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H.745

Introduced by Representative LaLonde of South Burlington

Referred to Committee on

Date:

Subject: Parentage proceedings

Statement of purpose of bill as introduced: This bill proposes to make a number of amendments to the Vermont Parentage Act related to voluntary acknowledgment of parentage, adjudicating competing claims of parentage, consent to assisted reproduction, and parentage orders.

An act relating to the Vermont Parentage Act

It is hereby enacted by the General Assembly of the State of Vermont:

~~Sec. 1. 15C V.S.A. § 102 is amended to read:~~

§ 102. DEFINITIONS

As used in this title:

(1) “Acknowledged parent” means a person who has established a parent-child relationship under chapter 3 of this title.

(2) “Adjudicated parent” means a person who has been adjudicated by a court of competent jurisdiction to be a parent of a child.

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

5 (A) a presumed parent;

6 (B) a person whose parental rights have been terminated or declared
7 not to exist; or

8 (C) a donor.

9 (4) “Assisted reproduction” means a method of causing pregnancy other
10 than sexual intercourse and includes:

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

12 (B) donation of gametes;

13 (C) donation of embryos;

14 (D) in vitro fertilization and transfer of embryos; and

15 (E) intracytoplasmic sperm injection.

16 (5) “Birth” includes stillbirth.

17 (6) “Child” means a person of any age whose parentage may be
18 determined under this title.

19 (7) “Domestic assault” includes any offense as set forth in 13 V.S.A.
20 ~~chapter 19, subchapter 6 (domestic assault).~~

1 ~~(8) “Donor” means a person who contributes a gamete or gametes or an~~
2 embryo or embryos to another person for assisted reproduction or gestation,
3 whether or not for consideration. This term does not include:

4 (A) a person who gives birth to a child conceived by assisted
5 reproduction except as otherwise provided in chapter 8 of this title; or

6 (B) a parent under chapter 7 of this title or an intended parent under
7 chapter 8 of this title.

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

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

14 (11) “Genetic population group” means, for purposes of genetic testing,
15 a recognized group that a person identifies as all or part of the person’s
16 ancestry or that is so identified by other information.

17 (12) “Gestational carrier” means an adult person who is not an intended
18 parent and who enters into a gestational carrier agreement to bear a child
19 conceived using the gametes of other persons and not the gestational carrier’s
20 own, except that a person who carries a child for a family member using the

1 ~~gestational carrier's own gametes and who fulfills the requirements of chapter~~
2 8 of this title is a gestational carrier.

3 (13) "Gestational carrier agreement" means a contract between an
4 intended parent or parents and a gestational carrier intended to result in a live
5 birth.

6 (14) "Intended parent" means a person, whether married or unmarried,
7 who manifests the intent to be legally bound as a parent of a child resulting
8 from assisted reproduction or a gestational carrier agreement.

9 (15) "Marriage" includes civil union and any legal relationship that
10 provides substantially the same rights, benefits, and responsibilities as
11 marriage and is recognized as valid in the state or jurisdiction in which it was
12 entered.

13 (16) "Parent" means a person who has established parentage that meets
14 the requirements of this title.

15 (17) "Parentage" means the legal relationship between a child and a
16 parent as established under this title.

17 (18) "Presumed parent" means a person who is recognized as the parent
18 of a child under section 401 of this title.

19 (19) "Record" means information that is inscribed on a tangible medium
20 or that is stored in an electronic or other medium and is retrievable in
21 perceivable form.

1 ~~(20) "Sexual assault" includes sexual assault as provided in 13 V.S.A.~~
2 ~~§ 3252(a), (b), (d), and (e); aggravated sexual assault as provided in 13 V.S.A.~~
3 ~~§ 3253, aggravated sexual assault of a child as provided in 13 V.S.A. § 3253a;~~
4 ~~lewd and lascivious conduct with a child as provided in 13 V.S.A. § 2602; and~~
5 ~~similar offenses in other jurisdictions.~~

6 (21) "Sexual exploitation" includes sexual exploitation of an inmate as
7 provided in 13 V.S.A. § 3257, sexual exploitation of a minor as provided in 13
8 V.S.A. § 3258, sexual abuse of a vulnerable adult as provided in 13 V.S.A. §
9 1379, and similar offenses in other jurisdictions.

10 (22) "Sign" means, with the intent to authenticate or adopt a record, to:

- 11 (A) execute or adopt a tangible symbol; or
12 (B) attach to or logically associate with the record an electronic
13 symbol, sound, or process.

14 (23) "Signatory" means a person who signs a record and is bound by its
15 terms.

16 (24) "Spouse" includes a partner in a civil union or a partner in a legal
17 relationship that provides substantially the same rights, benefits, and
18 responsibilities as marriage and is recognized as valid in the state of
19 jurisdiction in which it was entered.

20 Sec. 2. 15C V.S.A. § 104 is amended to read:

21 ~~§ 104. PARENTAGE PROCEEDING~~

1 ~~(a) Proceeding authorized. A proceeding to adjudicate the parentage of a~~
2 child shall be maintained in accordance with this title and with the Vermont
3 Rules for Family Proceedings, except that proceedings for birth orders under
4 sections 708 and 804 of this title shall be maintained in accordance with the
5 Vermont Rules of Probate Procedure.

6 (b) Actions brought by the Office of Child Support. If the complaint is
7 brought by the Office of Child Support, the complaint shall be accompanied by
8 an affidavit of the parent whose rights have been assigned. In cases where the
9 assignor is not a genetic parent or is a genetic parent who refuses to provide an
10 affidavit, the affidavit may be submitted by the Office of Child Support, but
11 the affidavit alone shall not support a default judgment on the issue of
12 parentage the alleged genetic parent.

13 (c) Original actions. Original actions to adjudicate parentage may be
14 commenced in the Family Division of the Superior Court, except that
15 proceedings for birth orders under sections 708 and 804 of this title shall be
16 commenced in the Probate Division of the Superior Court.

17 (d) No right to jury. There shall be no right to a jury trial in an action to
18 determine parentage.

19 ~~(e) Disclosure of Social Security numbers. A person who is a party to a~~
20 ~~parentage action shall disclose that person's Social Security number to the~~
21 ~~court. The Social Security number of a person subject to a parentage~~

1 ~~adjudication shall be placed in the court records relating to the adjudication~~

2 ~~The court shall disclose a person's Social Security number to the Office of~~
3 ~~Child Support. [Repealed.]~~

4 Sec. 3. 15C V.S.A. § 206 is amended to read:

5 § 206. ADJUDICATING COMPETING CLAIMS OF PARENTAGE

6 (a) Competing claims of parentage. Except as otherwise provided in
7 section 616 of this title, in a proceeding to adjudicate competing claims of
8 parentage or challenges to a child's parentage by two or more persons, the
9 court shall adjudicate parentage in the best interests of the child, based on the
10 following factors:

- 11 (1) the age of the child;
- 12 (2) the length of time during which each person assumed the role of
13 parent of the child;
- 14 (3) the nature of the relationship between the child and each person;
- 15 (4) the harm to the child if the relationship between the child and each
16 person is not recognized;
- 17 (5) the basis for each person's claim to parentage of the child; and
- 18 (6) other equitable factors arising from the disruption of the relationship
19 between the child and each person or the likelihood of other harm to the child.

20 (b) Preservation of parent-child relationship. Consistent with the
21 ~~establishment of parentage under this chapter, a court may determine that a~~

1 ~~child has more than two parents if the court finds that it is in the best interests~~
2 of the child to do so. A finding of best interests of the child under this
3 subsection does not require a finding of unfitness of any parent or person
4 seeking an adjudication of parentage. A determination of best interests may
5 include consideration of evidence of prebirth intent to parent the child.

6 Sec. 4. 15C V.S.A. § 402 is amended to read:

7 § 402. CHALLENGE TO PRESUMED PARENT

8 (a) Except as provided in subsection (b) of this section, a proceeding to
9 challenge the parentage of a person whose parentage is presumed under section
10 401 of this title shall be commenced within two years after the birth of the
11 child.

12 (b) A proceeding to challenge the parentage of a person whose parentage is
13 presumed under section 401 of this title may be commenced two years or more
14 after the birth of the child in any of the following circumstances:

15 (1) ~~A presumed parent who is not the genetic parent of a child and who~~
16 ~~could not reasonably have known about the birth of the child may commence a~~
17 ~~proceeding under this section within two years after learning of the child's~~
18 ~~birth~~ The presumed parent is not a genetic parent, never resided with the child,
19 and never held out the child as the presumed parent's child.

20 (2) An alleged genetic parent who did not know of the potential genetic
21 ~~parentage of a child and who could not reasonably have known on account of~~

1 ~~material misrepresentation or concealment may commence a proceeding under~~
2 this section within two years after discovering the potential genetic parentage.
3 If the person is adjudicated to be the genetic parent of the child, the court shall
4 not disestablish a presumed parent.

5 (3) The child has more than one presumed parent.

6 (c) The following rules apply in a proceeding to adjudicate a presumed
7 parent's parentage of a child if the person who gave birth is the only other
8 person with a claim to parentage of the child:

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

12 (2) If the presumed parent is identified under subsection 604(a) of this
13 title as a genetic parent of the child and that identification is not successfully
14 challenged under said subsection, the court shall adjudicate the presumed
15 parent to be a parent of the child.

16 (3) If the presumed parent is not identified under subsection 604(a) of
17 this title as a genetic parent of the child and the presumed parent or another
18 party challenges the presumed parent's parentage of the child, the court shall
19 adjudicate the parentage of the child in the best interests of the child, based on
20 the factors listed in subsections 206(a) and (b) of this title. Challenges

1 ~~regarding the parentage of a child born through assisted reproduction must be~~
2 resolved under chapter 7 of this title.

3 (d) Subject to the limitations set forth in this section and in section 401
4 of this title, if in a proceeding to adjudicate a presumed parent's parentage of a
5 child another person in addition to the person who gave birth to the child
6 asserts a claim to parentage of the child, the court shall adjudicate parentage
7 pursuant to subsections 206(a) and (b) of this title.

8 (e) Regarding a presumption under subdivision 401(a)(4) of this title,
9 another parent of the child may challenge a presumption of parentage if that
10 parent openly held out the child as the presumptive parent's child due to
11 duress, coercion, or threat of harm. Evidence of duress, coercion, or threat of
12 harm may include whether within the prior ten 10 years, the person presumed
13 to be a parent pursuant to subdivision 401(a)(4) of this title has been convicted
14 of domestic assault, sexual assault, or sexual exploitation of the child or
15 another parent of the child; was subject to a final abuse protection order
16 pursuant to 15 V.S.A. chapter 21 because the person was found to have
17 committed abuse against the child or another parent of the child; or was
18 substantiated for abuse against the child or another parent of the child pursuant
19 to 33 V.S.A. chapter 49 or 33 V.S.A. chapter 69.

20 Sec. 5. 15C V.S.A. § 501 is amended to read:

21 ~~§ 501. STANDARD, ADJUDICATION~~

1 ~~(e)(1) In a proceeding to adjudicate the parentage of a person who claims~~
2 to be a de facto parent of the child, if there is only one other person who is a
3 parent or has a claim to parentage of the child, the court shall adjudicate the
4 person who claims to be a de facto parent to be a parent of the child if the
5 person demonstrates by clear and convincing evidence that:

- 6 (A) the person resided with the child as a regular member of the
- 7 child's household for a significant period of time;
- 8 (B) the person engaged in consistent caretaking of the child;
- 9 (C) the person undertook full and permanent responsibilities of a
- 10 parent of the child without expectation of financial compensation;
- 11 (D) the person held out the child as the person's child;
- 12 (E) the person established a bonded and dependent relationship with
- 13 the child that is parental in nature;
- 14 (F) the person and another parent of the child fostered or supported
- 15 the bonded and dependent relationship required under subdivision (E) of this
- 16 subdivision (1); and
- 17 (G) continuing the relationship between the person and the child is in
- 18 the best interests of the child.

19 (2) A parent of the child may use evidence of duress, coercion, or threat
20 of harm to contest an allegation that the parent fostered or supported a bonded
21 and dependent relationship as provided in subdivision (1)(F) of this subsection.

1 ~~Such evidence may include whether within the prior ten 10 years, the person~~
2 seeking to be adjudicated a de facto parent has been convicted of domestic
3 assault, sexual assault, or sexual exploitation of the child or another parent of
4 the child, was subject to a final abuse protection order pursuant to 15 V.S.A.
5 chapter 21 because the person was found to have committed abuse against the
6 child or another parent of the child, or was substantiated for abuse against the
7 child or another parent of the child pursuant to 33 V.S.A. chapter 49 or
8 33 V.S.A. chapter 69.

9 (b) In a proceeding to adjudicate the parentage of a person who claims to
10 be a de facto parent of the child, if there is more than one other person who is
11 a parent or has a claim to parentage of the child and the court determines that
12 the requirements of subsection (a) of this section are met by clear and
13 convincing evidence, the court shall adjudicate parentage under ~~section 206~~
14 subsection 206(b) of this title, subject to other applicable limitations in this
15 title.

16 (c) The adjudication of a person as a de facto parent under this chapter
17 does not disestablish the parentage of any other parent.

18 Sec. 6. 15C V.S.A. § 704 is amended to read:

19 § 704. CONSENT TO ASSISTED REPRODUCTION

20 (a)(1) A person who intends to be a parent of a child born through assisted
21 reproduction shall consent to such in a signed record that is executed by each

1 ~~intended parent and provides that the signatories consent to the use of assisted~~
2 ~~reproduction to conceive a child with the intent to parent the child.:~~

3 (1) in a record, signed before, on, or after the birth of the child by the
4 person who gave birth to the child and by a person who intends to be a parent
5 of the child; or

6 ~~(2) Consent pursuant to subdivision (1) of this subsection, executed via~~
7 ~~a form made available by the Department of Health, shall be accepted and~~
8 ~~relied upon for purposes of issuing a birth record in an oral agreement entered~~
9 ~~into before conception that the person who gave birth to the child and the~~
10 ~~person who intends to be a parent of the child intend that they will be parents~~
11 ~~of the child.~~

12 (b) In the absence of a record evidence pursuant to subsection (a) of this
13 section, a court may adjudicate a person as the parent of a child if it finds by a
14 preponderance of the evidence that:

15 (1) prior to conception or birth of the child, the parties entered into an
16 agreement that they both intended to be the parents of the child; or

17 (2) the person resided with the child after birth and undertook to
18 develop a parental relationship with the child.

19 Sec. 7. 15C V.S.A. § 705(a) is amended to read:

20 (a) Except as otherwise provided in subsection (b) of this section, a spouse
21 ~~may commence a proceeding to challenge his or her the spouse's parentage of~~

1 ~~a child born by assisted reproduction during the marriage within two years~~
2 after the birth of the child if the court finds that the spouse did not consent to
3 the assisted reproduction before, on, or after the birth of the child or that the
4 spouse withdrew consent pursuant to section 706 of this title.

5 Sec. 8. 15C V.S.A. § 706 is amended to read:

6 § 706. EFFECT OF DISSOLUTION OF MARRIAGE OR WITHDRAWAL
7 OF CONSENT

8 (a)(1) If a marriage is dissolved before transfer or implantation of gametes
9 or embryos, the former spouse is not a parent of the resulting child unless the
10 former spouse consented in a signed record with notice to the other spouse and
11 the person giving birth that, if assisted reproduction were to occur after a
12 divorce, the former spouse would be a parent of the child.

13 (2) A person who has petitioned for divorce or a person who been
14 served with a complaint for divorce, may proceed with assisted reproduction
15 pursuant to this subsection, provided at least 60 days have elapsed since
16 service of the complaint. In such case, the spouse shall not be a parent of any
17 child born as a result of the assisted reproduction unless both parties consent in
18 writing to be parents of that child after commencement of the divorce action.

19 A married person proceeding with assisted reproduction pursuant to this
20 section shall not utilize gametes of the person's spouse unless the spouse

1 ~~consents in writing to the use of the spouse's gametes for assisted reproduction~~
2 by the married person after filing of the divorce petition.

3 (b) Consent of a person to assisted reproduction pursuant to section 704 of
4 this title may be withdrawn by that person in a signed record with notice to the
5 person giving birth and any other intended parent before transfer or
6 implantation of gametes or embryos. A person who withdraws consent under
7 this subsection is not a parent of the resulting child.

8 Sec. 9. 15C V.S.A. § 708 is amended to read:

9 § 708. BIRTH AND PARENTAGE ORDERS

10 (a) A party consenting to assisted reproduction, a person who is a parent
11 pursuant to sections 702–704 of this title, an intended parent or parents, or the
12 person giving birth may commence a proceeding in the Probate Division of the
13 Superior Court to obtain an order and judgment of parentage doing any of the
14 following:

15 (1) declaring that the intended parent or parents are the parent or parents
16 of the resulting child and ordering that parental rights and responsibilities vest
17 exclusively in the intended parent or parents immediately upon the birth of the
18 child;

19 (2) except as provided in subsection (d) of this section, sealing the
20 ~~record from the public to protect the privacy of the child and the parties,~~

1 ~~(3) designating the contents of the birth certificate and directing the~~
2 Department of Health to designate the intended parent or parents as the parent
3 or parents of the child; or

4 (4) for any relief that the court determines necessary and proper.

5 (b) A proceeding under this section may be commenced before or after the
6 birth of the child. If the court determines a person is a parent of the child
7 either because the person gave birth to the child or the person is a consenting
8 intended parent, the court shall adjudicate the person to be a parent of the
9 child.

10 (c) Neither the donor, the State, nor the Department of Health is a
11 necessary party to a proceeding under this section.

12 (d) The Probate Division of the Superior Court shall forward a certified
13 copy of the order issued pursuant to this section to the Department of Health
14 and to the intended parents or their representative.

15 (e) The intended parent or parents and any resulting child shall have access
16 to the court records relating to the proceeding at any time.

17 (f) An uncontested petition for a judgment of parentage pursuant to this
18 section shall be resolved by the court within 30 days after filing.

19 Sec. 10. 15C V.S.A. § 801 is amended to read:

20 § 801. ELIGIBILITY TO ENTER GESTATIONAL CARRIER

21 ~~AGREEMENT~~

1 ~~(a) In order to execute an agreement to act as a gestational carrier, a person~~

2 shall:

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

4 (2) have completed a medical evaluation that includes a mental health
5 consultation;

6 (3) have had independent legal representation of the person's own
7 choosing and paid for by the intended parent or parents regarding the terms of
8 the gestational carrier agreement and have been advised of the potential legal
9 consequences of the gestational carrier agreement; and

10 (4) not have contributed gametes that will ultimately result in an embryo
11 that the gestational carrier will attempt to carry to term, unless the gestational
12 carrier is entering into an agreement with a family member.

13 (b) Prior to executing a gestational carrier agreement, a person or persons
14 intending to become a parent or parents, whether genetically related to the
15 child or not, shall:

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

17 (2) have completed a ~~medical evaluation and~~ mental health consultation;
18 and

19 (3) have retained independent legal representation regarding the terms
20 of the gestational carrier agreement and have been advised of the potential

21 ~~legal consequences of the gestational carrier agreement.~~

1 ~~Sec. 11, 15C V.S.A. § 803 is amended to read:~~

2 § 803. PARENTAGE; PARENTAL RIGHTS AND RESPONSIBILITIES

3 (a)(1) If a gestational carrier agreement satisfies the requirements of this
4 chapter, the intended parent or parents are the parent or parents of the resulting
5 child immediately upon the birth of the child, and the resulting child is
6 considered the child of the intended parent or parents immediately upon the
7 birth of the child. Neither the gestational carrier nor the gestational carrier's
8 spouse, if any, is the parent of the resulting child.

9 (2) A person who is determined to be a parent of the resulting child is
10 obligated to support the child. The breach of the gestational carrier agreement
11 by the intended parent or parents does not relieve the intended parent or
12 parents of the obligation to support the resulting child.

13 (3) Notwithstanding subdivisions (1) and (2) of this subsection, if
14 genetic testing indicates a genetic relationship between the gestational carrier
15 who is not a known family member and the child, parentage shall be
16 determined by the Family Division of the Superior Court pursuant to chapters
17 1 through 6 of this title.

18 (b) Parental rights and responsibilities shall vest exclusively in the intended
19 parent or parents immediately upon the birth of the resulting child.

20 (c) If due to a laboratory error, the resulting child is not genetically related
21 ~~to either the intended parent or parents or any donor who donated to the~~

1 ~~intended parent or parents, the intended parent or parents are considered the~~
2 ~~parent or parents of the child unless otherwise determined by the court.~~

3 Sec. 12. EFFECTIVE DATE

4 ~~This act shall take effect on July 1, 2024.~~

Sec. 1. 15C V.S.A. § 102 is amended to read:

§ 102. DEFINITIONS

As used in this title:

(1) “Acknowledged parent” means a person who has established a parent-child relationship under chapter 3 of this title.

(2) “Adjudicated parent” means a person who has been adjudicated by a court of competent jurisdiction to be a parent of a child.

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

(A) a presumed parent;

(B) a person whose parental rights have been terminated or declared not to exist; or

(C) a donor.

(4) “Assisted reproduction” means a method of causing pregnancy other than sexual intercourse and includes:

(A) intrauterine, intracervical, or vaginal insemination;

(B) donation of gametes;

(C) donation of embryos;

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

(E) intracytoplasmic sperm injection.

(5) "Birth" includes stillbirth.

(6) "Child" means a person of any age whose parentage may be determined under this title.

(7) "Domestic assault" includes any offense as set forth in 13 V.S.A. chapter 19, subchapter 6 (domestic assault).

(8) "Donor" means a person who contributes a gamete or gametes or an embryo or embryos to another person for assisted reproduction or gestation, whether or not for consideration. This term does not include:

(A) a person who gives birth to a child conceived by assisted reproduction except as otherwise provided in chapter 8 of this title; or

(B) a parent under chapter 7 of this title or an intended parent under chapter 8 of this title.

(9) "Embryo" means a cell or group of cells containing a diploid complement of chromosomes or a group of such cells, not including a gamete, that has the potential to develop into a live born human being if transferred

into the body of a person under conditions in which gestation may be reasonably expected to occur.

(10) “Gamete” means a sperm, ~~an egg, or any part of a sperm or egg.~~

(11) “Genetic population group” means, for purposes of genetic testing, a recognized group that a person identifies as all or part of the person’s ancestry or that is so identified by other information.

(12) “Gestational carrier” means an adult person who is not an intended parent and who enters into a gestational carrier agreement to bear a child conceived using the gametes of other persons and not the gestational carrier’s own, except that a person who carries a child for a family member using the gestational carrier’s own gametes and who fulfills the requirements of chapter 8 of this title is a gestational carrier.

(13) “Gestational carrier agreement” means a contract between an intended parent or parents and a gestational carrier intended to result in a live birth.

(14) “Intended parent” means a person, whether married or unmarried, who manifests the intent to be legally bound as a parent of a child resulting from assisted reproduction or a gestational carrier agreement.

(15) “Marriage” includes civil union and any legal relationship that provides substantially the same rights, benefits, and responsibilities as

marriage and is recognized as valid in the state or jurisdiction in which it was entered.

(16) *“Parent” means a person who has established parentage that meets the requirements of this title.*

(17) *“Parentage” means the legal relationship between a child and a parent as established under this title.*

(18) *“Presumed parent” means a person who is recognized as the parent of a child under section 401 of this title.*

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

(20) *“Sexual assault” includes sexual assault as provided in 13 V.S.A. § 3252(a), (b), (d), and (e); aggravated sexual assault as provided in 13 V.S.A. § 3253; aggravated sexual assault of a child as provided in 13 V.S.A. § 3253a; lewd and lascivious conduct with a child as provided in 13 V.S.A. § 2602; and similar offenses in other jurisdictions.*

(21) *“Sexual exploitation” includes sexual exploitation of an inmate as provided in 13 V.S.A. § 3257, sexual exploitation of a minor as provided in 13 V.S.A. § 3258, sexual abuse of a vulnerable adult as provided in 13 V.S.A. § 1379, and similar offenses in other jurisdictions.*

(22) *“Sign” means, with the intent to authenticate or adopt a record, to:*

(A) execute or adopt a tangible symbol; or

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

(23) "Signatory" means a person who signs a record and is bound by its terms.

(24) "Spouse" includes a partner in a civil union or a partner in a legal relationship that provides substantially the same rights, benefits, and responsibilities as marriage and is recognized as valid in the state or jurisdiction in which it was entered.

Sec. 2. 15C V.S.A. § 104 is amended to read:

§ 104. PARENTAGE PROCEEDING

(a) Proceeding authorized. A proceeding to adjudicate the parentage of a child shall be maintained in accordance with this title and with the Vermont Rules for Family Proceedings, except that proceedings for birth orders under sections 708 and 804 of this title shall be maintained in accordance with the Vermont Rules of Probate Procedure.

(b) Actions brought by the Office of Child Support. If the complaint is brought by the Office of Child Support, the complaint shall be accompanied by an affidavit of the parent whose rights have been assigned. In cases where the assignor is not a genetic parent or is a genetic parent who refuses to provide an affidavit, the affidavit may be submitted by the Office of Child Support, but

the affidavit alone shall not support a default judgment on the issue of parentage.

(c) Original actions. Original actions to adjudicate parentage may be commenced in the Family Division of the Superior Court, except that proceedings for birth orders under sections 708 and 804 of this title shall be commenced in the Probate Division of the Superior Court.

(d) No right to jury. There shall be no right to a jury trial in an action to determine parentage.

(e) Disclosure of Social Security numbers. A person who is a party to a parentage action shall disclose that person's Social Security number, if the person has one, to the court. The Social Security number of a person subject to a parentage adjudication shall be placed in the court records relating to the adjudication. The court shall disclose a person's Social Security number to the Office of Child Support.

Sec. 3. 15C V.S.A. § 206 is amended to read:

§ 206. ADJUDICATING COMPETING CLAIMS OF PARENTAGE

(a) Competing claims of parentage. Except as otherwise provided in section 616 of this title, in a proceeding to adjudicate competing claims of parentage or challenges to a child's parentage by two or more persons, the court shall adjudicate parentage in the best interests of the child, based on the following factors:

- (1) the age of the child;*
- (2) the length of time during which each person assumed the role of parent of the child;*
- (3) the nature of the relationship between the child and each person;*
- (4) the harm to the child if the relationship between the child and each person is not recognized;*
- (5) the basis for each person's claim to parentage of the child; and*
- (6) other equitable factors arising from the disruption of the relationship between the child and each person or the likelihood of other harm to the child.*

(b) Preservation of parent-child relationship. Consistent with the establishment of parentage under this chapter, a court may determine that a child has more than two parents if the court finds that it is in the best interests of the child to do so. A finding of best interests of the child under this subsection does not require a finding of unfitness of any parent or person seeking an adjudication of parentage. A determination of best interests may include consideration of evidence of prebirth intent to parent the child.

Sec. 4. 15C V.S.A. § 402 is amended to read:

§ 402. CHALLENGE TO PRESUMED PARENT

(a) Except as provided in ~~subsection (b)~~ subsections (b) – (d) of this section, a proceeding to challenge the parentage of a person whose parentage

is presumed under section 401 of this title shall be commenced within two years after the birth of the child.

(b) A proceeding to challenge the parentage of a person whose parentage is presumed under section 401 of this title may be commenced two years or more after the birth of the child in any of the following circumstances:

(1) ~~A presumed parent who is not the genetic parent of a child and who could not reasonably have known about the birth of the child may commence a proceeding under this section within two years after learning of the child's birth~~ The presumed parent is not a genetic parent, never resided with the child, and never held out the child as the presumed parent's child.

(2) An alleged genetic parent who did not know of the potential genetic parentage of a child and who could not reasonably have known on account of material misrepresentation or concealment may commence a proceeding under this section within two years after discovering the potential genetic parentage. If the person is adjudicated to be the genetic parent of the child, the court shall not disestablish a presumed parent.

(3) The child has more than one presumed parent.

(c) Subject to the limitations set forth in this section and in section 401 of this title, if in a proceeding to adjudicate a presumed parent's parentage of a child another person in addition to the person who gave birth to the child

asserts a claim to parentage of the child, the court shall adjudicate parentage pursuant to subsections 206(a) and (b) of this title.

(d) Regarding a presumption under subdivision 401(a)(4) of this title, another parent of the child may challenge a presumption of parentage if that parent openly held out the child as the presumptive parent's child due to duress, coercion, or threat of harm. Evidence of duress, coercion, or threat of harm may include whether within the prior ~~ten~~ 10 years, the person presumed to be a parent pursuant to subdivision 401(a)(4) of this title has been convicted of domestic assault, sexual assault, or sexual exploitation of the child or another parent of the child; was subject to a final abuse protection order pursuant to 15 V.S.A. chapter 21 because the person was found to have committed abuse against the child or another parent of the child; or was substantiated for abuse against the child or another parent of the child pursuant to 33 V.S.A. chapter 49 or 33 V.S.A. chapter 69.

Sec. 5. 15C V.S.A. § 402a is added to read:

§ 402a. ADJUDICATION OF PARENTAGE IF BIRTH PARENT ONLY

OTHER PARENT

The following rules apply in a proceeding to adjudicate a presumed parent's parentage of a child if the person who gave birth is the only other person with a claim to parentage of the child:

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

(2) If the presumed parent is identified under subsection 604(a) of this title as a genetic parent of the child and that identification is not successfully challenged under said subsection, the court shall adjudicate the presumed parent to be a parent of the child.

(3) If the presumed parent is not identified under subsection 604(a) of this title as a genetic parent of the child and the presumed parent or another party challenges the presumed parent's parentage of the child, the court shall adjudicate the parentage of the child in the best interests of the child, based on the factors listed in subsections 206(a) and (b) of this title. Challenges regarding the parentage of a child born through assisted reproduction must be resolved under chapter 7 of this title.

Sec. 6. 15C V.S.A. § 501 is amended to read:

§ 501. STANDARD; ADJUDICATION

(a)(1) In a proceeding to adjudicate the parentage of a person who claims to be a de facto parent of the child, if there is only one other person who is a parent or has a claim to parentage of the child, the court shall adjudicate the person who claims to be a de facto parent to be a parent of the child if the person demonstrates by clear and convincing evidence that:

(A) the person resided with the child as a regular member of the child's household for a significant period of time;

(B) the person engaged in consistent caretaking of the child;

(C) the person undertook full and permanent responsibilities of a parent of the child without expectation of financial compensation;

(D) the person held out the child as the person's child;

(E) the person established a bonded and dependent relationship with the child that is parental in nature;

(F) the person and another parent of the child fostered or supported the bonded and dependent relationship required under subdivision (E) of this subdivision (1); and

(G) continuing the relationship between the person and the child is in the best interests of the child.

(2) A parent of the child may use evidence of duress, coercion, or threat of harm to contest an allegation that the parent fostered or supported a bonded and dependent relationship as provided in subdivision (1)(F) of this subsection. Such evidence may include whether within the prior ~~ten~~ 10 years, the person seeking to be adjudicated a de facto parent has been convicted of domestic assault, sexual assault, or sexual exploitation of the child or another parent of the child, was subject to a final abuse protection order pursuant to 15 V.S.A. chapter 21 because the person was found to have committed abuse

against the child or another parent of the child, or was substantiated for abuse against the child or another parent of the child pursuant to 33 V.S.A. chapter 49 or 33 V.S.A. chapter 69.

(b) In a proceeding to adjudicate the parentage of a person who claims to be a de facto parent of the child, if there is more than one other person who is a parent or has a claim to parentage of the child and the court determines that the requirements of subsection (a) of this section are met by clear and convincing evidence, the court shall adjudicate parentage under ~~section 206~~ subsection 206(b) of this title, subject to other applicable limitations in this title.

(c) The adjudication of a person as a de facto parent under this chapter does not disestablish the parentage of any other parent.

Sec. 7. 15C V.S.A. § 704 is amended to read:

§ 704. CONSENT TO ASSISTED REPRODUCTION

~~*(a)(1) A person who intends to be a parent of a child born through assisted reproduction shall consent to such in a signed record that is executed by each intended parent and provides that the signatories consent to the use of assisted reproduction to conceive a child with the intent to parent the child.;*~~

~~*(1) in a record, signed before, on, or after the birth of the child by the person who gave birth to the child and by a person who intends to be a parent of the child, or*~~

~~(2) Consent pursuant to subdivision (1) of this subsection, executed via a form made available by the Department of Health, shall be accepted and relied upon for purposes of issuing a birth record in an oral agreement entered into before conception that the person who gave birth to the child and the person who intends to be a parent of the child intend that they will be parents of the child.~~

~~(a)(+) A person who intends to be a parent of a child born through assisted reproduction shall consent to such in a signed record that is executed by each intended parent and provides that the signatories consent to the use of assisted reproduction to conceive a child with the intent to parent the child.:~~

~~(1) in a record, signed before, on, or after the birth of the child by each intended parent; or~~

~~(2) Consent pursuant to subdivision (1) of this subsection, executed via a form made available by the Department of Health, shall be accepted and relied upon for purposes of issuing a birth record in an oral agreement entered into before conception by each intended parent.~~

~~(b) In the absence of a record evidence pursuant to subsection (a) of this section, a court may adjudicate a person as the parent of a child if it finds by a preponderance of the evidence that:~~

~~(1) prior to conception or birth of the child, the parties entered into an agreement that they both intended to be the parents of the child; or~~

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

Sec. 8. 15C V.S.A. § 705(a) is amended to read:

(a) Except as otherwise provided in subsection (b) of this section, a spouse may commence a proceeding to challenge ~~his or her~~ the spouse's parentage of a child born by assisted reproduction during the marriage within two years after the birth of the child if the court finds that the spouse did not consent to the assisted reproduction before, on, or after the birth of the child or that the spouse withdrew consent pursuant to section 706 of this title.

Sec. 9. 15C V.S.A. § 706 is amended to read:

*§ 706. EFFECT OF DISSOLUTION OF MARRIAGE OR WITHDRAWAL
OF CONSENT*

(a)(1) If a marriage is dissolved before transfer or implantation of gametes or embryos, the former spouse is not a parent of the resulting child unless the former spouse consented in a signed record with notice to the other spouse and the person giving birth that, if assisted reproduction were to occur after a divorce, the former spouse would be a parent of the child.

(2) A person who has petitioned for divorce, or a person who has been served with a complaint for divorce, may proceed with assisted reproduction pursuant to this subsection, provided at least 60 days have elapsed since service of the complaint. In such case, the spouse shall not be a parent of any

child born as a result of the assisted reproduction unless both parties consent in writing to be parents of that child after commencement of the divorce action. A married person proceeding with assisted reproduction pursuant to this section shall not utilize gametes of the person's spouse unless the spouse consents in writing to the use of the spouse's gametes for assisted reproduction by the married person after filing of the divorce petition.

(b) Consent of a person to assisted reproduction pursuant to section 704 of this title may be withdrawn by that person in a signed record with notice to the person giving birth and any other intended parent before transfer or implantation of gametes or embryos. A person who withdraws consent under this subsection is not a parent of the resulting child.

Sec. 10. 15C V.S.A. § 708 is amended to read:

§ 708. BIRTH AND PARENTAGE ORDERS

(a) A party consenting to assisted reproduction, a person who is a parent pursuant to sections 702–704 of this title, an intended parent or parents, or the person giving birth may commence a proceeding in the Probate Division of the Superior Court to obtain an order and judgment of parentage doing any of the following:

(1) declaring that the intended parent or parents are the parent or parents of the resulting child and ordering that parental rights and

responsibilities vest exclusively in the intended parent or parents immediately upon the birth of the child;

(2) except as provided in subsection (d) of this section, sealing the record from the public to protect the privacy of the child and the parties;

(3) designating the contents of the birth certificate and directing the Department of Health to designate the intended parent or parents as the parent or parents of the child; or

(4) for any relief that the court determines necessary and proper.

(b) A proceeding under this section may be commenced before or after the birth of the child. If the court determines a person is a parent of the child either because the person gave birth to the child or the person is a consenting intended parent, the court shall adjudicate the person to be a parent of the child.

(c) Neither the donor, the State, nor the Department of Health is a necessary party to a proceeding under this section.

(d) The Probate Division of the Superior Court shall forward a certified copy of the order issued pursuant to this section to the Department of Health and to the intended parents or their representative.

(e) The intended parent or parents and any resulting child shall have access to the court records relating to the proceeding at any time.

(f) An uncontested petition for a judgment of parentage pursuant to this section shall be resolved by the court promptly.

Sec. 11. 15C V.S.A. § 801 is amended to read:

§ 801. ELIGIBILITY TO ENTER GESTATIONAL CARRIER

AGREEMENT

(a) In order to execute an agreement to act as a gestational carrier, a person shall:

(1) be at least 21 years of age;

(2) have completed a medical evaluation that includes a mental health consultation;

(3) have had independent legal representation of the person's own choosing and paid for by the intended parent or parents regarding the terms of the gestational carrier agreement and have been advised of the potential legal consequences of the gestational carrier agreement; and

(4) not have contributed gametes that will ultimately result in an embryo that the gestational carrier will attempt to carry to term, unless the gestational carrier is entering into an agreement with a family member.

(b) Prior to executing a gestational carrier agreement, a person or persons intending to become a parent or parents, whether genetically related to the child or not, shall:

(1) be at least 21 years of age;

(2) ~~have completed a medical evaluation and mental health consultation psychosocial education and counseling related to the gestational carrier agreement; and~~

(3) have retained independent legal representation regarding the terms of the gestational carrier agreement and have been advised of the potential legal consequences of the gestational carrier agreement.

Sec. 11a. 15C V.S.A. § 802(f) is added to read:

(f) A surrogacy agreement that substantially complies with this section and section 801 of this title is enforceable.

Sec. 12. 15C V.S.A. § 803 is amended to read:

§ 803. PARENTAGE; PARENTAL RIGHTS AND RESPONSIBILITIES

(a)(1) If a gestational carrier agreement satisfies the requirements of this chapter, the intended parent or parents are the parent or parents of the resulting child immediately upon the birth of the child, and the resulting child is considered the child of the intended parent or parents immediately upon the birth of the child. Neither the gestational carrier nor the gestational carrier's spouse, if any, is the parent of the resulting child.

(2) A person who is determined to be a parent of the resulting child is obligated to support the child. The breach of the gestational carrier agreement by the intended parent or parents does not relieve the intended parent or parents of the obligation to support the resulting child.

(3) Notwithstanding subdivisions (1) and (2) of this subsection, if genetic testing indicates a genetic relationship between the gestational carrier who is not a known family member and the child, parentage shall be determined by the Family Division of the Superior Court pursuant to chapters 1 through 6 of this title.

(b) Parental rights and responsibilities shall vest exclusively in the intended parent or parents immediately upon the birth of the resulting child.

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

Sec. 13. 15C V.S.A. § 804 is amended to read:

§ 804. BIRTH AND PARENTAGE ORDERS

(a) Before or after the birth of a resulting child, a party to a gestational carrier agreement may commence a proceeding in the Probate Division of the Superior Court to obtain an order and judgment of parentage doing any of the following:

(1) Declaring that the intended parent or parents are the parent or parents of the resulting child and ordering that parental rights and responsibilities vest exclusively in the intended parent or parents immediately upon the birth of the child.

(2) Declaring that the gestational carrier or ~~her~~ the carrier's spouse, if any, are not the parents of the resulting child.

(3) Designating the contents of the birth certificate and directing the Department of Health to designate the intended parent or parents as the parent or parents of the child. The Department of Health may charge a reasonable fee for the issuance of a birth certificate.

(4) Sealing the record from the public to protect the privacy of the child and the parties.

(5) Providing any relief the court determines necessary and proper.

(b) Neither the State nor the Department of Health is a necessary party to a proceeding under subsection (a) of this section.

(c) The Probate Division of the Superior Court shall forward a certified copy of the order issued pursuant to this section to the Department of Health and to the intended parents or their representative.

(d) The intended parent or parents and any resulting child shall have access to their court records at any time.

(e) An uncontested petition for a judgment of parentage pursuant to this section shall be resolved by the court promptly.

Sec. 13a. 15 V.S.A. § 293 is amended to read:

§ 293. WHEN PARENTS LIVE SEPARATELY

(a) When parents of minor children, or parents and stepparents of minor children, whether said parents are married or unmarried, are living separately, on the complaint of either parent or stepparent or, if it is a party in interest, the Department for Children and Families, the Family Division of the Superior Court may make such decree concerning parental rights and responsibilities and parent-child contact (as defined in section 664 of this title), and the support of the children, as in cases where either parent deserts or without just cause fails to support the children. Thereafter on the motion of either of the parents, the stepparent, or the Department for Children and Families, the court may annul, vary, or modify the decrees.

(b) Any legal presumption of parentage as set forth in ~~section 308 of this title~~ 15C V.S.A. § 401 or an unrescinded acknowledgment of parentage signed by the parties and executed in accordance with 15C V.S.A. § 301 shall be sufficient basis for initiating a support action under this section without any further proceedings to establish parentage. ~~If a party raises an objection to the presumption, the court may determine the issue of parentage as part of the support action. If no written objection to the presumption is raised, an order under this section shall constitute a judgment on the issue of parentage.~~

Sec. 13b. REPEAL

15 V.S.A. § 294 (man in the house) is repealed.

Sec. 13c. 15 V.S.A. § 295 is amended to read:

*§ 295. SUBSTITUTE HUSBAND AND FATHER SERVICE OF
COMPLAINT*

When a complaint is made under section ~~292, 293 or 294~~ of this title, a summons shall be issued to the other party directing ~~him to cause his appearance therein to be entered~~ such person to appear not later than 21 days after the date of the service ~~thereof~~ and show cause why ~~the prayer of the complaint should not be granted, which.~~ The summons and the complaint shall be served on ~~sueh~~ the party as provided by section ~~596 or by section 597 of this title~~ Rule 4.0 of the Vermont Rules for Family Proceedings. After the filing of ~~sueh~~ the complaint, the Superior Court in which the cause is pending, or any Superior judge, may, on application of either party make such order concerning the care and custody of the minor children during the pendency of the complaint, as is deemed expedient and for the benefit of such children.

Sec. 13d. 15 V.S.A. § 780(7) is amended to read:

(7) "Support order" means any judgment, order, or contract for support enforceable in this state State, including, ~~but not limited to,~~ orders issued pursuant to:

(A) 15 V.S.A. ~~chapter~~ chapters 5 (relating to desertion and support and parentage); 7 (relating to URESA) or and 11 (relating to annulment and divorce);

(B) 15B V.S.A. chapters 1–19 (relating to Uniform Interstate Family Support Act); and

(C) 15C V.S.A. chapters 1–8 (relating to parentage proceedings).

Sec. 13e. 15C V.S.A. § 808(a) is amended to read:

(a) Not enforceable. A gestational carrier agreement that does not substantially meet the requirements of this chapter is not enforceable.

Sec. 14. EFFECTIVE DATE

This act shall take effect on July 1, 2024.