

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 350 Session of 2023

INTRODUCED BY SANCHEZ, D. MILLER, MADDEN, PROBST, CEPEDA-FREYTIZ, DELLOSO, HANBIDGE, GUENST, KINKEAD, HOWARD, N. NELSON, GREEN, MERCURI, WAXMAN AND WEBSTER, MARCH 13, 2023

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, JUNE 12, 2024

AN ACT

1 Amending Title 23 (Domestic Relations) of the Pennsylvania
2 Consolidated Statutes, in proceedings prior to petition to
3 adopt, further providing for hearing, for alternative
4 procedure for relinquishment and for hearing; in support
5 matters generally, further providing for paternity and for
6 continuing jurisdiction over support orders; in general
7 provisions relating to children and minors, repealing
8 provisions relating to acknowledgment and claim of paternity;
9 in jurisdiction, further providing for bases for jurisdiction
10 over nonresident; enacting the Uniform Parentage Act; and
11 providing for parent-child relationship for certain
12 individuals, for voluntary acknowledgment of parentage, for
13 genetic testing, for proceeding to adjudicate parentage, for
14 assisted reproduction, for surrogacy agreements and for
15 information about donors.

16 The General Assembly of the Commonwealth of Pennsylvania
17 hereby enacts as follows:

18 Section 1. Sections 2503(b) and (d), 2504(c), 2513(b),
19 4343(c) (6) and 4352(a) of Title 23 of the Pennsylvania
20 Consolidated Statutes are amended to read:

21 § 2503. Hearing.

22 * * *

23 (b) Notice.--

1 (1) At least ten days' notice of the hearing shall be
2 given to the petitioner, and a copy of the notice shall be
3 given to the other parent, to the putative father whose
4 parental rights could be terminated pursuant to subsection
5 (d) and to the parents or guardian of a petitioner who has
6 not reached 18 years of age.

7 (2) The notice to the petitioner shall state the
8 following:

9 "To: (insert petitioner's name)

10 A petition has been filed asking the court to put an
11 end to all rights you have to your child (insert name of
12 child). The court has set a hearing to consider ending
13 your rights to your child. That hearing will be held in
14 (insert place, giving reference to exact room and
15 building number or designation) on (insert date) at
16 (insert time). Your presence is required at the hearing.
17 You have a right to be represented at the hearing by a
18 lawyer. You should take this paper to your lawyer at
19 once. If you do not have a lawyer or cannot afford one,
20 go to or telephone the office set forth below to find out
21 where you can get legal help.

22 (Name).....
23 (Address).....
24
25 (Telephone number)....."

26 (3) The copy of the notice which is given to the
27 putative father shall state that his rights may also be
28 subject to termination pursuant to subsection (d) if he
29 [fails to file either an acknowledgment of paternity or claim
30 of paternity pursuant to section 5103 (relating to

1 acknowledgment and claim of paternity)] has not filed an
2 acknowledgment or INDEXED claim of parentage pursuant to <--
3 Chapter 93 (relating to voluntary acknowledgment of
4 parentage) and fails to either appear at the hearing for the
5 purpose of objecting to the termination of his rights or file
6 a written objection to such termination with the court prior
7 to the hearing.

8 * * *

9 (d) Putative father.--If a putative father will not file a
10 petition to voluntarily relinquish his parental rights pursuant
11 to section 2501 (relating to relinquishment to agency) or 2502
12 (relating to relinquishment to adult intending to adopt child),
13 has been given notice of the hearing being held pursuant to this
14 section and fails to either appear at that hearing for the
15 purpose of objecting to termination of his parental rights or
16 file a written objection to such termination with the court
17 prior to the hearing and has not filed an acknowledgment [of
18 paternity or claim of paternity pursuant to section 5103] or
19 INDEXED claim of parentage pursuant to Chapter 93, the court may <--
20 enter a decree terminating the parental rights of the putative
21 father pursuant to subsection (c).

22 * * *

23 § 2504. Alternative procedure for relinquishment.

24 * * *

25 (c) Putative father.--If a putative father will not execute
26 a consent to an adoption as required by section 2711, has been
27 given notice of the hearing being held pursuant to this section
28 and fails to either appear at that hearing for the purpose of
29 objecting to termination of his parental rights or file a
30 written objection to such termination with the court prior to

1 the hearing and has not filed an acknowledgment [of paternity or
2 claim of paternity pursuant to section 5103 (relating to
3 acknowledgment and claim of paternity)] or INDEXED claim of <--
4 parentage pursuant to Chapter 93 (relating to voluntary
5 acknowledgment of parentage), the court may enter a decree
6 terminating the parental rights of the putative father pursuant
7 to subsection (b).

8 * * *

9 § 2513. Hearing.

10 * * *

11 (b) Notice.--At least ten days' notice shall be given to the
12 parent or parents, putative father, or parent of a minor parent
13 whose rights are to be terminated, by personal service or by
14 registered mail to his or their last known address or by such
15 other means as the court may require. A copy of the notice shall
16 be given in the same manner to the other parent, putative father
17 or parent or guardian of a minor parent whose rights are to be
18 terminated. A putative father shall include one who has filed [a
19 claim of paternity as provided in section 5103 (relating to
20 acknowledgment and claim of paternity)] an acknowledgment or
21 INDEXED claim of parentage as provided in Chapter 93 (relating <--
22 to voluntary acknowledgment of parentage) prior to the
23 institution of proceedings. The notice shall state the
24 following:

25 "A petition has been filed asking the court to put an end
26 to all rights you have to your child (insert name of child).
27 The court has set a hearing to consider ending your rights to
28 your child. That hearing will be held in (insert place,
29 giving reference to exact room and building number or
30 designation) on (insert date) at (insert time). You are

1 warned that even if you fail to appear at the scheduled
2 hearing, the hearing will go on without you and your rights
3 to your child may be ended by the court without your being
4 present. You have a right to be represented at the hearing by
5 a lawyer. You should take this paper to your lawyer at once.
6 If you do not have a lawyer or cannot afford one, go to or
7 telephone the office set forth below to find out where you
8 can get legal help.

9 (Name).....
10 (Address).....
11
12 (Telephone number)....."

13 * * *

14 § 4343. Paternity.

15 * * *

16 (c) Genetic tests.--

17 * * *

18 [(6) A determination of nonpaternity made by another
19 state with respect to a public assistance recipient shall not
20 be binding upon the Department of Public Welfare unless the
21 defendant shows that the department had actual notice of the
22 proceedings, including the date and time of any trial, and a
23 fair opportunity to participate in all material proceedings
24 through counsel of its own choice.]

25 § 4352. Continuing jurisdiction over support orders.

26 (a) General rule.--The court making an order of support
27 shall at all times maintain jurisdiction of the matter for the
28 purpose of enforcement of the order and for the purpose of
29 increasing, decreasing, modifying or rescinding the order unless
30 otherwise provided by Part VIII (relating to uniform interstate

1 family support) [or], VIII-A (relating to intrastate family
2 support) or IX-A (relating to Uniform Parentage Act) without
3 limiting the right of the obligee, or the department if it has
4 an assignment or other interest, to institute additional
5 proceedings for support in any county in which the obligor
6 resides or in which property of the obligor is situated. The
7 Supreme Court shall by general rule establish procedures by
8 which each interested party shall be notified of all proceedings
9 in which support obligations might be established or modified
10 and shall receive a copy of any order issued in a case within 14
11 days after issuance of such order. A petition for modification
12 of a support order may be filed at any time and shall be granted
13 if the requesting party demonstrates a substantial change in
14 circumstances.

15 * * *

16 Section 2. Section 5103 of Title 23 is repealed:

17 [§ 5103. Acknowledgment and claim of paternity.]

18 (a) Acknowledgment of paternity.--The father of a child born
19 to an unmarried woman may file with the Department of Public
20 Welfare, on forms prescribed by the department, an
21 acknowledgment of paternity of the child which shall include the
22 consent of the mother of the child, supported by her witnessed
23 statement subject to 18 Pa.C.S. § 4904 (relating to unsworn
24 falsification to authorities). In such case, the father shall
25 have all the rights and duties as to the child which he would
26 have had if he had been married to the mother at the time of the
27 birth of the child, and the child shall have all the rights and
28 duties as to the father which the child would have had if the
29 father had been married to the mother at the time of birth. The
30 hospital or other person accepting an acknowledgment of

1 paternity shall provide written and oral notice, which may be
2 through the use of video or audio equipment, to the birth mother
3 and birth father of the alternatives to, the legal consequences
4 of and the rights and responsibilities that arise from, signing
5 the acknowledgment.

6 (b) Claim of paternity.--If the mother of the child fails or
7 refuses to join in the acknowledgment of paternity provided for
8 in subsection (a), the Department of Public Welfare shall index
9 it as a claim of paternity. The filing and indexing of a claim
10 of paternity shall not confer upon the putative father any
11 rights as to the child except that the putative father shall be
12 entitled to notice of any proceeding brought to terminate any
13 parental rights as to the child.

14 (c) Duty of hospital or birthing center.--Upon the birth of
15 a child to an unmarried woman, an agent of the hospital or
16 birthing center where the birth occurred shall:

17 (1) Provide the newborn's birth parents with an
18 opportunity to complete an acknowledgment of paternity. The
19 completed, signed and witnessed acknowledgment shall be sent
20 to the Department of Public Welfare. A copy shall be given to
21 each of the birth parents. This acknowledgment shall contain:

22 (i) A signed, witnessed statement subject to 18
23 Pa.C.S. § 4904 (relating to unsworn falsification to
24 authorities) by the birth mother consenting to the
25 acknowledgment of paternity.

26 (ii) A signed, witnessed statement subject to 18
27 Pa.C.S. § 4904 by the birth father acknowledging his
28 paternity.

29 (iii) A written explanation of the parental duties
30 and parental rights which arise from signing such a

1 statement.

2 (iv) The Social Security numbers and addresses of
3 both birth parents.

4 (2) Provide written information, furnished by the
5 department to the birth mother and birth father, which
6 explains the benefits of having the child's paternity
7 established, the availability of paternity establishment
8 services and the availability of child support enforcement
9 agencies.

10 (d) Conclusive evidence.--Notwithstanding any other
11 provision of law, an acknowledgment of paternity shall
12 constitute conclusive evidence of paternity without further
13 judicial ratification in any action to establish support. The
14 court shall give full faith and credit to an acknowledgment of
15 paternity signed in another state according to its procedures.

16 (e) Transfer.--The Department of Health shall transfer to
17 the Department of Public Welfare all acknowledgments or claims
18 of paternity filed with the Department of Health under prior
19 statutes.

20 (f) Certifications.--The Department of Public Welfare shall
21 provide necessary certifications under Part III (relating to
22 adoption) as to whether any acknowledgment or claim of paternity
23 has been filed in regard to any child who is a prospective
24 adoptive child.

25 (g) Rescission.--

26 (1) Notwithstanding any other provision of law, a
27 signed, voluntary, witnessed acknowledgment of paternity
28 subject to 18 Pa.C.S. § 4904 shall be considered a legal
29 finding of paternity, subject to the right of any signatory
30 to rescind the acknowledgment within the earlier of the

1 following:

2 (i) sixty days; or

3 (ii) the date of an administrative or judicial
4 proceeding relating to the child, including, but not
5 limited to, a domestic relations section conference or a
6 proceeding to establish a support order in which the
7 signatory is a party.

8 (2) After the expiration of the 60 days, an
9 acknowledgment of paternity may be challenged in court only
10 on the basis of fraud, duress or material mistake of fact,
11 which must be established by the challenger through clear and
12 convincing evidence. An order for support shall not be
13 suspended during the period of challenge except for good
14 cause shown.

15 (h) Penalties for noncompliance.--The department may impose
16 a civil penalty not to exceed \$500 per day upon a hospital or
17 birthing center which is not in compliance with the provisions
18 of this section. A penalty under this subsection is subject to 2
19 Pa.C.S. Ch. 5 Subch. A (relating to practice and procedure of
20 Commonwealth agencies) and Ch. 7 Subch. A (relating to judicial
21 review of Commonwealth agency action).

22 (i) Status of father.--The name of the father shall be
23 included on the record of birth of the child of unmarried
24 parents only if one of the following applies:

25 (1) The father and mother have signed a voluntary
26 acknowledgment of paternity.

27 (2) A court or administrative agency of competent
28 jurisdiction has issued an adjudication of paternity.]

29 Section 3. Section 7201(a) of Title 23 is amended to read:
30 § 7201. Bases for jurisdiction over nonresident.

1 (a) Jurisdiction.--In a proceeding to establish or enforce a
2 support order or to determine parentage of a child, a tribunal
3 of this State may exercise personal jurisdiction over a
4 nonresident individual or the individual's guardian or
5 conservator if any of the following apply:

6 (1) The individual is personally served with a writ of
7 summons, complaint or other appropriate pleading within this
8 State.

9 (2) The individual submits to the jurisdiction of this
10 State by consent in a record, by entering a general
11 appearance or by filing a responsive document having the
12 effect of waiving any contest to personal jurisdiction.

13 (3) The individual resided with the child in this State.

14 (4) The individual resided in this State and provided
15 prenatal expenses or support for the child.

16 (5) The child resides in this State as a result of the
17 acts or directives of the individual.

18 (6) The individual engaged in sexual intercourse in this
19 State and the child may have been conceived by that act of
20 intercourse.

21 (7) The individual acknowledged parentage of the child
22 [on a form filed with the department under section 5103
23 (relating to acknowledgment and claim of paternity)] under
24 Chapter 93 (relating to voluntary acknowledgment of
25 parentage).

26 (8) There is any other basis consistent with the
27 constitutions of this State and the United States for the
28 exercise of personal jurisdiction.

29 * * *

30 Section 4. Title 23 is amended by adding a part to read:

1 PART IX-A

2 UNIFORM PARENTAGE ACT

3 Chapter

4 91. General Provisions

5 92. Parent-child Relationship

6 93. Voluntary Acknowledgment of Parentage

7 94. (Reserved)

8 95. Genetic Testing

9 96. Proceeding to Adjudicate Parentage

10 97. Assisted Reproduction

11 98. Surrogacy Agreement

12 99. Information about Donor

13 99A. Miscellaneous Provisions

14 CHAPTER 91

15 GENERAL PROVISIONS

16 Sec.

17 9101. Short title of part.

18 9102. Definitions.

19 9103. Scope of part.

20 9104. Applicable law.

21 9105. Data privacy.

22 9106. Construction.

23 § 9101. Short title of part.

24 This part shall be known as the Uniform Parentage Act.

25 § 9102. Definitions.

26 Subject to additional definitions contained in subsequent
27 provisions of this part which are applicable to specific
28 provisions of this part, the following words and phrases when
29 used in this part shall have the meanings given to them in this
30 section unless the context clearly indicates otherwise:

1 "Acknowledged parent." An individual who has established a
2 parent-child relationship under Chapter 93 (relating to
3 voluntary acknowledgment of parentage).

4 "Active petition." A petition which has been served and not
5 withdrawn.

6 "Adjudicated parent." An individual who has been adjudicated
7 to be a parent of a child by a court with jurisdiction.

8 "Alleged genetic parent." An individual who is alleged to
9 be, or alleges that the individual is, a genetic parent or
10 possible genetic parent of a child whose parentage has not been
11 adjudicated. The term does not include:

12 (1) a presumed parent;

13 (2) an individual whose parental rights have been
14 terminated or declared not to exist; or

15 (3) a donor.

16 "Assisted reproduction." A method of causing pregnancy other
17 than sexual intercourse. The term includes:

18 (1) intrauterine, intracervical or vaginal insemination;

19 (2) donation of gametes;

20 (3) donation of embryos;

21 (4) in vitro fertilization and transfer of embryos; and

22 (5) intracytoplasmic sperm injection.

23 "Birth." Includes stillbirth.

24 "Child." An individual of any age whose parentage may be
25 determined under this part.

26 "Child-support agency." A government entity, public official
27 or private agency authorized to provide parentage-establishment
28 services under Part D of Title IV of the Social Security Act (49
29 Stat. 620, 42 U.S.C. § 651 et seq.).

30 "Department." The Department of Health of the Commonwealth.

1 "Determination of parentage." Establishment of a parent-
2 child relationship by a judicial or administrative proceeding or
3 otherwise under this part.

4 "Donor." An individual who provides gametes intended for use
5 in assisted reproduction, whether or not for consideration. The
6 term does not include:

7 (1) an individual who gives birth to a child conceived
8 by assisted reproduction, except as otherwise provided in
9 Chapter 98 (relating to surrogacy agreement); or

10 (2) a parent under Chapter 97 (relating to assisted
11 reproduction) or an intended parent under Chapter 98.

12 "Gamete." A sperm or an egg.

13 "Genetic testing." An analysis of genetic markers to
14 identify or exclude a genetic relationship.

15 "Intended parent." An individual, married or unmarried, who
16 manifests an intent to be legally bound as a parent of a child
17 conceived by assisted reproduction.

18 "Minor." An unemancipated individual under 18 years of age.

19 "Parent." An individual who has established a parent-child
20 relationship under section 9201 (relating to establishment of
21 parent-child relationship).

22 "Parentage" or "parent-child relationship." The legal
23 relationship between a child and a parent of the child.

24 "Petition." A pleading which commences an action under this
25 part.

26 "Presumed parent." An individual who, under section 9204
27 (relating to presumption of parentage), is presumed to be a
28 parent of a child, unless the presumption is overcome in a
29 judicial proceeding, a valid denial of parentage is made under
30 Chapter 93 or a court adjudicates the individual to be a parent.

1 "Record." Information that is inscribed on a tangible medium
2 or that is stored in an electronic or other medium and is
3 retrievable in perceivable form.

4 "Sign." With present intent to authenticate or adopt a
5 record:

6 (1) to execute or adopt a tangible symbol; or
7 (2) to attach to or logically associate with the record
8 an electronic symbol, sound or process.

9 "Signatory." An individual who signs a record.

10 "State." A state of the United States, the District of
11 Columbia, Puerto Rico, the United States Virgin Islands or any
12 territory or insular possession under the jurisdiction of the
13 United States. The term includes a federally recognized Indian
14 tribe.

15 "Transfer." A procedure for assisted reproduction by which a
16 gamete or embryo is placed in the body of an individual who will
17 give birth to a child.

18 "Witnessed." ~~At~~ THE ACT IN WHICH AT least one individual who <--
19 is authorized to sign has signed a record to verify that the
20 individual personally observed a signatory sign the record.

21 § 9103. Scope of part.

22 (a) General rule.--This part applies to an adjudication or
23 determination of parentage.

24 (b) Construction.--This part does not create, affect,
25 enlarge or diminish parental rights or duties under the law of
26 this Commonwealth other than this part.

27 (c) Inconsistency.--Except as otherwise provided in this
28 part, if there is an inconsistency between a provision of this
29 part and another statutory provision, the provision of this part
30 prevails.

1 § 9104. Applicable law.

2 The court shall apply the law of this Commonwealth to
3 adjudicate parentage. The applicable law does not depend on:

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

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

6 § 9105. Data privacy.

7 A proceeding under this part is subject to the law of this
8 Commonwealth other than this part which governs the health,
9 safety, privacy and liberty of a child or other individual who
10 could be affected by disclosure of information that could
11 identify the child or other individual, including address,
12 telephone number, digital contact information, place of
13 employment, Social Security number and the child's day-care
14 facility or school.

15 § 9106. Construction.

16 (A) EQUAL APPLICATION.--To the extent practicable, a <--
17 provision of this part applicable to a father-child relationship
18 or a mother-child relationship applies to any parent-child
19 relationship.

20 (B) APPLICATION TO STATE PLAN.--THIS PART SHALL BE APPLIED <--
21 IN ACCORDANCE WITH THE DEPARTMENT OF HUMAN SERVICES' FEDERALLY
22 APPROVED STATE PLAN FOR CHILD SUPPORT.

23 CHAPTER 92

24 PARENT-CHILD RELATIONSHIP

25 Sec.

26 9201. Establishment of parent-child relationship.

27 9202. No discrimination.

28 9203. Consequences of establishing parentage.

29 9204. Presumption of parentage.

30 § 9201. Establishment of parent-child relationship.

1 A parent-child relationship is established between an
2 individual and a child if:

3 (1) the individual gives birth to the child, except as
4 otherwise provided in Chapter 98 (relating to surrogacy
5 agreement);

6 (2) there is a presumption under section 9204 (relating
7 to presumption of parentage) of the individual's parentage of
8 the child, unless the presumption is overcome in a judicial
9 proceeding or a valid denial of parentage is made under
10 Chapter 93 (relating to voluntary acknowledgment of
11 parentage);

12 (3) the individual is adjudicated a parent of the child
13 under Chapter 96 (relating to proceeding to adjudicate
14 parentage);

15 (4) the individual adopts the child;

16 (5) the individual acknowledges parentage of the child
17 under Chapter 93, unless the acknowledgment is rescinded
18 under section 9308 (relating to procedure for rescission) or
19 successfully challenged under Chapter 93 or 96;

20 (6) the individual's parentage of the child is
21 established under Chapter 97 (relating to assisted
22 reproduction); or

23 (7) the individual's parentage of the child is
24 established under Chapter 98.

25 § 9202. No discrimination.

26 A parent-child relationship extends equally to every child
27 and parent, regardless of the marital status or gender of the
28 parent or the circumstances of the child's birth.

29 § 9203. Consequences of establishing parentage.

30 Unless parental rights are terminated, a parent-child

1 relationship established under this part applies for all
2 purposes.

3 § 9204. Presumption of parentage.

4 (a) General rule.--An individual is presumed to be a parent
5 of a child if:

6 (1) when the child was born:

7 (i) that individual and the individual who gave
8 birth to the child were married to each other, regardless
9 of whether the marriage was valid or could later be
10 declared invalid; and

11 (ii) there is no active petition for divorce,
12 dissolution or annulment ; or

13 (2) during the time the child was a minor, that
14 individual resided in the same household as the child and:

15 (i) openly held out the child as that individual's
16 child; or

17 (ii) provided support for the child.

18 (b) Effect of presumption of parentage.--A presumption of
19 parentage under this section may be overcome and competing
20 claims to parentage may be resolved only by an adjudication
21 under Chapter 96 (relating to proceeding to adjudicate
22 parentage) or a valid denial of parentage under Chapter 93
23 (relating to voluntary acknowledgment of parentage).

24 CHAPTER 93

25 VOLUNTARY ACKNOWLEDGMENT OF PARENTAGE

26 Sec.

27 9301. Acknowledgment of parentage.

28 9302. Execution of acknowledgment of parentage.

29 9303. Denial of parentage.

30 9304. Rules for acknowledgment or denial of parentage.

1 9305. Effect of acknowledgment or denial of parentage.
2 9306. No filing fee.
3 9307. Ratification barred.
4 9308. Procedure for rescission.
5 9309. Challenge after expiration of period for rescission.
6 9310. Procedure for challenge by signatory.
7 9311. Full faith and credit.
8 9312. Forms for acknowledgment and denial of parentage.
9 9313. Release of information.
10 9314. ~~Adoption of rules~~ REGULATIONS. <--

11 § 9301. Acknowledgment of parentage.

12 (a) Who may sign acknowledgment.--Except as provided in
13 subsection (c), the individual who gave birth to a child and any
14 of the following may sign an acknowledgment of parentage to
15 establish the parentage of the child:

16 (1) A presumed parent of the child.

17 (2) An alleged genetic parent of the child.

18 (3) An intended parent of the child UNDER CHAPTER 97 <--

19 (RELATING TO ASSISTED REPRODUCTION).

20 (b) Opportunity to complete and sign acknowledgment.--If a
21 child is born in a hospital, birthing center or other facility,
22 an agent of the facility shall provide the individual who gave
23 birth to the child and any of the other individuals listed in
24 subsection (a) seeking to establish a parent-child relationship
25 with the child with a form acknowledgment of parentage and an
26 opportunity to complete and sign the form and have their
27 signatures attested or witnessed as required under section
28 9302(a)(1) (relating to execution of acknowledgment of
29 parentage).

30 (c) Acknowledgment not signed by individual who gave

1 birth.--If the individual who gave birth to the child refuses to
2 sign an acknowledgment of parentage under this section, the
3 Department of Human Services shall accept for filing the
4 acknowledgment of parentage and index the acknowledgment as a
5 claim of parentage by the other individual seeking to establish
6 the parentage of the child. The filing and indexing shall not
7 confer on the other individual any rights regarding the child
8 except that the other individual is entitled to notice of any
9 proceeding brought to terminate any parental rights to the child
10 provided by other law.

11 (d) Certifications.--The Department of Human Services shall
12 provide necessary certifications under Part III (relating to
13 adoption) as to whether any acknowledgment or claim of parentage
14 has been filed OR INDEXED in regard to a child who is a <--
15 prospective adoptive child.

16 § 9302. Execution of acknowledgment of parentage.

17 (a) General rule.--An acknowledgment of parentage under
18 section 9301 (relating to acknowledgment of parentage) must:

19 (1) be in a record signed by the individual who gave
20 birth to the child and by the individual seeking to establish
21 parentage, and the signatures must be attested by a notarial
22 officer or witnessed;

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

25 (i) does not have a presumed parent other than the
26 individual seeking to establish parentage of the child or
27 has a presumed parent whose full name is stated; and

28 (ii) does not have another acknowledged parent,
29 adjudicated parent or individual who is a parent of the
30 child under Chapter 97 (relating to assisted

1 reproduction) or 98 (relating to surrogacy agreement)
2 other than the individual who gave birth to the child;
3 and

4 (3) state that the signatories understand that the
5 acknowledgment is the equivalent of an adjudication of
6 parentage of the child and that a challenge to the
7 acknowledgment is permitted only under limited circumstances
8 and is barred two years after the effective date of the
9 acknowledgment.

10 (b) Void acknowledgment of parentage.--An acknowledgment of
11 parentage is void if, at the time of signing:

12 (1) an individual other than the individual seeking to
13 establish parentage is a presumed parent, unless a denial of
14 parentage by the presumed parent in a signed record is filed
15 with the Department of Human Services; or

16 (2) an individual, other than the individual who gave
17 birth to the child or the individual seeking to establish
18 parentage, is an acknowledged or adjudicated parent or a
19 parent under Chapter 97 or 98.

20 § 9303. Denial of parentage.

21 A presumed parent or alleged genetic parent may sign a denial
22 of parentage in a record. The denial of parentage is valid only
23 if:

24 (1) an acknowledgment of parentage by another individual
25 is filed under section 9305 (relating to effect of
26 acknowledgment or denial of parentage);

27 (2) the signatures are attested by a notarial officer or
28 witnessed; and

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

1 (i) completed a valid acknowledgment of parentage,
2 unless the previous acknowledgment was rescinded under
3 section 9308 (relating to procedure for rescission) or
4 challenged successfully under section 9309 (relating to
5 challenge after expiration of period for rescission); or

6 (ii) been adjudicated to be a parent of the child.

7 § 9304. Rules for acknowledgment or denial of parentage.

8 (a) General rule.--An acknowledgment of parentage and a
9 denial of parentage may be contained in a single record or may
10 be in counterparts and may be filed with the Department of Human
11 Services separately or simultaneously. If filing of the
12 acknowledgment and denial both are required under this part,
13 neither is effective until both are filed.

14 (b) Time period for signing.--An acknowledgment of parentage
15 or denial of parentage may be signed before or after the birth
16 of the child.

17 (c) Effective date.--Subject to subsection (a), an
18 acknowledgment of parentage or denial of parentage takes effect
19 on the birth of the child or filing of the record with the
20 Department of Human Services, whichever occurs later.

21 (d) Validity.--An acknowledgment of parentage or denial of
22 parentage signed by a minor is valid if the acknowledgment
23 complies with this part.

24 § 9305. Effect of acknowledgment or denial of parentage.

25 (a) Acknowledgment of parentage.--Except as otherwise
26 provided in sections 9308 (relating to procedure for rescission)
27 and 9309 (relating to challenge after expiration of period for
28 rescission), an acknowledgment of parentage that complies with
29 this chapter and is filed with the Department of Human Services
30 is equivalent to an adjudication of parentage of the child and

1 confers on the acknowledged parent all rights and duties of a
2 parent.

3 (b) Denial of parentage.--Except as otherwise provided in
4 sections 9308 and 9309, a denial of parentage which complies
5 with this chapter and is filed with the Department of Human
6 Services with an acknowledgment of parentage that complies with
7 this chapter is equivalent to an adjudication that the presumed
8 parent or alleged genetic parent is not a parent and is
9 discharged from all rights and duties of a parent.

10 § 9306. No filing fee.

11 The Department of Human Services may not charge a fee for
12 filing an acknowledgment of parentage or denial of parentage.

13 § 9307. Ratification barred.

14 A court conducting a judicial proceeding or an administrative
15 agency conducting an administrative proceeding is not required
16 or permitted to ratify an unchallenged acknowledgment of
17 parentage.

18 § 9308. Procedure for rescission.

19 (a) General rule.--A signatory may rescind an acknowledgment
20 of parentage or denial of parentage by filing with the
21 Department of Human Services a rescission in a signed record
22 which is attested by a notarial officer or witnessed. The filing
23 must occur before the earlier of:

24 (1) sixty days after the effective date under section
25 9304 (relating to rules for acknowledgment or denial of
26 parentage) of the acknowledgment or denial; or

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

1 (b) Associated denial of parentage.--If an acknowledgment of
2 parentage is rescinded under subsection (a), an associated
3 denial of parentage is invalid, and the Department of Human
4 Services shall notify the individual who gave birth to the child
5 and the individual who signed a denial of parentage of the child
6 that the acknowledgment has been rescinded. Failure to give the
7 notice required by this subsection does not affect the validity
8 of the rescission.

9 § 9309. Challenge after expiration of period for rescission.

10 (a) Signatories.--After the period for rescission under
11 section 9308 (relating to procedure for rescission) expires, but
12 not later than two years after the effective date under section
13 9304 (relating to rules for acknowledgment or denial of
14 parentage) of an acknowledgment of parentage or denial of
15 parentage, a signatory of the acknowledgment or denial may
16 commence a proceeding to challenge the acknowledgment or denial,
17 including a challenge brought under section 9614 (relating to
18 precluding establishment of parentage by perpetrator of sexual
19 assault), only on the basis of fraud, duress or material mistake
20 of fact.

21 (b) Nonsignatories.--A challenge to an acknowledgment of
22 parentage or denial of parentage by an individual who was not a
23 signatory to the acknowledgment or denial is governed by section
24 9610 (relating to adjudicating parentage of child with
25 acknowledged parent).

26 § 9310. Procedure for challenge by signatory.

27 (a) Parties.--Every signatory to an acknowledgment of
28 parentage and any related denial of parentage must be made a
29 party to a proceeding to challenge the acknowledgment or denial.

30 (b) Personal jurisdiction.--By signing an acknowledgment of

1 parentage or denial of parentage, a signatory submits to
2 personal jurisdiction in this Commonwealth in a proceeding to
3 challenge the acknowledgment or denial, effective on the filing
4 of the acknowledgment or denial with the Department of Human
5 Services.

6 (c) Suspension of legal responsibilities.--The court may not
7 suspend the legal responsibilities arising from an
8 acknowledgment of parentage, including the duty to pay child
9 support, during the pendency of a proceeding to challenge the
10 acknowledgment or a related denial of parentage, unless the
11 party challenging the acknowledgment or denial shows good cause.

12 (d) Burden of proof.--A party challenging an acknowledgment
13 of parentage or denial of parentage has the burden of proof.

14 (e) Order to amend birth record.--If the court determines
15 that a party has satisfied the burden of proof under subsection
16 (d), the court shall order the department to amend the birth
17 record of the child to reflect the legal parentage of the child.

18 (f) Conduct of proceedings.--A proceeding to challenge an
19 acknowledgment of parentage or denial of parentage must be
20 conducted under Chapter 96 (relating to proceeding to adjudicate
21 parentage).

22 § 9311. Full faith and credit.

23 The court shall give full faith and credit to an
24 acknowledgment of parentage or denial of parentage effective in
25 another state if the acknowledgment or denial is in a signed
26 record and otherwise complies with the law of the other state.

27 § 9312. Forms for acknowledgment and denial of parentage.

28 (a) Duty to prescribe forms.--The Department of Human
29 Services shall prescribe forms for an acknowledgment of
30 parentage, denial of parentage, rescission of acknowledgment and

1 rescission of denial.

2 (b) Effect of later modification.--A valid acknowledgment of
3 parentage or denial of parentage is not affected by a later
4 modification of the form under subsection (a).

5 § 9313. Release of information.

6 The Department of Human Services may release information
7 relating to an acknowledgment of parentage or, A denial of <--
8 parentage to a signatory of the acknowledgment or denial, court, <--
9 child 18 years of age or older who is the subject of the
10 acknowledgment of parentage or denial of parentage, Federal
11 agency and child support agency of this or another state. OR A <--

12 RELATED RESCISSION TO ANY OF THE FOLLOWING:

13 (1) A SIGNATORY OF THE ACKNOWLEDGMENT OF PARENTAGE,
14 DENIAL OF PARENTAGE OR RELATED RESCISSION.

15 (2) A COURT.

16 (3) A CHILD 18 YEARS OF AGE OR OLDER WHO IS THE SUBJECT
17 OF THE ACKNOWLEDGMENT OF PARENTAGE, DENIAL OF PARENTAGE OR
18 RELATED RESCISSION.

19 (4) A FEDERAL AGENCY OR A CHILD-SUPPORT AGENCY OF THIS
20 OR ANOTHER STATE.

21 § 9314. Adoption of rules REGULATIONS. <--

22 The Department of Human Services may adopt rules PROMULGATE <--
23 REGULATIONS AS NECESSARY to implement this chapter.

24 CHAPTER 94

25 (Reserved)

26 CHAPTER 95

27 GENETIC TESTING

28 Sec.

29 9501. Definitions.

30 9502. Scope of chapter; limitation on use of genetic testing.

- 1 9503. Authority to order or deny genetic testing.
2 9504. Requirements for genetic testing.
3 9505. Report of genetic testing.
4 9506. Genetic testing results; challenge to results.
5 9507. Cost of genetic testing.
6 9508. Additional genetic testing.
7 9509. Genetic testing when specimen not available.
8 9510. Deceased individual.
9 9511. Identical siblings.
10 9512. Confidentiality of genetic testing.
11 § 9501. Definitions.

12 The following words and phrases when used in this chapter
13 shall have the meanings given to them in this section unless the
14 context clearly indicates otherwise:

15 "Combined relationship index." The product of all tested
16 relationship indices.

17 "Ethnic or racial group." For the purpose of genetic
18 testing, a recognized group or groups that an individual
19 identifies as the individual's ancestry or part of the ancestry
20 or that is identified by other information.

21 "Hypothesized genetic relationship." An asserted genetic
22 relationship between an individual and a child.

23 "Probability of parentage." For the ethnic or racial group
24 to which an individual alleged to be a parent belongs, the
25 probability that a hypothesized genetic relationship is
26 supported, compared to the probability that a genetic
27 relationship is supported between the child and a random
28 individual of the ethnic or racial group used in the
29 hypothesized genetic relationship, expressed as a percentage
30 incorporating the combined relationship index and a prior

1 probability.

2 "Relationship index." A likelihood ratio that compares the
3 probability of a genetic marker given a hypothesized genetic
4 relationship and the probability of the genetic marker given a
5 genetic relationship between the child and a random individual
6 of the ethnic or racial group used in the hypothesized genetic
7 relationship.

8 § 9502. Scope of chapter; limitation on use of genetic testing.

9 (a) General rule.--This chapter governs genetic testing of
10 an individual in a proceeding to adjudicate parentage, whether
11 the individual:

12 (1) voluntarily submits to testing; or

13 (2) is tested under an order of the court or a child-
14 support agency.

15 (b) Prohibited uses.--Genetic testing may not be used:

16 (1) to challenge the parentage status of an individual
17 who is a parent under Chapter 97 (relating to assisted
18 reproduction) or 98 (relating to surrogacy agreement); or

19 (2) to establish the parentage status of an individual
20 who is a donor.

21 § 9503. Authority to order or deny genetic testing.

22 (a) General rule.--Except as otherwise provided in this
23 chapter or Chapter 96 (relating to proceeding to adjudicate
24 parentage), in a proceeding under this part to determine
25 parentage, the court shall order the child and any other
26 individual to submit to genetic testing if a request for testing
27 is supported by the sworn statement of a party:

28 (1) alleging a reasonable possibility that the
29 individual is the child's genetic parent; or

30 (2) denying genetic parentage of the child and stating

1 facts establishing a reasonable possibility that the
2 individual is not a genetic parent.

3 (b) When permitted.--The court or a child-support agency may
4 order genetic testing only if there is no presumed, acknowledged
5 or adjudicated parent of a child other than the individual who
6 gave birth to the child.

7 (c) In utero genetic testing prohibited.--The court or
8 child-support agency may not order in utero genetic testing.

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

12 (e) Subjects.--Genetic testing of an individual who gave
13 birth to a child is not a condition precedent to testing of the
14 child and another individual whose genetic parentage of the
15 child is being determined. If the individual who gave birth is
16 unavailable or declines to submit to genetic testing, the court
17 may order genetic testing of the child and each other individual
18 whose genetic parentage of the child is being adjudicated.

19 (f) Discretion to deny motion.--In a proceeding to
20 adjudicate the parentage of a child having a presumed parent or
21 an individual who claims to be a parent under section 9609
22 (relating to adjudicating claim of de facto parentage of child),
23 or to challenge an acknowledgment of parentage, the court may
24 deny a motion for genetic testing of the child and any other
25 individual after considering the factors in section 9613(a) and
26 (b) (relating to adjudicating competing claims of parentage).

27 (g) Conditions requiring denial of motion.--If an individual
28 requesting genetic testing is barred under Chapter 96 from
29 establishing the individual's parentage status, the court shall
30 deny the request for genetic testing.

1 (h) Enforcement.--An order under this section for genetic
2 testing is enforceable by contempt.

3 § 9504. Requirements for genetic testing.

4 (a) Types authorized.--Genetic testing must be of a type
5 reasonably relied on by experts in the field of genetic testing
6 and performed in a testing laboratory accredited by:

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

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

11 (b) Specimens.--A specimen used in genetic testing may
12 consist of a sample or a combination of samples of blood, buccal
13 cells, bone, hair or other body tissue or fluid. The specimen
14 used in the testing need not be of the same kind for each
15 individual undergoing genetic testing.

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

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

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

29 (i) if the requested frequencies are not available
30 to the laboratory for the ethnic or racial group

1 requested, provide the requested frequencies compiled in
2 a manner recognized by accrediting bodies; or

3 (ii) engage another laboratory to perform the
4 calculations.

5 (3) The laboratory may use its own statistical estimate
6 if there is a question of which ethnic or racial group is
7 appropriate. The laboratory shall calculate the frequencies
8 using statistics, if available, for any other ethnic or
9 racial group requested.

10 (d) Discretion to require additional genetic testing.--If,
11 after recalculation of the relationship index under subsection
12 (c) using a different ethnic or racial group, genetic testing
13 under section 9506 (relating to genetic testing results;
14 challenge to results) does not identify an individual as a
15 genetic parent of a child, the court may require an individual
16 who has been tested to submit to additional genetic testing to
17 identify a genetic parent.

18 § 9505. Report of genetic testing.

19 (a) Requirements.--A report of genetic testing must be in a
20 record and signed under penalty of perjury by a designee of the
21 testing laboratory. A report complying with the requirements of
22 this chapter is self-authenticating.

23 (b) Admissibility of documentation.--Documentation from a
24 testing laboratory of the following information is sufficient to
25 establish a reliable chain of custody and allow the results of
26 genetic testing to be admissible without testimony:

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

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

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

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

4 (5) the date each specimen was received.

5 § 9506. Genetic testing results; challenge to results.

6 (a) General rule.--Subject to a challenge under subsection
7 (b), an individual is identified under this part as a genetic
8 parent of a child if genetic testing complies with this chapter
9 and the results of the testing disclose:

10 (1) that the individual has at least a 99% probability
11 of parentage, using a prior probability of 0.50, as
12 calculated by using the combined relationship index obtained
13 in the testing; and

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

15 (b) When challenge permitted.--An individual identified
16 under subsection (a) as a genetic parent of the child may
17 challenge the genetic testing results only by other genetic
18 testing satisfying the requirements of this chapter which:

19 (1) excludes the individual as a genetic parent of the
20 child; or

21 (2) identifies another individual as a possible genetic
22 parent of the child other than:

23 (i) the individual who gave birth to the child; or

24 (ii) the individual identified under subsection (a).

25 (c) Discretion to require further genetic testing.--Except
26 as otherwise provided in section 9511 (relating to identical
27 siblings), if more than one individual other than the individual
28 who gave birth is identified by genetic testing as a possible
29 genetic parent of the child, the court shall order each
30 individual to submit to further genetic testing to identify a

1 genetic parent.

2 § 9507. Cost of genetic testing.

3 (a) General rule.--Subject to assessment of fees under
4 Chapter 96 (relating to proceeding to adjudicate parentage),
5 payment of the cost of initial genetic testing must be made in <--
6 advance:

7 (1) by a child-support agency in a proceeding in which
8 the child-support agency provides services;

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

11 (3) as agreed by the parties; or

12 (4) as ordered by the court.

13 (b) Reimbursement authorized.--If the cost of genetic
14 testing is paid by the child-support agency, the child-support
15 agency may seek reimbursement from the genetic parent whose
16 parent-child relationship is established.

17 § 9508. Additional genetic testing.

18 The court or child-support agency shall order additional
19 genetic testing on request of an individual who contests the
20 result of the initial testing under section 9506 (relating to
21 genetic testing results; challenge to results). If initial
22 genetic testing under section 9506 identifies an individual as a
23 genetic parent of the child, the court or agency may not order
24 additional testing unless the contesting individual pays for the
25 testing in advance.

26 § 9509. Genetic testing when specimen not available.

27 (a) Individuals subject to.--Subject to subsection (b), if a
28 genetic testing specimen is not available from an alleged
29 genetic parent of a child, an individual seeking genetic testing
30 demonstrates good cause and the court finds that the

1 circumstances are just, the court may order any of the following
2 individuals to submit specimens for genetic testing:

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

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

5 (3) another child of the alleged genetic parent and the
6 individual who gave birth to the other child; and

7 (4) another relative of the alleged genetic parent
8 necessary to complete genetic testing.

9 (b) Balancing test.--To issue an order under this section,
10 the court must find that a need for genetic testing outweighs
11 the legitimate interests of the individual sought to be tested.

12 § 9510. Deceased individual.

13 If an individual seeking genetic testing demonstrates good
14 cause, the court may order genetic testing of a deceased
15 individual.

16 § 9511. Identical siblings.

17 (a) General rule.--If the court finds there is reason to
18 believe that an alleged genetic parent has an identical sibling
19 and evidence that the sibling may be a genetic parent of the
20 child, the court may order genetic testing of the sibling.

21 (b) Nongenetic evidence.--If more than one sibling is
22 identified under section 9506 (relating to genetic testing
23 results; challenge to results) as a genetic parent of the child,
24 the court may rely on nongenetic evidence to adjudicate which
25 sibling is a genetic parent of the child.

26 § 9512. Confidentiality of genetic testing.

27 (a) General rule.--Release of a report of genetic testing
28 for parentage is controlled by the law of this Commonwealth
29 other than this part.

30 (b) Penalty.--An individual who intentionally releases an

1 identifiable specimen of another individual collected for
2 genetic testing under this chapter for a purpose not relevant to
3 a proceeding regarding parentage, without a court order or
4 written permission of the individual who furnished the specimen,
5 commits a misdemeanor of the third degree.

6 CHAPTER 96

7 PROCEEDING TO ADJUDICATE PARENTAGE

8 Subchapter

9 A. Nature of Proceeding

10 B. Special Rules for Proceeding to Adjudicate Parentage

11 C. Hearing and Adjudication

12 SUBCHAPTER A

13 NATURE OF PROCEEDING

14 Sec.

15 9601. Proceeding authorized.

16 9602. Standing to maintain proceeding.

17 9603. Notice of proceeding.

18 9604. Personal jurisdiction.

19 9605. Venue.

20 § 9601. Proceeding authorized.

21 (a) General rule.--A proceeding may be commenced to
22 adjudicate the parentage of a child. Except as otherwise
23 provided in this part, the proceeding is governed by the
24 Pennsylvania Rules of Civil Procedure.

25 (b) Exception.--A proceeding to adjudicate the parentage of
26 a child born under a surrogacy agreement is governed by this
27 chapter and Chapter 98 (relating to surrogacy agreement).

28 § 9602. Standing to maintain proceeding.

29 Except as otherwise provided in Chapter 93 (relating to
30 voluntary acknowledgment of parentage) and sections 9608

1 (relating to adjudicating parentage of child with presumed
2 parent), 9609 (relating to adjudicating claim of de facto
3 parentage of child), 9610 (relating to adjudicating parentage of
4 child with acknowledged parent) and 9611 (relating to
5 adjudicating parentage of child with adjudicated parent), a
6 proceeding to adjudicate parentage may be maintained by:

7 (1) the child;

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

10 (3) an individual who is a parent under this part;

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

13 (5) a child-support agency;

14 (6) an adoption agency authorized by the law of this
15 Commonwealth other than this part or a licensed child-
16 placement agency; or

17 (7) a representative authorized by the law of this
18 Commonwealth other than this part to act for an individual
19 who otherwise would be entitled to maintain a proceeding but
20 is deceased, incapacitated or a minor.

21 § 9603. Notice of proceeding.

22 (a) Individuals entitled to notice.--The petitioner shall
23 give notice of a proceeding to adjudicate parentage to the
24 following individuals:

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

27 (2) an individual who is a parent of the child under
28 this part;

29 (3) a presumed, acknowledged or adjudicated parent of
30 the child; and

<--

1 (4) an individual whose parentage of the child will be
2 adjudicated-; AND

3 (5) A LEGAL CUSTODIAN OF THE CHILD UNDER 42 PA.C.S. CH.
4 63 (RELATING TO JUVENILE MATTERS).

5 (b) Right to intervene.--An individual entitled to notice
6 under subsection (a) has a right to intervene in the proceeding.

7 (c) Effect of lack of notice.--Lack of notice required by
8 subsection (a) does not render a judgment void. Lack of notice
9 does not preclude an individual entitled to notice under
10 subsection (a) from bringing a proceeding under section 9611(b)
11 (relating to adjudicating parentage of child with adjudicated
12 parent).

13 § 9604. Personal jurisdiction.

14 (a) General rule.--The court may adjudicate an individual's
15 parentage of a child only if the court has personal jurisdiction
16 over the individual.

17 (b) Nonresidents, guardians and conservators.--A court of
18 this Commonwealth with jurisdiction to adjudicate parentage may
19 exercise personal jurisdiction over a nonresident individual, or
20 the guardian or conservator of the individual, if the conditions
21 prescribed in section 7201 (relating to bases for jurisdiction
22 over nonresident) are satisfied.

23 (c) Multiple individuals.--Lack of jurisdiction over one
24 individual does not preclude the court from making an
25 adjudication of parentage binding on another individual.

26 § 9605. Venue.

27 Venue for a proceeding to adjudicate parentage shall be in
28 the county where:

29 (1) the assisted reproduction resulting in the child
30 occurred or will occur;

1 the party receives the report. The party shall cite specific
2 grounds for exclusion.

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

8 (d) Factors not affecting admissibility.--Admissibility of a
9 report of genetic testing is not affected by whether the testing
10 was performed:

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

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

14 § 9607. Adjudicating parentage of child with alleged genetic
15 parent.

16 (a) General rule.--A proceeding to determine whether an
17 alleged genetic parent who is not a presumed parent is a parent
18 of a child may be commenced:

19 (1) before the child becomes an adult; or

20 (2) after the child becomes an adult, but only if the
21 child initiates the proceeding.

22 (b) Sole claimant.--Except as otherwise provided in section
23 9614 (relating to precluding establishment of parentage by
24 perpetrator of sexual assault), this subsection applies in a
25 proceeding described in subsection (a) if the individual who
26 gave birth to the child is the only other individual with a
27 claim to parentage of the child. The court shall adjudicate an
28 alleged genetic parent to be a parent of the child if the
29 alleged genetic parent:

30 (1) is identified under section 9506 (relating to

1 genetic testing results; challenge to results) as a genetic
2 parent of the child and the identification is not
3 successfully challenged under section 9506;

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

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

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

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

20 (c) Multiple individuals with claims.--Except as otherwise
21 provided in section 9614 and subject to other limitations in
22 this chapter, if in a proceeding involving an alleged genetic
23 parent at least one other individual in addition to the
24 individual who gave birth to the child has a claim to parentage
25 of the child, the court shall adjudicate parentage under section
26 9613 (relating to adjudicating competing claims of parentage).

27 § 9608. Adjudicating parentage of child with presumed parent.

28 (a) Time period for commencing.--A proceeding to determine
29 whether a presumed parent is a parent of a child may be
30 commenced:

1 (1) before the child becomes an adult; or
2 (2) after the child becomes an adult, but only if the
3 child initiates the proceeding.

4 (b) Effect of presumption of parentage.--A presumption of
5 parentage under section 9204 (relating to presumption of
6 parentage) cannot be overcome after the child attains two years
7 of age unless the court determines:

8 (1) that the presumed parent is not a genetic parent,
9 never resided with the child and never held out the child as
10 the presumed parent's child; or

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

12 (c) Sole claimant.--Except as otherwise provided in section
13 9614 (relating to precluding establishment of parentage by
14 perpetrator of sexual assault), the following rules apply in a
15 proceeding to adjudicate a presumed parent's parentage of a
16 child if the individual who gave birth to the child is the only
17 other individual with a claim to parentage of the child:

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

21 (2) If the presumed parent is identified under section
22 9506 (relating to genetic testing results; challenge to
23 results) as a genetic parent of the child and that
24 identification is not successfully challenged under section
25 9506, the court shall adjudicate the presumed parent to be a
26 parent of the child.

27 (3) If the presumed parent is not identified under
28 section 9506 as a genetic parent of the child and the
29 presumed parent or the individual who gave birth to the child
30 challenges the presumed parent's parentage of the child, the

1 court shall adjudicate the parentage of the child in the best
2 interest of the child based on the factors under section
3 9613(a) and (b) (relating to adjudicating competing claims of
4 parentage).

5 (d) Multiple individuals with claims.--Except as otherwise
6 provided in section 9614 and subject to other limitations in
7 this chapter, if in a proceeding to adjudicate a presumed
8 parent's parentage of a child another individual in addition to
9 the individual who gave birth to the child asserts a claim to
10 parentage of the child, the court shall adjudicate parentage
11 under section 9613.

12 § 9609. Adjudicating claim of de facto parentage of child.

13 (a) Individuals entitled to commence proceeding.--A
14 proceeding to establish parentage of a child under this section
15 may be commenced only by an individual who:

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

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

18 (b) Time period for commencing.--An individual who claims to
19 be a de facto parent of a child must commence a proceeding to
20 establish parentage of a child under this section:

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

22 (2) while the child is alive.

23 (c) Standing.--The following rules govern standing of an
24 individual who claims to be a de facto parent of a child to
25 maintain a proceeding under this section:

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

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

5 (3) Unless the court finds a hearing is necessary to
6 determine disputed facts material to the issue of standing,
7 the court shall determine, based on the pleadings under
8 paragraphs (1) and (2), whether the individual has alleged
9 facts sufficient to satisfy by a preponderance of the
10 evidence the requirements of subsection (d). If the court
11 holds a hearing under this subsection, the hearing must be
12 held on an expedited basis.

13 (d) Individual with sole claim.--In a proceeding to
14 adjudicate parentage of an individual who claims to be a de
15 facto parent of the child, if there is only one other individual
16 who is a parent or has a claim to parentage of the child, the
17 court shall adjudicate the individual who claims to be a de
18 facto parent to be a parent of the child if the individual
19 demonstrates by clear and convincing evidence that:

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

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

24 (3) the individual undertook full and permanent
25 responsibilities of a parent of the child without expectation
26 of financial compensation other than public assistance;

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

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

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

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

6 (e) Multiple individuals with claims.--Subject to other
7 limitations in this chapter, if in a proceeding to adjudicate
8 parentage of an individual who claims to be a de facto parent of
9 the child there is more than one other individual who is a
10 parent or has a claim to parentage of the child and the court
11 determines that the requirements of subsection (d) are
12 satisfied, the court shall adjudicate parentage under section
13 9613 (relating to adjudicating competing claims of parentage).

14 (f) In loco parentis status.--Failure to seek to establish
15 parentage under this section does not affect an individual's
16 ability to seek in loco parentis status under law of this
17 Commonwealth other than this part.

18 § 9610. Adjudicating parentage of child with acknowledged
19 parent.

20 (a) General rule.--If a child has an acknowledged parent, a
21 proceeding to challenge the acknowledgment of parentage or a
22 denial of parentage brought by a signatory to the acknowledgment
23 or denial is governed by sections 9309 (relating to challenge
24 after expiration of period for rescission) and 9310 (relating to
25 procedure for challenge by signatory).

26 (b) Procedure.--If a child has an acknowledged parent, the
27 following rules apply in a proceeding to challenge the
28 acknowledgment of parentage or a denial of parentage brought by
29 an individual, other than the child, who has standing under
30 section 9602 (relating to standing to maintain proceeding) and

1 was not a signatory to the acknowledgment or denial:

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

5 (2) The court may permit the proceeding only if the
6 court finds that permitting the proceeding is in the best
7 interest of the child.

8 (3) If the court permits the proceeding, the court shall
9 adjudicate parentage under section 9613 (relating to
10 adjudicating competing claims of parentage).
11 § 9611. Adjudicating parentage of child with adjudicated
12 parent.

13 (a) General rule.--If a child has an adjudicated parent, a
14 proceeding to challenge the adjudication, brought by an
15 individual who was a party to the adjudication or received
16 notice under section 9603 (relating to notice of proceeding), is
17 governed by the rules governing a collateral attack on a
18 judgment.

19 (b) Procedure.--If a child has an adjudicated parent, the
20 following rules apply to a proceeding to challenge the
21 adjudication of parentage brought by an individual other than
22 the child who has standing under section 9602 (relating to
23 standing to maintain proceeding) and was not a party to the
24 adjudication and did not receive notice under section 9603:

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

28 (2) The court may permit the proceeding only if the
29 court finds that permitting the proceeding is in the best
30 interest of the child.

1 (3) If the court permits the proceeding, the court shall
2 adjudicate parentage under section 9613 (relating to
3 adjudicating competing claims of parentage).

4 § 9612. Adjudicating parentage of child of assisted
5 reproduction.

6 (a) General rule.--An individual who is a parent under
7 Chapter 97 (relating to assisted reproduction) or the individual
8 who gave birth to the child may bring a proceeding to adjudicate
9 parentage. If the court determines that the individual is a
10 parent under Chapter 97, the court shall adjudicate the
11 individual to be a parent of the child.

12 (b) Multiple individuals with claims.--In a proceeding to
13 adjudicate an individual's parentage of a child, if another
14 individual other than the individual who gave birth to the child
15 is a parent under Chapter 97, the court shall adjudicate the
16 individual's parentage of the child under section 9613 (relating
17 to adjudicating competing claims of parentage).

18 § 9613. Adjudicating competing claims of parentage.

19 (a) General rule.--Except as otherwise provided in section
20 9614 (relating to precluding establishment of parentage by
21 perpetrator of sexual assault), in a proceeding to adjudicate
22 competing claims of, or challenges under sections 9608(c)
23 (relating to adjudicating parentage of child with presumed
24 parent), 9610 (relating to adjudicating parentage of child with
25 acknowledged parent) or 9611 (relating to adjudicating parentage
26 of child with adjudicated parent) to parentage of a child by two
27 or more individuals, the court shall adjudicate parentage in the
28 best interest of the child, based on:

29 (1) the age of the child;

30 (2) the length of time during which each individual

1 assumed the role of parent of the child;

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

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

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

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

11 (b) Factors to be considered.--If an individual challenges
12 parentage based on the results of genetic testing, in addition
13 to the factors listed in subsection (a), the court shall
14 consider:

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

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

20 (c) Adjudication of more than two parents.--The court may
21 adjudicate a child to have more than two parents under this part
22 if the court finds that it is in the best interest of the child.
23 A finding of best interest of the child does not require a
24 finding of unfitness of any parent or individual seeking an
25 adjudication of parentage.

26 § 9614. Precluding establishment of parentage by perpetrator of
27 sexual assault.

28 (a) (Reserved).

29 (b) Sexual assault.--Except as provided in subsection (c),
30 in a proceeding in which an individual alleges that the

1 individual's pregnancy or the birth resulting from that
2 pregnancy is the result of a sexual assault, the individual may
3 seek to preclude the alleged perpetrator of the sexual assault
4 from establishing parentage of the child.

5 (c) Nonapplicability.--This section does not apply if:

6 (1) the alleged perpetrator under subsection (b) has
7 previously been adjudicated to be a parent of the child; or

8 (2) after the birth of the child, the alleged
9 perpetrator under subsection (b) established a bonded and
10 dependent relationship with the child which is parental in
11 nature.

12 (d) Limitation.--Unless section 9309 (relating to challenge
13 after expiration of period for rescission) or 9607 (relating to
14 adjudicating parentage of child with alleged genetic parent)
15 applies, a petition making an allegation under subsection (b)
16 must be filed not later than two years after the birth of the
17 child. The petition must be filed only in a proceeding to
18 establish parentage under this part.

19 (e) Evidentiary standard.--An allegation under subsection
20 (b) may be proved by:

21 (1) evidence that the alleged perpetrator under
22 subsection (b) was convicted of a sexual assault, or a
23 comparable crime in another jurisdiction, against the
24 individual who gave birth to the child and the child was born
25 not later than 300 days after the sexual assault; or

26 (2) clear and convincing evidence that the alleged
27 perpetrator under subsection (b) committed sexual assault, or
28 a comparable crime in another jurisdiction, against the
29 individual who gave birth to the child and the child was born
30 not later than 300 days after the sexual assault.

1 (f) Duty of court.--If the court determines that an
2 allegation has been proven under subsection (e), the court
3 shall:

4 (1) adjudicate that the alleged perpetrator under
5 subsection (b) is not a parent of the child;

6 (2) require the department to amend the birth
7 certificate if requested by the individual who gave birth to
8 the child and the court determines that the amendment is in
9 the best interest of the child; and

10 (3) require the perpetrator under subsection (b) to pay
11 child support, birth-related costs or both, unless the
12 individual who gave birth to the child requests otherwise and
13 the court determines that granting the request is in the best
14 interest of the child.

15 (g) Definition.--As used in this section, the term "sexual
16 assault" means the offense under 18 Pa.C.S. § 3124.1 (relating
17 to sexual assault).

18 SUBCHAPTER C

19 HEARING AND ADJUDICATION

20 Sec.

21 9615. Temporary order.

22 9616. Combining proceedings.

23 9617. Proceeding before birth.

24 9618. Child as party; representation.

25 9619. Court to adjudicate parentage.

26 9620. Hearing; inspection of records.

27 9621. Dismissal for want of prosecution.

28 9622. Order adjudicating parentage.

29 9623. Binding effect of determination of parentage.

30 § 9615. Temporary order.

1 (a) General rule.--In a proceeding under this chapter, the
2 court may issue a temporary order for child support if the order
3 is consistent with the law of this Commonwealth other than this
4 part and the individual ordered to pay support is:

5 (1) a presumed parent of the child;

6 (2) petitioning to be adjudicated a parent;

7 (3) identified as a genetic parent through genetic
8 testing under section 9506 (relating to genetic testing
9 results; challenge to results);

10 (4) an alleged genetic parent who has declined to submit
11 to genetic testing;

12 (5) shown by clear and convincing evidence to be a
13 parent of the child; or

14 (6) ~~a parent~~ AN ACKNOWLEDGED PARENT, AN INTENDED PARENT <--
15 OR ANY OTHER PARENT under this part.

16 (b) Custody and visitation provisions.--A temporary order
17 may include a provision for custody and visitation under the law
18 of this Commonwealth other than this part.

19 § 9616. Combining proceedings.

20 (a) General rule.--Except as otherwise provided in
21 subsection (b), the court may combine a proceeding to adjudicate
22 parentage under this part with a proceeding for adoption,
23 termination of parental rights, child custody or visitation,
24 child support, divorce, dissolution or annulment, administration
25 of an estate or another appropriate proceeding.

26 (b) Prohibition.--A respondent may not combine a proceeding
27 described in subsection (a) with a proceeding to adjudicate
28 parentage brought under Part VIII (relating to uniform
29 interstate family support).

30 § 9617. Proceeding before birth.

1 Except as otherwise provided in Chapter 98 (relating to
2 surrogacy agreement), a proceeding to adjudicate parentage may
3 be commenced before the birth of the child and an order or
4 judgment may be entered before birth, but enforcement of the
5 order or judgment must be stayed until the birth of the child.
6 § 9618. Child as party; representation.

7 (a) Minor child as party.--A minor child is a proper party
8 but not a necessary party to a proceeding under this chapter.

9 (b) Representation of child.--The court shall appoint an
10 attorney or guardian ad litem to represent a child in a
11 proceeding under this chapter if the court finds that the
12 interests of the child are not adequately represented.

13 § 9619. Court to adjudicate parentage.

14 The court shall adjudicate parentage of a child without a
15 jury.

16 § 9620. Hearing; inspection of records.

17 (a) Closure of proceeding.--On request of a party and for
18 good cause, the court may close a proceeding under this chapter
19 to the public.

20 (b) Final order and other documents.--A final order in a
21 proceeding under this chapter is available for public
22 inspection. Other papers and records are available for public
23 inspection only with the consent of the parties or by court
24 order.

25 § 9621. Dismissal for want of prosecution.

26 The court may dismiss a proceeding under this part for want
27 of prosecution only without prejudice. An order of dismissal for
28 want of prosecution purportedly with prejudice is void and has
29 only the effect of a dismissal without prejudice.

30 § 9622. Order adjudicating parentage.

1 (a) Identification of child.--An order adjudicating
2 parentage must identify the child in a manner provided by the
3 law of this Commonwealth other than this part.

4 (b) Fees, costs and expenses.--Except as otherwise provided
5 in subsection (c), the court may assess filing fees, reasonable
6 attorney fees, fees for genetic testing, other costs and
7 necessary travel and other reasonable expenses incurred in a
8 proceeding under this chapter. Attorney fees awarded under this
9 subsection may be paid directly to the attorney and the attorney
10 may enforce the order in the attorney's own name.

11 (c) Child-support agency.--The court may not assess fees,
12 costs or expenses in a proceeding under this chapter against a
13 child-support agency of this Commonwealth or another state,
14 except as provided by the law of this Commonwealth other than
15 this part.

16 (d) Admissibility of genetic testing and health care
17 bills.--In a proceeding under this chapter, a copy of a bill for
18 genetic testing or prenatal or postnatal health care for the
19 individual who gave birth to the child and the child provided to
20 the adverse party not later than 10 days before a hearing is
21 admissible to establish:

- 22 (1) the amount of the charge billed; and
23 (2) that the charge is reasonable and necessary.

24 (e) Child name changes.--On request of a party and for good
25 cause, the court in a proceeding under this chapter may order
26 the name of the child changed. If the court order changing the
27 name varies from the name on the birth certificate of the child,
28 the court shall order the department to issue an amended birth
29 certificate.

30 § 9623. Binding effect of determination of parentage.

1 (a) General rule.--Except as otherwise provided in
2 subsection (b):

3 (1) a signatory to an acknowledgment of parentage or
4 denial of parentage is bound by the acknowledgment and denial
5 as provided in Chapter 93 (relating to voluntary
6 acknowledgment of parentage); and

7 (2) a party to an adjudication of parentage by a court
8 acting under circumstances that satisfy the jurisdiction
9 requirements of section 7201 (relating to bases for
10 jurisdiction over nonresident) and any individual who
11 received notice of the proceeding are bound by the
12 adjudication.

13 (b) Children.--A child is not bound by a determination of
14 parentage under this part unless:

15 (1) the determination of parentage was based on an
16 unrescinded acknowledgment of parentage and the
17 acknowledgment is consistent with the results of genetic
18 testing;

19 (2) the determination of parentage was based on a
20 finding consistent with the results of genetic testing and
21 the consistency is declared in the determination or otherwise
22 shown;

23 (3) the determination of parentage was made under
24 Chapters 97 (relating to assisted reproduction) or 98
25 (relating to surrogacy agreement); or

26 (4) the child was a party or was represented by an
27 attorney or guardian ad litem in the proceeding.

28 (c) Other proceedings.--In a proceeding for divorce,
29 dissolution or annulment, the court is deemed to have made an
30 adjudication of parentage of a child if the court acts under

1 circumstances that satisfy the jurisdiction requirements of
2 section 7201 and the final order:

3 (1) expressly identifies the child as a "child of the
4 marriage" or "issue of the marriage" or includes similar
5 words indicating that both spouses are parents of the child;
6 or

7 (2) provides for support of the child by a spouse unless
8 that spouse's parentage of the child is disclaimed
9 specifically in the order.

10 (d) Defense available to nonparties.--Except as otherwise
11 provided in subsection (b) or section 9611 (relating to
12 adjudicating parentage of child with adjudicated parent), a
13 determination of parentage may be asserted as a defense in a
14 subsequent proceeding seeking to adjudicate parentage status of
15 an individual who was not a party to the earlier proceeding.

16 (e) Challenges to adjudication by parties.--A party to an
17 adjudication of parentage may challenge the adjudication only
18 under the law of this Commonwealth other than this part relating
19 to appeal, vacation of judgment or other judicial review.

20 CHAPTER 97

21 ASSISTED REPRODUCTION

22 Sec.

23 9701. Scope of chapter.

24 9702. Parental status of donor.

25 9703. Parentage of child of assisted reproduction.

26 9704. Consent to assisted reproduction.

27 9705. Limitation on spouse's dispute of parentage.

28 9706. Effect of certain legal proceedings regarding marriage.

29 9707. Withdrawal of consent.

30 9708. Parental status of deceased individual.

1 § 9701. Scope of chapter.

2 This chapter does not apply to the birth of a child conceived
3 by sexual intercourse or assisted reproduction under a surrogacy
4 agreement under Chapter 98 (relating to surrogacy agreement).

5 § 9702. Parental status of donor.

6 A donor is not a parent of a child conceived by assisted
7 reproduction.

8 § 9703. Parentage of child of assisted reproduction.

9 An individual who consents under section 9704 (relating to
10 consent to assisted reproduction) to assisted reproduction with
11 another individual who agrees to give birth to a child conceived
12 by the assisted reproduction with the intent to be a parent of
13 the child is a parent of the child.

14 § 9704. Consent to assisted reproduction.

15 (a) Proof.--

16 (1) Except as provided in subsection (b), consent under
17 section 9703 (relating to parentage of child of assisted
18 reproduction) must be established:

19 (i) in a record signed before, on or after the birth
20 of the child by the individual giving birth to the child
21 and by another individual who intends to be a parent of
22 the child; or

23 (ii) by both individuals agreeing, before conception
24 or birth of the child, that they would be parents of the
25 child.

26 (2) (Reserved).

27 (b) Exception.--In the absence of evidence under subsection
28 (a), consent may be established if the court finds that the
29 individual who did not give birth to the child resided with the
30 child after birth and assumed the role of a parent of the child.

1 § 9705. Limitation on spouse's dispute of parentage.

2 (a) General rule.--Except as otherwise provided in
3 subsection (b), if an individual who gives birth to a child by
4 assisted reproduction has a spouse at the time of a child's
5 birth, the spouse may not challenge the spouse's parentage of
6 the child unless:

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

10 (2) the court finds the spouse did not consent to the
11 assisted reproduction before, on or after birth of the child
12 or withdrew consent under section 9707 (relating to
13 withdrawal of consent).

14 (b) Time period to commence proceeding.--A proceeding to
15 adjudicate a spouse's parentage of a child born by assisted
16 reproduction may be commenced at any time if the court
17 determines:

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

20 (2) the spouse and the individual who gave birth to the
21 child have not cohabited since the probable time of assisted
22 reproduction; and

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

25 (c) Applicability.--This section applies to a spouse's
26 dispute of parentage even if the spouse's marriage is declared
27 invalid after assisted reproduction occurs.

28 § 9706. Effect of certain legal proceedings regarding marriage.

29 (a) Former spouse.--If a marriage of an individual who gives
30 birth to a child conceived by assisted reproduction is

1 terminated through divorce or dissolution, or annulled before
2 transfer of gametes or embryos to the individual, a former
3 spouse of the individual is not a parent of the child unless the
4 former spouse consented in a record that the former spouse would
5 be a parent of the child if assisted reproduction were to occur
6 after a divorce, dissolution or annulment and the former spouse
7 did not withdraw consent under section 9707 (relating to
8 withdrawal of consent).

9 (b) After commencement of proceeding.--

10 (1) Except as provided in paragraph (2), a current
11 spouse of an individual who gives birth to a child conceived
12 by assisted reproduction is not a parent of the child if,
13 prior to the transfer of gametes, there is an active petition
14 commencing an action for divorce, dissolution or annulment.

15 (2) Paragraph (1) does not apply if, during the pendency
16 of an action under paragraph (1), both parties consent in a
17 record to be parents of the child.

18 (3) A married individual proceeding with assisted
19 reproduction under this subsection may not use gametes of the
20 individual's spouse unless both parties, during the pendency
21 of the action under paragraph (1), consent in a record to the
22 use of the spouse's gametes for assisted reproduction by the
23 married individual.

24 § 9707. Withdrawal of consent.

25 (a) General rule.--An individual who consents under section
26 9704 (relating to consent to assisted reproduction) to assisted
27 reproduction may withdraw consent any time before a transfer
28 that results in a pregnancy by giving notice in a record of the
29 withdrawal of consent to the individual who agreed to give birth
30 to a child conceived by assisted reproduction and to any clinic

1 or health care provider facilitating the assisted reproduction.
2 Failure to give notice to the clinic or health care provider
3 does not affect a determination of parentage under this part.

4 (b) Effect of withdrawal.--An individual who withdraws
5 consent under subsection (a) is not a parent of the child under
6 this chapter.

7 § 9708. Parental status of deceased individual.

8 (a) Death after gamete or embryo transfer.--If an individual
9 who intends to be a parent of a child conceived by assisted
10 reproduction dies during the period between the transfer of a
11 gamete or embryo and the birth of the child, the individual's
12 death does not preclude the establishment of the individual's
13 parentage of the child if the individual otherwise would be a
14 parent of the child under this part.

15 (b) Death before gamete or embryo transfer.--If an
16 individual who consented in a record to assisted reproduction by
17 an individual who agreed to give birth to a child dies before a
18 transfer of gametes or embryos, the deceased individual is not a
19 parent of a child conceived by the assisted reproduction unless
20 all of the following paragraphs apply:

21 (1) one of the following applies:

22 (i) The individual consented in a record that if
23 assisted reproduction were to occur after the death of
24 the individual, the individual would be a parent of the
25 child.

26 (ii) The individual's intent to be a parent of a
27 child conceived by assisted reproduction after the
28 individual's death is established by clear and convincing
29 evidence.

30 (2) both of the following apply:

1 (i) the transfer of the gamete or embryo occurs not
2 later than 36 months after the individual's death or the
3 birth of the child occurs not later than 45 months after
4 the individual's death; and

5 (ii) the estate of the deceased individual is
6 notified not later than six months after the individual's
7 death that the transfer may occur.

8 CHAPTER 98

9 SURROGACY AGREEMENT

10 Subchapter

11 A. General Requirements

12 B. Special Rules for Gestational Surrogacy Agreement

13 C. Special Rules for Genetic Surrogacy Agreement

14 SUBCHAPTER A

15 GENERAL REQUIREMENTS

16 Sec.

17 9801. Definitions.

18 9802. Eligibility to enter into surrogacy agreement.

19 9803. Requirements of surrogacy agreement: process.

20 9804. Requirements of surrogacy agreements: content.

21 9805. Surrogacy agreement: effect of subsequent change of
22 marital status.

23 9806. Inspection of documents and records.

24 9807. Exclusive, continuing jurisdiction.

25 § 9801. Definitions.

26 The following words and phrases when used in this chapter
27 shall have the meanings given to them in this section unless the
28 context clearly indicates otherwise:

29 "Genetic surrogate." An individual who is not an intended
30 parent and who agrees to become pregnant through assisted

1 reproduction using the individual's own gamete, under a genetic
2 surrogacy agreement as provided in this chapter.

3 "Gestational surrogate." An individual who is not an
4 intended parent and who agrees to become pregnant through
5 assisted reproduction using gametes that are not her own, under
6 a gestational surrogacy agreement as provided in this chapter.

7 "Surrogacy agreement." An agreement between one or more
8 intended parents and an individual who is not an intended parent
9 and the individual's spouse, in which the individual agrees to
10 become pregnant through assisted reproduction and which provides
11 that each intended parent is a parent of a child conceived under
12 the agreement. Unless otherwise specified, the term refers to
13 both a gestational surrogacy agreement and a genetic surrogacy
14 agreement.

15 "Surrogate." A genetic surrogate or a gestational surrogate.
16 § 9802. Eligibility to enter into surrogacy agreement.

17 (a) Requirements for surrogates.--To execute a surrogacy
18 agreement, an individual who desires to be a surrogate must:

19 (1) have attained 21 years of age;

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

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

23 (4) complete a mental health consultation by a licensed
24 mental health professional; and

25 (5) have independent legal representation by an
26 attorney, licensed to practice law in this Commonwealth, of
27 the individual's choice throughout the negotiation process
28 and the execution and duration of the surrogacy agreement
29 regarding the terms of the surrogacy agreement and the
30 potential legal consequences of the agreement.

1 (b) Requirements for intended parents.--To execute a
2 surrogacy agreement, each intended parent, whether or not
3 genetically related to the child, must:

4 (1) have attained 21 years of age;

5 (2) complete a mental health consultation by a licensed
6 mental health professional; and

7 (3) have independent legal representation by an
8 attorney, licensed to practice law in this Commonwealth, of
9 the intended parent's choice, throughout the negotiation,
10 execution and duration of the surrogacy agreement, regarding
11 the terms of the surrogacy agreement and the potential legal
12 consequences of the agreement.

13 § 9803. Requirements of surrogacy agreement: process.

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

16 (1) At least one party must be a resident of this
17 Commonwealth or, if no party is a resident of this
18 Commonwealth:

19 (i) the birth will, or is anticipated to, occur in
20 this Commonwealth; or

21 (ii) the assisted reproduction to be performed under
22 the surrogacy agreement will, or is anticipated to, occur
23 in this Commonwealth.

24 (2) A surrogate and each intended parent must meet the
25 requirements of section 9802 (relating to eligibility to
26 enter into surrogacy agreement).

27 (3) Each intended parent and the surrogate must be
28 parties to the surrogacy agreement. If the surrogate is
29 married, the surrogate's spouse must be a party to the
30 surrogacy agreement unless there is an active petition for

1 divorce, dissolution or annulment.

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

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

7 (6) The signature of each party to the surrogacy
8 agreement must be attested by a notarial officer or
9 witnessed.

10 (7) The surrogate and the intended parent or parents
11 must have independent legal representation under section
12 9802(a)(5) and (b)(3), and each counsel must be identified in
13 the surrogacy agreement.

14 (8) The following apply to legal representation for the
15 surrogate:

16 (i) The intended parent or parents must pay for the
17 representation.

18 (ii) The surrogate must give informed consent to the
19 representation.

20 (iii) There may not be interference with the
21 independence of professional judgment or attorney-client
22 relationship.

23 (iv) The representation must be in compliance with
24 the Rules of Professional Conduct.

25 (9) The surrogacy agreement must be executed before a
26 medical procedure occurs related to the surrogacy agreement,
27 other than the medical evaluation and mental health
28 consultation required by section 9802.

29 § 9804. Requirements of surrogacy agreements: content.

30 (a) General rule.--A surrogacy agreement must comply with

1 the following requirements:

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

4 (2) Except as otherwise provided in sections 9822
5 (relating to termination of genetic surrogacy agreement) and
6 9823(c) (relating to parentage under validated genetic
7 surrogacy agreement), the surrogate and the surrogate's
8 spouse or former spouse, if any, agree that they have no
9 claim to parentage of a child conceived by assisted
10 reproduction under the surrogacy agreement.

11 (3) If the surrogate's spouse is a party to the
12 surrogate agreement, the spouse must acknowledge and agree to
13 comply with the obligations imposed on the surrogate by the
14 surrogacy agreement.

15 (4) Except as otherwise provided in sections 9822 and
16 9823(c), the intended parent or, if there are two intended
17 parents, each one jointly and severally, immediately on birth
18 will be the exclusive parent or parents of the child,
19 regardless of number of children born or gender or mental or
20 physical condition of each child.

21 (5) Except as otherwise provided in sections 9822 and
22 9823(c), the intended parent or, if there are two intended
23 parents, each parent jointly and severally, immediately on
24 birth will assume responsibility for the financial support of
25 the child, regardless of number of children born or gender or
26 mental or physical condition of each child.

27 (6) The intended parent or parents must agree that they
28 are liable for the surrogacy-related medical expenses of the
29 surrogate, including expenses for health care provided for
30 assisted reproduction, prenatal care, labor and delivery, and

1 for the medical expenses of the resulting child not paid for
2 by insurance. This paragraph shall not be construed to
3 supplant health insurance coverage that is otherwise
4 available to the surrogate or an intended parent. This
5 paragraph shall not be deemed to change the health insurance
6 coverage of the surrogate or the responsibility of an
7 insurance company to pay benefits under a policy that covers
8 the surrogate. The surrogacy agreement under this paragraph
9 must include information disclosing how each intended parent
10 will cover the surrogacy-related medical expenses of the
11 surrogate and the medical expenses of the child.

12 (7) The surrogacy agreement may not infringe on the
13 rights of the surrogate to make all health and welfare
14 decisions regarding the surrogate, the surrogate's body and
15 the surrogate's pregnancy throughout the duration of the
16 surrogacy agreement, including during attempts to become
17 pregnant, delivery and after delivery. The surrogacy
18 agreement may not infringe upon the right of the surrogate to
19 autonomy in medical decision-making, including by requiring
20 the surrogate to undergo a scheduled, non-medically indicated
21 cesarean section or to undergo multiple embryo transfers. The
22 General Assembly finds and declares that an agreement
23 purporting to waive or limit the rights described in this
24 paragraph is void as against public policy.

25 (8) The surrogacy agreement must include information
26 about each party's right under this chapter to terminate the
27 surrogacy agreement.

28 (b) Additional provisions.--A surrogacy agreement may
29 provide for:

30 (1) payment of consideration and reasonable expenses not

1 required under subsection (a) (6); and

2 (2) reimbursement of specific expenses if the surrogacy
3 agreement is terminated under this chapter.

4 (c) Assignment prohibited.--A right created under a
5 surrogacy agreement is not assignable, and there is no third-
6 party beneficiary of the surrogacy agreement other than the
7 child.

8 § 9805. Surrogacy agreement: effect of subsequent change of
9 marital status.

10 (a) Surrogates.--Unless a surrogacy agreement expressly
11 provides otherwise:

12 (1) the marriage of a surrogate after the surrogacy
13 agreement is signed by all parties does not affect the
14 validity of the surrogacy agreement, consent to the surrogacy
15 agreement by the surrogate's spouse is not required and the
16 spouse is not a presumed parent of a child conceived by
17 assisted reproduction under the surrogacy agreement; and

18 (2) the divorce, dissolution or annulment of the
19 surrogate after the surrogacy agreement is signed by all
20 parties does not affect the validity of the surrogacy
21 agreement.

22 (b) Intended parents.--Unless a surrogacy agreement
23 expressly provides otherwise:

24 (1) the marriage of an intended parent after the
25 surrogacy agreement is signed by all parties does not affect
26 the validity of a surrogacy agreement, the consent of the
27 spouse of the intended parent is not required and the spouse
28 of the intended parent is not, based on the surrogacy
29 agreement, a parent of a child conceived by assisted
30 reproduction under the surrogacy agreement; and

1 Sec.

2 9811. Termination of gestational surrogacy agreement.

3 9812. Parentage under gestational surrogacy agreement.

4 9813. Gestational surrogacy agreement: parentage status of
5 deceased intended parent.

6 9814. Gestational surrogacy agreement: order of parentage.

7 9815. Effect of gestational surrogacy agreement.

8 § 9811. Termination of gestational surrogacy agreement.

9 (a) General rule.--A party to a gestational surrogacy
10 agreement may terminate the surrogacy agreement at any time
11 before an embryo transfer by giving notice of termination in a
12 record to all other parties. If an embryo transfer does not
13 result in a pregnancy, a party may terminate the surrogacy
14 agreement at any time before a subsequent embryo transfer.

15 (b) Limited release.--Unless a gestational surrogacy
16 agreement provides otherwise, on termination of the surrogacy
17 agreement under subsection (a), the parties are released from
18 the surrogacy agreement, except that each intended parent
19 remains responsible for expenses that are reimbursable under the
20 surrogacy agreement and incurred by the gestational surrogate
21 through the date of termination.

22 (c) Penalties and liquidated damages prohibited.--Except in
23 a case involving fraud, neither a gestational surrogate nor the
24 gestational surrogate's spouse or former spouse, if any, is
25 liable to the intended parent or parents for a penalty or
26 liquidated damages for terminating a gestational surrogacy
27 agreement under this section.

28 § 9812. Parentage under gestational surrogacy agreement.

29 (a) Intended parents.--Except as otherwise provided in
30 subsection (c) or section 9813(b) (relating to gestational

1 surrogacy agreement: parentage of deceased intended parent) or
2 9815 (relating to effect of gestational surrogacy agreement), on
3 the birth of a child conceived by assisted reproduction under a
4 gestational surrogacy agreement, each intended parent is, by
5 operation of law, a parent of the child.

6 (b) Surrogates.--Except as otherwise provided in subsection
7 (c) or section 9815, neither a gestational surrogate nor the
8 gestational surrogate's spouse or former spouse, if any, is a
9 parent of the child.

10 (c) When genetic testing required.--If a child is alleged to
11 be a genetic child of a gestational surrogate, the court shall
12 order genetic testing of the child. If the child is a genetic
13 child of a gestational surrogate, parentage must be determined
14 based on Chapters 91 (relating to general provisions), 92
15 (relating to parent-child relationship), 93 (relating to
16 voluntary acknowledgment of parentage), 95 (relating to genetic
17 testing) and 96 (relating to proceeding to adjudicate
18 parentage).

19 (d) Clinical and laboratory errors.--Except as otherwise
20 provided in subsection (c) or section 9813(b) or 9815, if, due
21 to a clinical or laboratory error, a child conceived by assisted
22 reproduction under a gestational surrogacy agreement is not
23 genetically related to an intended parent or a donor who donated
24 to the intended parent or parents, each intended parent, and not
25 the gestational surrogate and the gestational surrogate's spouse
26 or former spouse, if any, is a parent of the child, subject to
27 any other claim of parentage.

28 § 9813. Gestational surrogacy agreement: parentage status of
29 deceased intended parent.

30 (a) Death after gamete or embryo transfer.--Section 9812

1 (relating to parentage under gestational surrogacy agreement)
2 applies to an intended parent even if the intended parent dies
3 during the period between the transfer of a gamete or embryo and
4 the birth of the child.

5 (b) Death before gamete or embryo transfer.--Except as
6 otherwise provided in section 9815 (relating to effect of
7 gestational surrogacy agreement), an intended parent is not a
8 parent of a child conceived by assisted reproduction under a
9 gestational surrogacy agreement if the intended parent dies
10 before the transfer of a gamete or embryo unless:

11 (1) the surrogacy agreement provides otherwise;

12 (2) the transfer of a gamete or embryo occurs not later
13 than 36 months after the death of the intended parent or
14 birth of the child occurs not later than 45 months after the
15 death of the intended parent; and

16 (3) the estate of the deceased intended parent is
17 notified not later than six months after the death of the
18 intended parent that the transfer may occur.

19 § 9814. Gestational surrogacy agreement: order of parentage.

20 (a) Permissible relief.--Except as otherwise provided in
21 sections 9812(c) (relating to parentage under gestational
22 surrogacy agreement) or 9815 (relating to effect of gestational
23 surrogacy agreement), before, on or after the birth of a child
24 conceived by assisted reproduction under a gestational surrogacy
25 agreement, a party to the surrogacy agreement may commence a
26 proceeding in court for an order or judgment under subsection
27 (b). The requested order or judgment may be issued before or
28 after the birth of the child as requested by the parties. The
29 surrogate and all intended parents are necessary parties to the
30 proceeding. The petition must be accompanied by all of the

1 following:

2 (1) A certification from the attorney representing the
3 intended parent or parents and from the attorney representing
4 the surrogate that the surrogacy agreement complies with this
5 chapter.

6 (2) A statement from each party to the agreement that
7 the party knowingly and voluntarily entered into the
8 agreement and is requesting the order or judgment. A
9 statement under this paragraph from the surrogate's spouse is
10 not required if there is an active petition for divorce,
11 dissolution or annulment.

12 (b) Issuance of order or judgment.--On receipt of a petition
13 under subsection (a) and accompanying certifications and
14 statements, the court shall issue an order or judgment:

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

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

22 (3) designating the content of the birth record in
23 accordance with law and directing the department to designate
24 each intended parent as a parent of the child;

25 (4) to protect the privacy of the child and the parties,
26 declaring that the court record is not open to inspection,
27 except as authorized under section 9806 (relating to
28 inspection of documents and records);

29 (5) declaring that the intended parent or parents shall
30 have exclusive custody and control of the child; and

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

3 (c) Order of judgment before birth.--The court may issue an
4 order or judgment under subsection (b) before the birth of the
5 child. The court shall stay enforcement of the order or judgment
6 until the birth of the child.

7 (d) Limitation on necessary parties.--Neither the
8 Commonwealth, the department nor the hospital, birthing center
9 or other facility where the child is or is expected to be born
10 is a necessary party to a proceeding under subsection (b).

11 § 9815. Effect of gestational surrogacy agreement.

12 (a) General rule.--A gestational surrogacy agreement that
13 complies with sections 9802 (relating to eligibility to enter
14 into surrogacy agreement), 9803 (relating to requirements of
15 surrogacy agreement: process) and 9804 (relating to requirements
16 of surrogacy agreement: content) is enforceable.

17 (b) Noncomplying gestational surrogacy agreements.--If a
18 child was conceived by assisted reproduction under a gestational
19 surrogacy agreement that does not substantially comply with
20 sections 9802, 9803 and 9804, the court shall determine the
21 rights and duties of the parties to the surrogacy agreement
22 consistent with the intent of the parties at the time of
23 execution of the surrogacy agreement. Each party to the
24 surrogacy agreement and any individual who at the time of the
25 execution of the surrogacy agreement was a spouse of a party to
26 the surrogacy agreement has standing to maintain a proceeding to
27 adjudicate an issue related to the enforcement of the surrogacy
28 agreement.

29 (c) Remedies for breach.--Except as expressly provided in a
30 gestational surrogacy agreement or subsection (d) or (e), if the

1 surrogacy agreement is breached by the gestational surrogate or
2 one or more intended parents, the nonbreaching party is entitled
3 to the remedies available at law or in equity.

4 (d) When specific performance prohibited.--Specific
5 performance is not a remedy available for breach by a
6 gestational surrogate of a provision in the surrogacy agreement
7 that the gestational surrogate be impregnated, terminate or not
8 terminate a pregnancy or submit to medical procedures.

9 (e) When specific performance permitted.--Except as
10 otherwise provided in subsection (d), if an intended parent is
11 determined to be a parent of the child, specific performance is
12 a remedy available for:

13 (1) breach of the surrogacy agreement by a gestational
14 surrogate which prevents the intended parent from exercising
15 immediately on birth of the child the full rights of
16 parentage; or

17 (2) breach by the intended parent which prevents the
18 intended parent's acceptance, immediately on birth of the
19 child conceived by assisted reproduction under the surrogacy
20 agreement, of the duties of parentage.

21 SUBCHAPTER C

22 SPECIAL RULES FOR GENETIC SURROGACY AGREEMENT

23 Sec.

24 9821. Requirements to validate genetic surrogacy agreement.

25 9822. Termination of genetic surrogacy agreement.

26 9823. Parentage under validated genetic surrogacy agreement.

27 9824. Effect of nonvalidated genetic surrogacy agreement.

28 9825. Genetic surrogacy agreement: parentage of deceased
29 intended parent.

30 9826. Breach of genetic surrogacy agreement.

1 § 9821. Requirements to validate genetic surrogacy agreement.

2 (a) Prior court approval.--Except as otherwise provided in
3 section 9824 (relating to effect of nonvalidated genetic
4 surrogacy agreement), to be enforceable, a genetic surrogacy
5 agreement must be validated by the court. A proceeding to
6 validate the surrogacy agreement must be commenced before
7 assisted reproduction related to the surrogacy agreement.

8 (b) Conditions.--The court shall issue an order validating a
9 genetic surrogacy agreement if the court finds that:

10 (1) sections 9802 (relating to eligibility to enter into
11 surrogacy agreement), 9803 (relating to requirements of
12 surrogacy agreement: process) and 9804 (relating to
13 requirements of surrogacy agreement: content) are satisfied;
14 and

15 (2) all parties entered into the surrogacy agreement
16 voluntarily and understand its terms.

17 (c) Notice of termination.--An individual who terminates
18 under section 9822 (relating to termination of genetic surrogacy
19 agreement) a genetic surrogacy agreement shall file notice of
20 the termination with the court. On receipt of the notice, the
21 court shall vacate any order issued under subsection (b). An
22 individual who does not notify the court of the termination of
23 the surrogacy agreement is subject to sanctions.

24 § 9822. Termination of genetic surrogacy agreement.

25 (a) Time.--An intended parent or a genetic surrogate who is
26 a party to the surrogacy agreement may terminate the surrogacy
27 agreement at any time before a gamete or embryo transfer by
28 giving notice of termination in a record to all other parties.
29 If a gamete or embryo transfer does not result in a pregnancy, a
30 party may terminate the surrogacy agreement at any time before a

1 subsequent gamete or embryo transfer. The notice of termination
2 must be attested by a notarial officer or witnessed.

3 (b) Limited release.--On termination of a genetic surrogacy
4 agreement, the parties are released from all obligations under
5 the surrogacy agreement, except that each intended parent
6 remains responsible for all expenses incurred by the genetic
7 surrogate through the date of termination, which are
8 reimbursable under the surrogacy agreement.

9 (c) Penalties and liquidated damages prohibited.--Except in
10 a case involving fraud, neither a genetic surrogate nor the
11 genetic surrogate's spouse or former spouse, if any, is liable
12 to the intended parent or parents for a penalty or liquidated
13 damages for terminating a genetic surrogacy agreement under this
14 section.

15 § 9823. Parentage under validated genetic surrogacy agreement.

16 (a) Intended parents.--Each intended parent is a parent of a
17 child conceived by assisted reproduction under a surrogacy
18 agreement validated under section 9821 (relating to requirements
19 to validate genetic surrogacy agreement).

20 (b) Court order.--On proof of a court order issued under
21 section 9821 validating the surrogacy agreement, the court shall
22 issue an order:

23 (1) declaring that each intended parent is a parent of a
24 child conceived by assisted reproduction under the surrogacy
25 agreement and ordering that parental rights and duties vest
26 exclusively in each intended parent;

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

30 (3) designating the contents of the birth certificate in

1 accordance with the law of this Commonwealth other than this
2 part and directing the department to designate each intended
3 parent as a parent of the child;

4 (4) to protect the privacy of the child and the parties,
5 declaring that the court record is not open to inspection,
6 except as authorized under section 9806 (relating to
7 inspection of documents and records);

8 (5) that the intended parent or parents have exclusive
9 custody and control of the child; and

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

12 (c) When genetic testing required.--If a child born to a
13 genetic surrogate is alleged not to have been conceived by
14 assisted reproduction, the court shall order genetic testing to
15 determine the genetic parentage of the child. If the child was
16 not conceived by assisted reproduction, parentage must be
17 determined under Chapters 91, 92, 93, 95 and 96. Unless the
18 genetic surrogacy agreement provides otherwise, if the child was
19 not conceived by assisted reproduction, the genetic surrogate is
20 not entitled to any nonexpense-related compensation paid for
21 serving as a genetic surrogate.

22 (d) Court order of intended parent.--Unless a genetic
23 surrogate exercises the right under section 9822 (relating to
24 termination of genetic surrogacy agreement) to terminate the
25 genetic surrogacy agreement, if an intended parent fails to file
26 notice required under section 9822(a), the genetic surrogate or
27 the department may file with the court, not later than 60 days
28 after the birth of a child conceived by assisted reproduction
29 under the surrogacy agreement, notice that the child has been
30 born to the genetic surrogate. On proof of a court order issued

1 under section 9821 (relating to requirements to validate genetic
2 surrogacy agreement) validating the surrogacy agreement, the
3 court shall issue an order declaring that each intended parent
4 is a parent of the child.

5 § 9824. Effect of nonvalidated genetic surrogacy agreement.

6 (a) Enforceable.--A genetic surrogacy agreement, whether or
7 not in a record, that is not validated under section 9821
8 (relating to requirements to validate genetic surrogacy
9 agreement) is enforceable only to the extent provided in this
10 section and section 9826 (relating to breach of genetic
11 surrogacy agreement).

12 (b) Court validation with agreement of parties.--If all
13 parties agree, a court may validate a genetic surrogacy
14 agreement after assisted reproduction has occurred but before
15 the birth of a child conceived by assisted reproduction under
16 the surrogacy agreement if, upon examination of the parties, the
17 court finds that:

18 (1) Sections 9802 (relating to eligibility to enter into
19 surrogacy agreement), 9803 (relating to requirements of
20 surrogacy agreement: process) and 9804 (relating to
21 requirements of surrogacy agreement) have been satisfied; and

22 (2) all parties entered into the surrogacy agreement
23 voluntarily and understood its terms.

24 (c) Adjudication of parentage.--If a child conceived by
25 assisted reproduction under a genetic surrogacy agreement that
26 is not validated under section 9821 is born, the genetic
27 surrogate is not automatically a parent and the court shall
28 adjudicate parentage of the child based on the best interest of
29 the child, taking into account the factors in section 9613(a)
30 (relating to adjudicating competing claims of parentage) and the

1 intent of the parties at the time of the execution of the
2 surrogacy agreement.

3 (d) Standing.--The parties to a genetic surrogacy agreement
4 have standing to maintain a proceeding to adjudicate parentage
5 under this section.

6 § 9825. Genetic surrogacy agreement: parentage of deceased
7 intended parent.

8 (a) Death after gamete or embryo transfer.--Except as
9 otherwise provided in section 9823 (relating to parentage under
10 validated genetic surrogacy agreement) or 9824 (relating to
11 effect of nonvalidated genetic surrogacy agreement), on birth of
12 a child conceived by assisted reproduction under a genetic
13 surrogacy agreement, each intended parent is, by operation of
14 law, a parent of the child, notwithstanding the death of an
15 intended parent during the period between the transfer of a
16 gamete or embryo and the birth of the child.

17 (b) Death before gamete or embryo transfer.--Except as
18 otherwise provided in section 9823 or 9824, an intended parent
19 is not a parent of a child conceived by assisted reproduction
20 under a genetic surrogacy agreement if the intended parent dies
21 before the transfer of a gamete or embryo unless:

22 (1) the surrogacy agreement provides otherwise;

23 (2) the transfer of the gamete or embryo occurs not
24 later than 36 months after the death of the intended parent
25 or birth of the child occurs not later than 45 months after
26 the death of the intended parent; and

27 (3) the estate of the deceased intended parent is
28 notified not later than six months after the death of the
29 intended parent that the transfer may occur.

30 § 9826. Breach of genetic surrogacy agreement.

1 (a) Remedies for breach.--Subject to section 9822(b)
2 (relating to termination of genetic surrogacy agreement), if a
3 genetic surrogacy agreement is breached by a genetic surrogate
4 or one or more intended parents, the nonbreaching party is
5 entitled to the remedies available at law or in equity.

6 (b) When specific performance prohibited.--Specific
7 performance is not a remedy available for breach by a genetic
8 surrogate of a requirement of a validated or nonvalidated
9 genetic surrogacy agreement that the genetic surrogate be
10 impregnated, terminate or not terminate a pregnancy or submit to
11 medical procedures.

12 (c) When specific performance permitted.--Except as
13 otherwise provided in subsection (b), specific performance is a
14 remedy available for:

15 (1) breach of a validated genetic surrogacy agreement by
16 a genetic surrogate of a requirement which prevents an
17 intended parent from exercising the full rights of parentage
18 after the birth of the child; or

19 (2) breach by an intended parent which prevents the
20 intended parent's acceptance of duties of parentage after the
21 birth of the child.

22 CHAPTER 99

23 INFORMATION ABOUT DONOR

24 Sec.

25 9901. Definitions.

26 9902. Applicability.

27 9903. Collection of information.

28 9904. Declaration regarding identity disclosure.

29 9905. Disclosure of identifying information and medical
30 history.

1 9906. Recordkeeping.

2 § 9901. Definitions.

3 The following words and phrases when used in this chapter
4 shall have the meanings given to them in this section unless the
5 context clearly indicates otherwise:

6 "Identifying information." All of the following:

7 (1) the full name of a donor;

8 (2) the date of birth of the donor; and

9 (3) the permanent and, if different, current telephone

10 number, email address and address of the donor at the time of
11 the donation.

12 "Medical history." Information regarding any:

13 (1) present illness of a donor;

14 (2) past illness of the donor; and

15 (3) genetic and family history pertaining to the health
16 of the donor.

17 § 9902. Applicability.

18 This chapter applies only to gametes collected on or after
19 the effective date of this section.

20 § 9903. Collection of information.

21 A gamete bank or fertility clinic authorized by law to
22 operate in this Commonwealth shall:

23 (1) collect from a donor the donor's identifying
24 information and medical history at the time of the donation;

25 (2) collect from any other gamete bank or fertility
26 clinic from which it receives gametes of a donor the name,
27 address, telephone number and email address of the other
28 gamete bank or fertility clinic; and

29 (3) disclose the information collected under paragraphs

30 (1) and (2) in accordance with section 9905 (relating to

1 disclosure of identifying information and medical history).

2 § 9904. Declaration regarding identity disclosure.

3 (a) Duties.--A gamete bank or fertility clinic authorized by
4 law to operate in this Commonwealth which collects gametes from
5 a donor shall:

6 (1) provide the donor with information in a record about
7 the donor's choice regarding identity disclosure; and

8 (2) obtain a declaration from the donor regarding
9 identity disclosure.

10 (b) Options for donors.--A gamete bank or fertility clinic
11 authorized by law to operate in this Commonwealth shall give a
12 donor the choice to sign a declaration, attested by a notarial
13 officer or witnessed, that either:

14 (1) states that the donor agrees to disclose the donor's
15 identity to a child conceived by assisted reproduction with
16 the donor's gametes on request once the child attains 18
17 years of age; or

18 (2) states that the donor does not agree presently to
19 disclose the donor's identity to the child.

20 (c) Withdrawal of declarations.--A gamete bank or fertility
21 clinic authorized by law to operate in this Commonwealth shall
22 permit a donor who has signed a declaration under subsection (b)
23 (2) to withdraw the declaration at any time by signing a
24 declaration under subsection (b)(1).

25 § 9905. Disclosure of identifying information and medical
26 history.

27 (a) Duty to provide identifying information.--On request of
28 a child conceived by assisted reproduction who attains 18 years
29 of age, a gamete bank or fertility clinic authorized by law to
30 operate in this Commonwealth which collected the gametes used in

1 the assisted reproduction shall make a good faith effort to
2 provide the child with identifying information of the donor who
3 provided the gametes, unless the donor signed and did not
4 withdraw a declaration under section 9904(b)(2) (relating to
5 declaration regarding identity disclosure). If the donor signed
6 and did not withdraw the declaration, the gamete bank or
7 fertility clinic shall make a good faith effort to notify the
8 donor, who may elect under section 9904(c) to withdraw the
9 donor's declaration.

10 (b) Duty to provide nonidentifying medical history of
11 donor.--Regardless of whether a donor signed a declaration under
12 section 9904(b)(2), on request by a child conceived by assisted
13 reproduction who attains 18 years of age, or, if the child is a
14 minor, by a parent or guardian of the child, a gamete bank or
15 fertility clinic authorized by law to operate in this
16 Commonwealth which collected the gamete used in the assisted
17 reproduction shall make a good faith effort to provide the child
18 or, if the child is a minor, the parent or guardian of the
19 child, access to nonidentifying medical history of the donor.

20 (c) Duty to disclose information about gamete bank or
21 fertility clinic.--On request of a child conceived by assisted
22 reproduction who attains 18 years of age, a gamete bank or
23 fertility clinic authorized by law to operate in this
24 Commonwealth which received gametes used in the assisted
25 reproduction from another gamete bank or fertility clinic shall
26 disclose the name, address, telephone number and email address
27 of the other gamete bank or fertility clinic from which it
28 received the gametes.

29 § 9906. Recordkeeping.

30 (a) Donor information.--A gamete bank or fertility clinic

1 authorized by law to operate in this Commonwealth which collects
2 gametes for use in assisted reproduction shall maintain
3 identifying information and medical history about each gamete
4 donor. The gamete bank or fertility clinic shall maintain
5 records of gamete screening and testing and comply with
6 reporting requirements, in accordance with Federal law and
7 applicable law of this Commonwealth other than this part.

8 (b) Gamete bank or fertility clinic information.--A gamete
9 bank or fertility clinic authorized by law to operate in this
10 Commonwealth which receives gametes from another gamete bank or
11 fertility clinic shall maintain the name, address, telephone
12 number and email address of the gamete bank or fertility clinic
13 from which it received the gametes.

14 CHAPTER 99A

15 MISCELLANEOUS PROVISIONS

16 Sec.

17 99A01. Uniformity of application and construction.

18 99A02. Relation to Electronic Signatures in Global and National
19 Commerce Act.

20 99A03. Transitional provision.

21 § 99A01. Uniformity of application and construction.

22 In applying and construing this uniform act, consideration
23 must be given to the need to promote uniformity of the law with
24 respect to its subject matter among states that enact it.

25 § 99A02. Relation to Electronic Signatures in Global and
26 National Commerce Act.

27 To the extent permitted by section 102 of the Electronic
28 Signatures in Global and National Commerce Act (Public Law 106-
29 229, 15 U.S.C. § 7002), this part may supersede provisions of
30 that act.

1 § 99A03. Transitional provision.

2 This part applies to a pending proceeding to adjudicate
3 parentage commenced before the effective date of this section
4 for an issue on which a judgment has not been entered.

5 Section 5. All acts and parts of acts are repealed insofar
6 as they are inconsistent with this act.

7 Section 6. This act shall take effect in ~~60 days~~ ONE YEAR. <--