms to the Massachusetts Rules of Professional  
569 Conduct; and

570 (i) records related to the medical evaluation and mental health consultations conducted  
571 pursuant to section 28A shall be made available to the surrogate, the surrogate's spouse, if any,  
572 and each intended parent; provided, however, that all such records shall remain confidential  
573 absent court order.

574 Section 28C. A surrogacy agreement is enforceable only if it contains the following  
575 terms:

576 (a) The surrogate:

577 (i) shall undergo assisted reproduction and attempt to carry and give birth to any resulting  
578 child;

579 (ii) except as otherwise provided in sections 28I, 28M and 28N, has no claim to parentage  
580 of any resulting child; and

581 (iii) acknowledges the exclusive parentage of the intended parent or parents of all  
582 resulting children.

583 (b) If the surrogate is married, their spouse:

584 (i) acknowledges and agrees to abide by all obligations imposed on the surrogate by the  
585 terms of the surrogacy agreement;

586 (ii) except as otherwise provided in sections 28I, 28M and 28N, has no claim to parentage  
587 of any resulting child; and

588 (iii) acknowledges the exclusive parentage of the intended parent or parents of all  
589 resulting children.

590 (c) The intended parent or, if there are more than 1 intended parents, each parent jointly  
591 and severally:

592 (i) except as otherwise provided in sections 28G, 28J, 28M and 28N, agree to be the  
593 exclusive parent or parents and accept parental rights and responsibilities of all resulting children  
594 regardless of the number of children born or the gender or condition of each child; and

595 (ii) except as otherwise provided in sections 28G, 28J, 28M and 28N, agree to assume  
596 responsibility for the financial support of all resulting children immediately upon the birth of the  
597 children regardless of the number of children born or the gender or condition of each child.

598 (d) The intended parent or parents shall pay for all surrogacy-related expenses of the  
599 surrogate, including expenses for healthcare provided for assisted reproduction, prenatal care,  
600 labor and delivery and the medical expenses of all resulting children, that are not covered by  
601 insurance; provided, however, that this subsection shall not be construed to supplant any health  
602 insurance coverage that is otherwise available to the surrogate or an intended parent for the  
603 coverage of healthcare costs; provided further, however, that this subsection shall not change the

604 health insurance coverage of the surrogate or the responsibility of the insurance company to pay  
605 benefits under a policy that covers a surrogate.

606 (e) The surrogacy agreement shall not infringe on the rights of the surrogate to make all  
607 health and welfare decisions regarding themselves, their body and their pregnancy throughout  
608 the duration of the surrogacy arrangement, including during attempts to become pregnant,  
609 pregnancy, labor and delivery and post-partum. The surrogacy agreement shall not infringe upon  
610 the right of the surrogate to autonomy in medical decision making, including, but not limited to,  
611 whether to consent to a caesarean section and whether to undergo multiple embryo transfers.  
612 Except as otherwise provided by law, any written or oral agreement purporting to waive or limit  
613 these rights are void as against public policy.

614 (f) The surrogacy agreement shall include information about each party's right to  
615 terminate the surrogacy agreement.

616 (g) Rights created under a surrogacy agreement are not assignable and there is no third-  
617 party beneficiary other than the child.

618 (h) A surrogacy agreement may provide for: (i) payment of consideration and reasonable  
619 expenses; and (ii) reimbursement of specific expenses if the agreement is terminated under this  
620 chapter.

621 Section 28D. Unless a surrogacy agreement expressly provides otherwise:

622 (a) The marriage of the surrogate or of an intended parent after the surrogacy agreement  
623 has been signed by all parties shall not affect the validity of the surrogacy agreement, the  
624 surrogate or intended parent's spouse's consent to the surrogacy agreement is not required and

625 the surrogate or intended parent's spouse shall not be a presumed parent of a child conceived by  
626 assisted reproduction under the surrogacy agreement.

627 (b) The divorce or annulment of the surrogate or of an intended parent after the surrogacy  
628 agreement has been signed by all parties shall not affect the validity of the surrogacy agreement.

629 Section 28E. During the period after the execution of a surrogacy agreement until the  
630 occurrence of the earlier of the date of termination of the surrogacy agreement pursuant its terms  
631 or 180 days after the birth of a child conceived by assisted reproduction under the surrogacy  
632 agreement, the court conducting a proceeding under sections 28 through 28P, inclusive, shall  
633 have exclusive, continuing jurisdiction over all matters arising out of the surrogacy agreement;  
634 provided, however, that the court shall not have jurisdiction over a child custody or child support  
635 proceeding if jurisdiction is not otherwise authorized by the laws of the commonwealth.

636 Section 28F. (a) A party to a gestational surrogacy agreement may terminate the  
637 agreement at any time before an embryo transfer or implantation by giving written notice of  
638 termination to all other parties. If an embryo transfer or implantation does not result in  
639 pregnancy, a party may terminate the agreement at any time before a subsequent embryo transfer  
640 or implantation.

641 (b) Unless a gestational surrogacy agreement provides otherwise, upon termination of the  
642 agreement under subsection (a), the parties are released from the agreement, except that the  
643 intended parent or parents remain responsible for expenses that are reimbursable under the  
644 agreement and incurred by the gestational surrogate through the date of the termination of the  
645 agreement.

646 (c) Except in a case involving fraud, neither a gestational surrogate nor their spouse or  
647 former spouse, if any, is liable to the intended parent or parents for punitive or liquidated  
648 damages for terminating a gestational surrogacy agreement.

649 Section 28G. (a) Except as otherwise provided in subsection (c), subsection (b) of section  
650 28H or section 28J, upon the birth of a child conceived by assisted reproduction under a  
651 gestational surrogacy agreement, each intended parent is, by operation of law, a parent of the  
652 child. Parental rights shall vest exclusively in the intended parent or parents immediately upon  
653 birth of the resulting child.

654 (b) Except as otherwise provided in subsection (c) or section 28J, neither a person acting  
655 as gestational surrogate nor their spouse or former spouse, if any, is a parent of the child.

656 (c) If a child is alleged to be a genetic child of the gestational surrogate, the court shall,  
657 upon finding sufficient evidence, order genetic testing of the child. If the child is a genetic child  
658 of the gestational surrogate, parentage shall be determined in accordance with sections 1 through  
659 27.

660 (d) Except as otherwise provided in subsection (c) or subsection (b) of section 28H or  
661 section 28I, if, due to a clinical or laboratory error, a child conceived by assisted reproduction  
662 under a gestational surrogacy agreement is not genetically related to an intended parent or a  
663 donor who donated to the intended parent or parents, each intended parent, and not the person  
664 acting as gestational surrogate and their spouse or former spouse, if any, is a parent of the child.

665 Section 28H. (a) Section 28G applies to an intended parent even if the intended parent  
666 dies during the period between the transfer or implantation of a gamete or embryo and the birth  
667 of the child.



668 (b) Except as otherwise provided in section 28J, an intended parent is not a parent of a  
669 child conceived by assisted reproduction under a gestational surrogacy agreement if the intended  
670 parent dies before the transfer or implantation of a gamete or embryo unless: (i) the surrogacy  
671 agreement provides otherwise; and (ii) the transfer of a gamete or embryo occurs not later than  
672 36 months after the death of the intended parent or birth of the child occurs not later than 45  
673 months after the death of the intended parent.

674 Section 28I. (a) Except as otherwise provided in subsection (c) of section 28G or  
675 section 28J, before, on or after the birth of a child conceived by assisted reproduction under a  
676 gestational surrogacy agreement, any party to the agreement may commence a proceeding for a  
677 judgment of parentage:

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

680 (ii) declaring that the gestational surrogate and their spouse or former spouse, if any, are  
681 not the parents of the child;

682 (iii) designating the content of the birth record in accordance with chapter 46 and  
683 directing the department of public health to designate each intended parent as a parent of the  
684 child;

685 (iv) to protect the privacy of the child and the parties, declaring that the court record and  
686 related pleadings be impounded in accordance with this section;

687 (v) if necessary, ordering that the child be surrendered to the intended parent or parents;

688 (vi) if necessary, ordering that the hospital where the child will be or has been born, treat  
689 the intended parent or parents as the sole legal parent or parents for the purpose of naming and  
690 medical decisions; and

691 (vii) for other relief the court determines necessary and proper.

692 (b) The court may issue an order or judgment under subsection (a) before or after the  
693 birth of the child, as requested by the parties.

694 (c) The state, the department of public health, the town or city clerk and the hospital  
695 where the child is born or is to be born are not necessary parties to a proceeding under subsection  
696 (a). Any party to the surrogacy agreement not joining in the action shall be provided with notice  
697 of the proceeding.

698 (d) A complaint under this section shall include: (i) a copy of the executed surrogacy  
699 agreement; (ii) sworn affidavit of the assisted reproductive physician confirming that the child  
700 was born pursuant to assisted reproduction; and (iii) certifications from the attorneys  
701 representing the intended parent or parents and the gestational surrogate that the requirements of  
702 sections 28A, 28B and 28C have been met. A complaint supported by such affidavit and  
703 certifications shall be sufficient to establish parentage, and a hearing shall not be required unless  
704 the court requires additional information which cannot reasonably be ascertained without a  
705 hearing.

706 (e) Upon a finding by a preponderance of the evidence that the complaint satisfies  
707 subsection (d), a court shall expeditiously, but no later than 60 days from the docketing of the  
708 complaint, issue a judgment of parentage. Parentage judgments issued under this section shall  
709 conclusively establish or affirm, where applicable, the parent-child relationship for all purposes.

710 Custody, parenting time, visitation and child support for a nonmarital child shall be determined  
711 in accordance with applicable laws, rules, regulations, orders and guidelines.

712 (f) In the event the certification required by subsection (d) of this section cannot be made  
713 because of a technical or nonmaterial deviation from the requirements of sections 28A, 28B and  
714 28C, the court may nevertheless enforce the agreement and issue a judgment of parentage if the  
715 court determines the agreement is in substantial compliance with the requirements of said  
716 sections.

717 (g) On request of a party, the court shall close a proceeding under this section to the  
718 general public. All complaints, pleadings, papers or documents filed pursuant to this section, and  
719 docket entries, shall not be available for inspection unless the court where such records are kept,  
720 for good cause shown, otherwise orders or unless requested by the child or the parties. All such  
721 complaints, pleadings, papers or documents shall be segregated.

722 Section 28J. (a) A gestational surrogacy agreement that substantially complies with  
723 sections 28A, 28B and 28C is enforceable.

724 (b) If a child was conceived by assisted reproduction under a gestational surrogacy  
725 agreement that does not substantially comply with sections 28A, 28B and 28C, the court shall  
726 determine the rights and duties of the parties to the agreement consistent with the intent of the  
727 parties at the time of execution of the agreement. Each party to the agreement and any person  
728 who at the time of the execution of the agreement was a spouse of a party to the agreement has  
729 standing to commence a proceeding to adjudicate an issue related to the enforcement of the  
730 agreement.

731 (c) Except as expressly provided in a gestational surrogacy agreement or subsection (d)  
732 or (e) of this section, if the agreement is breached by the gestational surrogate or 1 or more  
733 intended parents, the non-breaching party is entitled to the remedies available at law or in equity.

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

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

739 (i) breach of the agreement by a gestational surrogate which prevents the intended parent  
740 from exercising, immediately on birth of the child, the full rights of parentage; or

741 (ii) breach by the intended parent which prevents the intended parent's acceptance,  
742 immediately on birth of the child conceived by assisted reproduction under the agreement, of the  
743 duties of parentage.

744 Section 28K. (a) Except as otherwise provided in section 28N, a genetic surrogacy  
745 agreement shall be validated by a probate and family court. A proceeding to validate the  
746 agreement shall be commenced before assisted reproduction related to the surrogacy agreement.  
747 A complaint under this section shall include: (i) a copy of the executed surrogacy agreement; and  
748 (ii) certifications from the attorneys representing the intended parent or parents and the genetic  
749 surrogate that the requirements of sections 28A, 28B and 28C have been met.

750 (b) The court shall issue an order validating a genetic surrogacy agreement, within 60  
751 days of the commencement of such a proceeding, if the court finds by a preponderance of the  
752 evidence that:

753 (i) sections 28A, 28B and 28C are satisfied; and

754 (ii) all parties entered into the agreement voluntarily and understand its terms.

755 (c) A person who terminates a genetic surrogacy agreement under section 28L shall file  
756 notice of the termination with the court and parties. On receipt of the notice, the court shall  
757 vacate any order issued under subsection (b).

758 Section 28L. (a) An intended parent or genetic surrogate who is a party to the agreement  
759 may terminate the agreement at any time before a gamete or embryo transfer or implantation by  
760 giving notice of termination in writing to all other parties. If a gamete or embryo transfer or  
761 implantation does not result in a pregnancy, a party may terminate the agreement at any time  
762 before a subsequent gamete or embryo transfer or implantation. The party's signature on a notice  
763 of termination shall be attested by a notary.

764 (b) An intended parent or genetic surrogate who terminates the agreement after the court  
765 issues an order validating the agreement under sections 28K or 28N, but before the genetic  
766 surrogate becomes pregnant by means of assisted reproduction, shall also file notice of the  
767 termination with such court.

768 (c) A person may not terminate a validated genetic surrogacy agreement if a gamete or  
769 embryo transfer or implantation has resulted in a pregnancy.

770 (d) On termination of the genetic surrogacy agreement, the parties are released from all  
771 obligations under the agreement except that any intended parent or parents remains responsible  
772 for all expenses incurred by the genetic surrogate through the date of the termination which are  
773 reimbursable under the agreement. Unless the agreement provides otherwise, the genetic  
774 surrogate is not entitled to any non-expense related compensation paid for acting as a surrogate.

775 (e) Except in a case involving fraud, neither a genetic surrogate nor their spouse or  
776 former spouse, if any, is liable to the intended parent or parents for punitive or liquidated  
777 damages, for terminating a genetic surrogacy agreement under this section.

778 Section 28M. (a) On birth of a child conceived by assisted reproduction under a genetic  
779 surrogacy agreement validated under section 28K or 28N, each intended parent is, by operation  
780 of law, a parent of the resulting child.

781 (b) On birth of a child conceived by assisted reproduction under a genetic surrogacy  
782 agreement validated under section 28K or 28N of this chapter, the intended parent or parents  
783 shall file a notice with the court that validated the agreement that a child has been born as a result  
784 of assisted reproduction. Upon receiving such notice, the court shall immediately, or as soon as  
785 practicable, issue an order without notice and hearing:

786 (i) declaring that any intended parent or parents is a parent of a child conceived by  
787 assisted reproduction under the agreement and ordering that parental rights and duties vest  
788 exclusively in any intended parent;

789 (ii) declaring that the genetic surrogate and their spouse or former spouse, if any, are not  
790 parents of the child;

791 (iii) designating the contents of the birth certificate in accordance with chapter 46 and  
792 directing the department of public health to designate any intended parent as a parent of the  
793 child;

794 (iv) to protect the privacy of the child and the parties, declaring that the court record and  
795 related pleadings be impounded in accordance with section 28I;

796 (v) if necessary, ordering that the child be surrendered to the intended parent or parents;  
797 and

798 (vi) for other relief the court determines necessary and proper.

799 (c) Except as otherwise provided in subsection (d) or section 28O, if, due to a clinical or  
800 laboratory error, a child conceived by assisted reproduction under a genetic surrogacy agreement  
801 is not genetically related to an intended parent or a donor who donated to the intended parent or  
802 parents, each intended parent, and not the genetic surrogate and their spouse or former spouse, if  
803 any, is a parent of the child.

804 (d) If a child born to a genetic surrogate is alleged not to have been conceived by assisted  
805 reproduction, the court may, upon finding sufficient evidence, order genetic testing to determine  
806 the genetic parentage of the child. If the child was not conceived by assisted reproduction and the  
807 second source of genetic material is the spouse of the genetic surrogate, then the surrogate and  
808 the spouse shall be found to be the parents of the child. If the second genetic source is a person  
809 other than the spouse of the surrogate, then parentage shall be determined as provided in sections  
810 1 through 27. However, if the second genetic source is an intended parent, the court, in its sole  
811 discretion, may determine parentage under said sections 1 through 27. Unless the genetic  
812 surrogacy agreement provides otherwise, the genetic surrogate is not entitled to any non-expense

813 related compensation paid for acting as a surrogate if the child was not conceived by assisted  
814 reproduction.

815 (e) If an intended parent fails to file the notice required under subsection (b) of this  
816 section, the person acting as genetic surrogate may file with the court, not later than 60 days after  
817 the birth of a child conceived by assisted reproduction under the genetic surrogacy agreement,  
818 notice that the child has been born to the genetic surrogate. On proof of a court order issued  
819 under sections 28K or 28N validating the agreement, the court shall order that each intended  
820 parent is a parent of the child.

821 Section 28N. (a) A genetic surrogacy agreement, whether or not in writing, that is not  
822 validated under section 28K is enforceable only to the extent provided in this section and section  
823 28P.

824 (b) If all parties agree, a court may validate a genetic surrogacy agreement after assisted  
825 reproduction has occurred but before the birth of a child conceived by assisted reproduction  
826 under the agreement if the court finds by a preponderance of the evidence that:

827 (i) sections 28A, 28B or 28C are satisfied; and

828 (ii) all parties entered into the agreement voluntarily and understand its terms.

829 (c) If a child conceived by assisted reproduction under a genetic surrogacy agreement that  
830 is not validated under section 28K or subsection (b) is born, the genetic surrogate is not  
831 automatically a parent and the court shall adjudicate parentage of the child based on the best  
832 interest of the child, taking into account the factors in subsection (a) of section 26 and the intent  
833 of the parties at the time of the execution of the agreement.



834 (d) The parties to a genetic surrogacy agreement have standing to commence a  
835 proceeding to adjudicate parentage under this section.

836 Section 28O. (a) Except as otherwise provided in section 28M or 28N on birth of a child  
837 conceived by assisted reproduction under a genetic surrogacy agreement, each intended parent is,  
838 by operation of law, a parent of the child, notwithstanding the death of an intended parent during  
839 the period between the transfer of a gamete or embryo and the birth of the child.

840 (b) Except as otherwise provided in section 28M or 28N, an intended parent is not a  
841 parent of a child conceived by assisted reproduction under a genetic surrogacy agreement if the  
842 intended parent dies before the transfer of a gamete or embryo unless: (i) the agreement provides  
843 otherwise; and (ii) the transfer of the gamete or embryo occurs not later than 36 months after the  
844 death of the intended parent, or birth of the child occurs not later than 45 months after the death  
845 of the intended parent.

846 Section 28P. (a) Subject to subsection (d) of section 28L, if a genetic surrogacy  
847 agreement is breached by a genetic surrogate or 1 or more intended parents, the non-breaching  
848 party is entitled to the remedies available at law or in equity.

849 (b) Specific performance is not a remedy available for breach by a genetic surrogate of a  
850 requirement of a validated or nonvalidated genetic surrogacy agreement that the genetic  
851 surrogate be impregnated, terminate or not terminate a pregnancy, or submit to medical  
852 procedures.

853 (c) Except as otherwise provided in subsection (b), specific performance is a remedy  
854 available for: (i) breach of a validated genetic surrogacy agreement by a genetic surrogate of a  
855 requirement which prevents an intended parent from exercising, immediately upon birth of the

856 child, the full rights of parentage; or (ii) breach by an intended parent which prevents the  
857 intended parent's acceptance, immediately upon birth of the child, of the duties of parentage.

858 SECTION 63. The trial court department, in accordance with section 24 of chapter 209C  
859 of the General Laws, shall update existing forms and promulgate new forms as necessary for use  
860 under said chapter 209C, which shall be in such form and language to permit a person to prepare  
861 and file such forms pro se.

NO SECTION 64.

862 SECTION 65. This act shall take effect on January 1, 2025.

863 SECTION 66. Section 1 of chapter 46 of the General Laws, as appearing in the 2020  
864 Official Edition, is hereby amended by striking out the second paragraph and inserting in place  
865 thereof the following paragraph: -

866 In the record of births, name, date of birth, place of birth, and sex of child; legal names,  
867 dates of birth, residences, places of birth and surname at birth or adoption of parents. In the  
868 record of birth of a child born to parents not married to each other, the name of and other facts  
869 relating to the other parent or parents shall not be recorded except as provided in section 2 of  
870 chapter 209C where parentage has been acknowledged or adjudicated under the laws of the  
871 commonwealth or under the law of any other jurisdiction.