

SENATE No. 77

The Commonwealth of Massachusetts

PRESENTED BY:

Bruce E. Tarr

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

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

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

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Bruce E. Tarr</i>	<i>First Essex and Middlesex</i>	
<i>Lenny Mirra</i>	<i>2nd Essex</i>	<i>1/16/2019</i>
<i>Jason M. Lewis</i>	<i>Fifth Middlesex</i>	<i>1/24/2019</i>
<i>Rebecca L. Rausch</i>	<i>Norfolk, Bristol and Middlesex</i>	<i>1/24/2019</i>
<i>Julian Cyr</i>	<i>Cape and Islands</i>	<i>1/30/2019</i>
<i>William N. Brownsberger</i>	<i>Second Suffolk and Middlesex</i>	<i>1/28/2019</i>
<i>Michael J. Barrett</i>	<i>Third Middlesex</i>	<i>1/29/2019</i>
<i>Kay Khan</i>	<i>11th Middlesex</i>	<i>1/30/2019</i>
<i>Cynthia Stone Creem</i>	<i>First Middlesex and Norfolk</i>	<i>1/30/2019</i>
<i>Joanne M. Comerford</i>	<i>Hampshire, Franklin and Worcester</i>	<i>1/30/2019</i>
<i>Patrick M. O'Connor</i>	<i>Plymouth and Norfolk</i>	<i>2/1/2019</i>
<i>Sal N. DiDomenico</i>	<i>Middlesex and Suffolk</i>	<i>2/1/2019</i>

SENATE No. 77

By Mr. Tarr, a petition (accompanied by bill, Senate, No. 77) of Bruce E. Tarr, Lenny Mirra, Jason M. Lewis, Rebecca L. Rausch and other members of the General Court for legislation relative to parentage to promote children's security. Children, Families and Persons with Disabilities.

The Commonwealth of Massachusetts

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

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

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

1 Chapter 209D is hereby amended by inserting the following new chapter:

2 Chapter 209E:

3 ARTICLE 1

4 GENERAL PROVISIONS

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

7 SECTION 102. DEFINITIONS. In this Act:

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

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

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

16 (A) a presumed parent;

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

18 (C) a donor.

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

21 (A) intrauterine, intracervical insemination, or vaginal insemination; (B) donation of
22 gametes;

23

24 (C) donation of embryos;

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

26 (E) intracytoplasmic sperm injection.

27 (5) “Birth” includes stillbirth.

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

29 this act.

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

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

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

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

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

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

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

47

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

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

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

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

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

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

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

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

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

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

70 (22) “Probability of parentage” means, for the ethnic or racial group to which an
71

72 individual alleged to be a parent belongs, the probability that a hypothesized genetic
73 relationship is supported, compared to the probability that a genetic relationship is supported
74 between the child and a random individual of the ethnic or racial group used in the hypothesized
75 genetic relationship, expressed as a percentage incorporating the combined relationship index
76 and a prior probability.

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

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

83 (25) “Sign” means, with intent to authenticate or adopt a record to: (A) execute or adopt a
84 tangible symbol; or

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

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

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

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

92 SECTION 103. SCOPE.

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

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

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

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

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

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

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

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

112 ARTICLE 2

113 PARENT-CHILD RELATIONSHIP

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

116

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

118 (2) Presumption: there is a presumption under Section 204 of the individual's parentage

119 of the child, unless the presumption is overcome in a judicial proceeding or a valid denial
120 of parentage is made under Article 3;

121 (3) Adjudication: the individual is adjudicated a parent of the child under Article 5; (4)

122 Adoption: the individual adopts the child pursuant to Chapter 210;

123 (5) Acknowledgment: the individual acknowledges parentage of the child under Article

124 3, unless the acknowledgment is rescinded under Section 308 or successfully challenged

125 under

126 Article 3 or 5;

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

129 (7) Assisted reproduction: the individual consents to assisted reproduction under Article
130 6; or

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

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

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

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141 SECTION 204. PRESUMPTION OF PARENTAGE. (a) An individual is presumed to
142 be a parent of a child if: (1) except as otherwise provided under Article 7:

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

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

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

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

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

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

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

161

162 ARTICLE 3

163 VOLUNTARY ACKNOWLEDGMENT OF PARENTAGE

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

167 SECTION 302. EXECUTION OF ACKNOWLEDGMENT OF PARENTAGE.

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

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

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

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

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

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

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

182 (1) an individual other than the individual seeking to establish parentage is a presumed
183 parent, unless a denial of parentage by the presumed parent in a signed record is filed

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185 with the Department of Public Health; or

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

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

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

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

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

197 (A) completed a valid acknowledgment of parentage, unless the previous
198 acknowledgment was rescinded under Section 308 or challenged successfully under Section 309;
199 or

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

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

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

206 (b) An acknowledgment of parentage or denial of parentage may be signed before or after
207
208 the birth of the child.

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

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

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

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

219 (b) Except as otherwise provided in Sections 308 and 309, a denial of parentage by a
220 presumed parent or alleged genetic parent which complies with this article and is filed with the
221 Department of Public Health with an acknowledgment of parentage that complies with this
222 article is equivalent to an adjudication of non-parentage of the presumed parent or alleged

223 genetic parent and discharges the presumed parent or alleged genetic parent from all rights and
224 duties of a parent.

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

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

230

231 SECTION 308. PROCEDURE FOR RESCISSION.

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

235 (1) 60 days after the effective date under Section 304 of the acknowledgment or denial;

236 or

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

239 (b) If an acknowledgment of parentage is rescinded under subsection (a), an associated
240 denial of parentage is invalid, and the Department of Public Health shall notify the individual
241 who gave birth to the child and the individual who signed a denial of parentage of the child that
242 the acknowledgment has been rescinded. Failure to give the notice required by this subsection
243 does not affect the validity of the rescission.

244 SECTION 309. CHALLENGE AFTER EXPIRATION OF PERIOD FOR
245 RESCISSION.

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

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

253

254 SECTION 310. PROCEDURE FOR CHALLENGE BY SIGNATORY.

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

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

261 (c) The court may not suspend the legal responsibilities arising from an acknowledgment
262 of parentage, including the duty to pay child support, during the pendency of a proceeding to
263 challenge the acknowledgment or a related denial of parentage, unless the party challenging the
264 acknowledgment or denial shows good cause.

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

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

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

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

276 SECTION 312. FORMS FOR ACKNOWLEDGMENT AND DENIAL OF

277

278 PARENTAGE.

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

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

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

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

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

289 ARTICLE 4

290 GENETIC TESTING

291 SECTION 401. SCOPE OF ARTICLE; LIMITATION ON USE OF GENETIC
292 TESTING.

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

295 (1) voluntarily submits to testing; or

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

298 (1) to challenge the parentage of an individual who is a parent under Article 6 or

299 7; or

300 (2) to establish the parentage of an individual who is a donor.

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

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

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

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

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

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

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

315 (e) Genetic testing of an individual who gave birth to a child is not a condition precedent
316 to testing of the child and an individual whose genetic parentage of the child is being determined.
317 If the individual who gave birth is unavailable or declines to submit to genetic testing, the court
318 may order genetic testing of the child and each individual whose genetic parentage of the child is
319 being adjudicated.

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

324

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

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

328 SECTION 403. REQUIREMENTS FOR GENETIC TESTING.

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

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

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

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

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

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

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

347 (A) if the requested frequencies are not available to the laboratory for the

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349 ethnic or racial group requested, provide the requested frequencies compiled in a manner
350 recognized by accrediting bodies; or

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

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

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

359 SECTION 404. REPORT OF GENETIC TESTING.

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

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

366 (1) the name and photograph of each individual whose specimen has been taken; (2) the
367 name of the individual who collected each specimen;

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

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

370 (5) the date each specimen was received.

371

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

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

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

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

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

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

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

385 (A) the individual who gave birth to the child; or

386 (B) the individual identified under subsection (a).

387 (c) Except as otherwise provided in Section 410, if more than one individual other than
388 the individual who gave birth is identified by genetic testing as a possible genetic parent of the
389 child, the court shall order each individual to submit to further genetic testing to identify a
390 genetic parent.

391 SECTION 406. COST OF GENETIC TESTING.

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

394

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

397 (2) by the individual who made the request for genetic testing; (3) as agreed by the
398 parties; or

399 (4) as ordered by the court.

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

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

407 SECTION 408. GENETIC TESTING WHEN SPECIMEN NOT AVAILABLE.

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

412 (1) a parent of the alleged genetic parent; (2) a sibling of the alleged genetic parent;

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

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

417

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

420 SECTION 410. IDENTICAL SIBLINGS.

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

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

427 SECTION 411. CONFIDENTIALITY OF GENETIC TESTING.

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

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

436

437 ARTICLE 5

438 PROCEEDING TO ADJUDICATE PARENTAGE SECTION 501. PROCEEDING
439 AUTHORIZED.

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

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

445 SECTION 502. STANDING TO MAINTAIN PROCEEDING. Except as otherwise
446 provided in Article 3 and Sections 508 through 511, a proceeding to adjudicate parentage may be
447 maintained by:

448 (1) the child;

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

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

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

453 (5) if the child is or was a recipient of any type of public assistance, by the IV–D agency
454 as set forth in chapter 119A on behalf of the department of transitional assistance, the department
455 of children and families, the division of medical assistance or any other public assistance

456 program of the commonwealth;

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

459 (7) a representative authorized by law of this state other than this act to act for an
460

461 individual who otherwise would be entitled to maintain a proceeding but is deceased,
462 incapacitated, or a minor.

463 SECTION 503. NOTICE OF PROCEEDING.

464 (a) The petitioner shall give notice of a proceeding to adjudicate parentage under Article
465 5 to the following individuals:

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

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

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

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

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

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

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

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

478 SECTION 504. PERSONAL JURISDICTION.

479 (a) The court may adjudicate an individual's parentage of a child only if the court has
480 personal jurisdiction over the individual.

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

484

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

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

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

491 (2) any parent or intended parent resides;

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

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

495 SECTION 506. ADMISSIBILITY OF RESULTS OF GENETIC TESTING.

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

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

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

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

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

508

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

510 SECTION 507. ADJUDICATING PARENTAGE OF CHILD WITH ALLEGED
511 GENETIC PARENT.

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

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

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

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

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

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

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

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

530 (5) is neither identified nor excluded as a genetic parent by genetic testing and,

531

532 based on other evidence, the court determines the alleged genetic parent to be a parent of
533 the child.

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

538 SECTION 508. ADJUDICATING PARENTAGE OF CHILD WITH PRESUMED
539 PARENT.

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

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

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

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

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

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

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

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

554

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

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

562 (d) Except as otherwise provided in Section 514 and subject to other limitations in this
563 part, if in a proceeding to adjudicate a presumed parent's parentage of a child, another individual
564 in addition to the individual who gave birth to the child asserts a claim to parentage of the child,
565 the court shall adjudicate parentage under Section 513.

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

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

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

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

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

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

574 (2) while the child is alive.

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

577

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

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

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

588 If the court holds a hearing under this subsection, the hearing must be held on an
589 expedited basis. The court may order an interim order concerning contact between the child and
590 an individual

591 with standing seeking adjudication under this section as a de facto parent of the child.

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

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

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

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

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

603

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

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

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

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

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

617 SECTION 510. ADJUDICATING PARENTAGE OF CHILD WITH
618 ACKNOWLEDGED PARENT.

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

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

626 (1) The individual must commence the proceeding not later than two years after

627

628 the effective date of the acknowledgment.

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

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

633 SECTION 511. ADJUDICATING PARENTAGE OF CHILD WITH ADJUDICATED
634 PARENT.

635 (a) If a child has an adjudicated parent, a proceeding to challenge the adjudication,
636 brought by an individual who was a party to the adjudication or received notice under Section
637 503, is governed by the rules governing a collateral attack on a judgment.

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

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

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

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

648 SECTION 512. ADJUDICATING PARENTAGE OF CHILD OF ASSISTED
649 REPRODUCTION.

650 An individual who is a parent under Article 6 or the individual who gave birth to the
651
652 child may bring a proceeding to adjudicate parentage. If the court determines the
653 individual is a parent under Article 6, the court shall adjudicate the individual to be a parent of
654 the child.

655 SECTION 513. ADJUDICATING COMPETING CLAIMS OF PARENTAGE.

656 (a) Except as otherwise provided in Section 514, in a proceeding to adjudicate competing
657 claims of, or challenges under Section 508(c), 510, or 511 to, parentage of a child by two or
658 more individuals, the court shall adjudicate parentage in the best interest of the child,
659 based on: (1) the age of the child;
660 (2) the length of time during which each individual assumed the role of parent of the
661 child;
662 (3) the nature of the relationship between the child and each individual;
663 (4) the harm to the child if the relationship between the child and each individual is not
664 recognized;
665 (5) the basis for each individual's claim to parentage of the child; and
666 (6) other equitable factors arising from the disruption of the relationship between the
667 child and each individual or the likelihood of other harm to the child.

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

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

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

674 (c) The court may adjudicate a child to have more than two parents under this act if the
675 court finds that it is in the best interests of the child to do so. A finding of best interests of the

676

677 child under this subsection does not require a finding of unfitness of any parent or person
678 seeking an adjudication of parentage.

679 SECTION 514. PRECLUDING ESTABLISHMENT OF PARENTAGE BY
680 PERPETRATOR OF SEXUAL ASSAULT.

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

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

687 (c) This section shall not apply if:

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

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

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

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

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

699

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

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

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

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

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

711 SECTION 515. TEMPORARY ORDER.

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

715 (1) a presumed parent of the child;

716 (2) petitioning to be adjudicated a parent;

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

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

722

723 SECTION 516. COMBINING PROCEEDINGS.

724 (a) Except as otherwise provided in subsection (b), the court may combine a proceeding
725 to adjudicate parentage under this act with a proceeding for adoption, termination of parental

726 rights, care and protection, child custody or visitation, guardianship, child support, divorce,
727 annulment, separation, administration of an estate, or other appropriate proceeding.

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

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

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

737 SECTION 519. HEARING; INSPECTION OF RECORDS.

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

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

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

746

747 dismissal without prejudice.

748 SECTION 521. ORDER ADJUDICATING PARENTAGE.

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

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

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

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

758 SECTION 522. BINDING EFFECT OF DETERMINATION OF PARENTAGE.

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

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

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

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

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

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

770

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

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

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

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

780 or

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

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

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

788 ARTICLE 6

789 ASSISTED REPRODUCTION

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

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

795

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

799 SECTION 604. CONSENT TO ASSISTED REPRODUCTION.

800 (a) An individual who intends to be a parent of a child born through assisted reproduction
801 shall consent to such in a signed record that is executed by each intended parent and provides

802 that the signatories consent to the use of assisted reproduction to conceive a child with
803 the intent to parent the child.

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

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

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

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

813 SECTION 605. LIMITATION ON SPOUSE’S DISPUTE OF PARENTAGE.

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

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

819

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

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

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

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

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

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

830 SECTION 606. EFFECT OF CERTAIN LEGAL PROCEEDINGS REGARDING

831 MARRIAGE. If a marriage of a person who gives birth to a child conceived by assisted
832 reproduction is terminated through divorce or annulment before transfer or implantation of
833 gametes or embryos to the person giving birth, a former spouse of the person giving birth is not a
834 parent of the child unless the former spouse consented in a record that the former spouse would
835 be a parent of the child if assisted reproduction were to occur after a divorce or annulment, and
836 the former spouse did not withdraw consent under Section 607.

837 SECTION 607. WITHDRAWAL OF CONSENT.

838 (a) An individual who consents under Section 604 to assisted reproduction may withdraw
839 consent any time before a transfer or implantation of gametes or embryos that results in a
840 pregnancy, by giving notice in a record of the withdrawal of consent to the person who agreed to
841 give birth to a child conceived by assisted reproduction and to any clinic or health-care provider

842

843 who may be facilitating the assisted reproduction. Failure to give notice to the clinic or
844 health- care provider does not affect a determination of parentage under this act.

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

847 SECTION 608. PARENTAL STATUS OF DECEASED INDIVIDUAL.

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

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

856 (1) either:

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

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

861 (2) either:

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

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

865

866 SECTION 609. LABORATORY ERROR.

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

870 ARTICLE 7

871 PARENTAGE BY SURROGACY AGREEMENT PART 1

872 GENERAL REQUIREMENTS SECTION 701. DEFINITIONS. In this article:

873 (1) “Genetic surrogate” means a person who is not an intended parent and who agrees to
874 become pregnant through assisted reproduction using the surrogate’s own gamete, under a
875 genetic surrogacy agreement as provided in this article.

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

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

884 SECTION 702. ELIGIBILITY TO ENTER GESTATIONAL OR GENETIC
885 SURROGACY AGREEMENT.

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

887

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

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

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

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

893 (5) have independent legal representation of the person's choice regarding the terms of
894 the surrogacy agreement and the potential legal consequences of the agreement and that is paid
895 for by the intended parent or parents.

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

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

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

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

902 (4) have independent legal representation of the intended parent’s choice regarding the
903 terms of the surrogacy agreement and the potential legal consequences of the agreement.

904 SECTION 703. REQUIREMENTS OF GESTATIONAL OR GENETIC SURROGACY
905 AGREEMENT: PROCESS. A surrogacy agreement must be executed in compliance with the
906 following rules:

907 (1) At least one party must be a resident of this state or, if no party is a resident of this

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909 state, at least one medical evaluation or procedure or mental-health consultation under the
910 agreement must occur in this state, or the birth is anticipated to or does occur in this state.

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

912 (3) Each intended parent, the surrogate, and the surrogate’s spouse, if any, must be parties
913 to the agreement. However, the failure of the spouse of the surrogate to be a party to the
914 agreement shall not violate this provision if such failure is for reason of prolonged unexplained
915 absence or separation, legal separation, incapacity, or circumstances constituting an unreasonable
916 burden on the surrogate.

917 (4) The agreement must be in a record signed by each party listed in paragraph (3). (5)

918 The surrogate and each intended parent must acknowledge in a record receipt of a

919 copy of the agreement.

920 (6) The signature of each party to the agreement must be attested by a notary or

921 witnessed.

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

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

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

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931 SECTION 704. REQUIREMENTS OF GESTATIONAL OR GENETIC SURROGACY
932 AGREEMENT: CONTENT.

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

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

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

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

940 (4) Except as otherwise provided in Sections 711, 714, and 715, the intended parent or, if
941 there are two intended parents, each one jointly and severally, immediately on birth will be the

942 exclusive parent or parents of the child, regardless of number of children born or gender or
943 mental or physical condition of each child.

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

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

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

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

956 (b) A surrogacy agreement may provide for:

957 (1) payment of consideration and reasonable expenses; and

958 (2) reimbursement of specific expenses if the agreement is terminated under this article.

959 (c) A right created under a surrogacy agreement is not assignable and there is no third-
960 party beneficiary of the agreement other than the child.

961 SECTION 705. SURROGACY AGREEMENT: EFFECT OF SUBSEQUENT
962 CHANGE OF MARITAL STATUS.

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

964 (1) the marriage of a surrogate after the agreement is signed by all parties does not
965 affect the validity of the agreement, her spouse's consent to the agreement is not required,
966 and the surrogate's spouse is not a presumed parent of a child conceived by assisted reproduction
967 under the agreement; and

968 (2) the divorce or annulment of the surrogate after the agreement is signed by all parties
969 does not affect the validity of the agreement.

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

971 (1) the marriage of an intended parent after the agreement is signed by all parties does not
972 affect the validity of a surrogacy agreement, the consent of the spouse of the intended parent is
973 not required, and the spouse of the intended parent is not, based on the agreement, a parent of a
974 child conceived by assisted reproduction under the agreement; and

975 (2) the divorce or annulment of an intended parent after the agreement is signed

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977 by all parties does not affect the validity of the agreement and, except as otherwise
978 provided in

979 Section 714, the intended parents are the parents of the child.

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

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

994 PART 2

995 SPECIAL RULES FOR GESTATIONAL SURROGACY AGREEMENT SECTION
996 708. TERMINATION OF GESTATIONAL SURROGACY
997 AGREEMENT.

998 (a) A party to a gestational surrogacy agreement may terminate the agreement, at any
999 time before an embryo transfer, by giving notice of termination in a record to all other parties. If
1000 an embryo transfer does not result in a pregnancy, a party may terminate the agreement at any

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time before a subsequent embryo transfer.

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

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

SECTION 709. PARENTAGE UNDER GESTATIONAL SURROGACY AGREEMENT.

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

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

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

1 through 5.

1022 (d) Except as otherwise provided in subsection (c) or Section 710(b) or 712, if, due to a
1023 clinical or laboratory error, a child conceived by assisted reproduction under a gestational
1024 surrogacy agreement is not genetically related to an intended parent or a donor who donated to

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1026 the intended parent or parents, each intended parent, and not the gestational surrogate and
1027 the surrogate's spouse or former spouse, if any, is a parent of the child, subject to any other claim
1028 of parentage.

1029 SECTION 710. GESTATIONAL SURROGACY AGREEMENT: PARENTAGE OF
1030 DECEASED INTENDED PARENT.

1031 (a) Section 709 applies to an intended parent even if the intended parent died during the
1032 period between the transfer of a gamete or embryo and the birth of the child.

1033 (b) Except as otherwise provided in Section 712, an intended parent is not a parent of a
1034 child conceived by assisted reproduction under a gestational surrogacy agreement if the intended
1035 parent dies before the transfer of a gamete or embryo unless:

1036 (1) the agreement provides otherwise; and

1037 (2) the transfer of a gamete or embryo occurs not later than 36 months after the death of
1038 the intended parent or birth of the child occurs not later than 45 months after the death of the
1039 intended parent.

1040 SECTION 711. GESTATIONAL SURROGACY AGREEMENT: ORDER OR
1041 JUDGMENT OF PARENTAGE.

1042 (a) Except as otherwise provided in Sections 709(c) or 712, before, on, or after the birth
1043 of a child conceived by assisted reproduction under a gestational surrogacy agreement, any party
1044 to the agreement may commence a proceeding in the Probate and Family Court in the county
1045 where the intended parents(s) reside, where the gestational surrogate resides or where the
1046 resulting child is born or expected to be born for an order or judgment:

1047 (1) declaring that each intended parent is a parent of the child and ordering that parental
1048 rights and duties vest immediately on the birth of the child exclusively in each intended

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1050 parent;

1051 (2) declaring that the gestational surrogate and the surrogate's spouse or former
1052 spouse, if any, are not the parents of the child;

1053 (3) designating the content of the birth record in accordance with Chapter 46 and
1054 directing the Department of Public Health to designate each intended parent as a parent of the
1055 child;

1056 (4) to protect the privacy of the child and the parties, declaring that the court record and
1057 related pleadings are not open to inspection and shall be impounded except as authorized under
1058 Section 706;

1059 (5) if necessary, that the child be surrendered to the intended parent or parents; (6) if
1060 necessary, that the hospital where the child will be or has been born, treat

1061 the intended parent(s) as the sole legal parent(s) for the purpose of naming and medical
1062 decisions; and

1063 (7) for other relief the court determines necessary and proper.

1064 (b) The court may issue an order or judgment under subsection (a) before the birth of the
1065 child. The court may stay enforcement of the order or judgment until the birth of the child.

1066 (c) Neither this state or the Department of Public Health nor any town clerk nor the
1067 hospital where the child is to be born is a necessary party to a proceeding under subsection (a).

1068 (d) Sworn affidavits of the parties and the assisted reproductive physician demonstrating
1069 the intent of the parties for the intended parent(s) to be the sole legal parent(s) of the child and
1070 that the child was born pursuant to assisted reproduction shall be sufficient to permit such a
1071 finding, and a hearing shall not be required unless the court requires additional information
1072 which cannot reasonably be ascertained without a hearing.

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1074 (e) The court shall, within thirty (30) days of the filing of the petition, grant the petition
1075 upon a finding that the intent of the parties was for the intended parent(s) to be the sole legal
1076 parent(s) of the child and that the child was conceived through assisted reproduction pursuant to
1077 a gestational surrogacy agreement. Such parentage orders issued under this section shall
1078 conclusively establish or affirm, where applicable, the parent-child relationship.

1079 SECTION 712. EFFECT OF GESTATIONAL SURROGACY AGREEMENT.

1080 (a) A gestational surrogacy agreement that substantially complies with Sections 702, 703,
1081 and 704 is enforceable.

1082 (b) If a child was conceived by assisted reproduction under a gestational surrogacy
1083 agreement that does not substantially comply with Sections 802, 803, and 804, the court shall
1084 determine the rights and duties of the parties to the agreement consistent with the intent of the
1085 parties at the time of execution of the agreement. Each party to the agreement and any individual
1086 who at the time of the execution of the agreement was a spouse of a party to the agreement has
1087 standing to maintain a proceeding to adjudicate an issue related to the enforcement of the
1088 agreement.

1089 (c) Except as expressly provided in a gestational surrogacy agreement or subsection (d)
1090 or (e), if the agreement is breached by the gestational surrogate or one or more intended parents,
1091 the non-breaching party is entitled to the remedies available at law or in equity.

1092 (d) Specific performance is not a remedy available for breach by a gestational surrogate
1093 of a provision in the agreement that the gestational surrogate be impregnated, terminate or not
1094 terminate a pregnancy, or submit to medical procedures.

1095 (e) Except as otherwise provided in subsection (d), if an intended parent is determined to
1096 be a parent of the child, specific performance is a remedy available for:

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1098 (1) breach of the agreement by a gestational surrogate which prevents the intended parent
1099 from exercising immediately on birth of the child the full rights of parentage; or

1100 (2) breach by the intended parent which prevents the intended parent's acceptance,
1101 immediately on birth of the child conceived by assisted reproduction under the agreement, of the
1102 duties of parentage.

1103 PART 3

1104 SPECIAL RULES FOR GENETIC SURROGACY AGREEMENT SECTION 713.

1105 REQUIREMENTS TO VALIDATE GENETIC SURROGACY

1106 AGREEMENT.

1107 (a) Except as otherwise provided in Section 716, to be enforceable, a genetic surrogacy
1108 agreement must be validated by the Probate and Family Court. A proceeding to validate the
1109 agreement must be commenced before assisted reproduction related to the surrogacy agreement.

1110 (b) The court shall issue an order validating a genetic surrogacy agreement if the court
1111 finds that:

1112 (1) Sections 702, 703, and 704 are satisfied; and

1113 (2) all parties entered into the agreement voluntarily and understand its terms.

1114 (c) An individual who terminates a genetic surrogacy agreement under Section 714 shall
1115 file notice of the termination with the court. On receipt of the notice, the court shall vacate any
1116 order issued under subsection (b). An individual who does not notify the court of the termination
1117 of the agreement is subject to sanctions.

1118 SECTION 714. TERMINATION OF GENETIC SURROGACY AGREEMENT.

1119 (a) A party to a genetic surrogacy agreement may terminate the agreement as follows: (1)
1120 An intended parent who is a party to the agreement may terminate the

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1122 agreement at any time before a gamete or embryo transfer by giving notice of termination
1123 in a record to all other parties. If a gamete or embryo transfer does not result in a pregnancy, a
1124 party may terminate the agreement at any time before a subsequent gamete or embryo transfer.
1125 The notice of termination must be attested by a notarial officer or witnessed.

1126 (2) A genetic surrogate who is a party to the agreement may withdraw consent to the
1127 agreement any time before 72 hours after the birth of a child conceived by assisted reproduction
1128 under the agreement. To withdraw consent, the genetic surrogate must execute a notice of
1129 termination in a record stating the surrogate's intent to terminate the agreement. The notice of
1130 termination must be attested by a notary or witnessed and be delivered to each intended parent
1131 any time before 72 hours after the birth of the child.

1132 (b) On termination of the genetic surrogacy agreement under subsection (a), the parties
1133 are released from all obligations under the agreement except that each intended parent remains
1134 responsible for all expenses incurred by the surrogate through the date of termination which are
1135 reimbursable under the agreement. Unless the agreement provides otherwise, the surrogate is not
1136 entitled to any non-expense related compensation paid for serving as a surrogate.

1137 (c) Except in a case involving fraud, neither a genetic surrogate nor the surrogate's
1138 spouse or former spouse, if any, is liable to the intended parent or parents for a penalty or
1139 liquidated damages, for terminating a genetic surrogacy agreement under this section.

1140 SECTION 715. PARENTAGE UNDER VALIDATED GENETIC SURROGACY
1141 AGREEMENT.

1142 (a) Unless a genetic surrogate exercises the right under Section 714 to terminate a genetic
1143 surrogacy agreement, each intended parent is a parent of a child conceived by assisted
1144 reproduction under an agreement validated under Section 713.

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1146 (b) Unless a genetic surrogate exercises the right under Section 714 to terminate the
1147 genetic surrogacy agreement, on proof of a court order issued under Section 713 validating the
1148 agreement and on petition of any party to the agreement no early than 72 hours after the birth,
1149 the court shall make an order:

1150 (1) declaring that each intended parent is a parent of a child conceived by assisted
1151 reproduction under the agreement and ordering that parental rights and duties vest exclusively in
1152 each intended parent;

1153 (2) declaring that the genetic surrogate and the surrogate's spouse or former
1154 spouse, if any, are not parents of the child;

1155 (3) designating the contents of the birth certificate in accordance with Chapter 46 and
1156 directing the Department of Public Health to designate each intended parent as a parent of the
1157 child;

1158 (4) to protect the privacy of the child and the parties, declaring that the court record is not
1159 open to inspection except as authorized under Section 706;

1160 (5) if necessary, that the child be surrendered to the intended parent or parents;

1161 and

1162 (6) for other relief the court determines necessary and proper.

1163 (c) If a genetic surrogate terminates under Section 714(a)(2) a genetic surrogacy
1164 agreement, parentage of the child conceived by assisted reproduction under the agreement must
1165 be determined under Articles 1 through 5.

1166 (d) Except as otherwise provided in subsection (e) or Section 717, if, due to a clinical or
1167 laboratory error, a child conceived by assisted reproduction under a genetic surrogacy agreement
1168 is not genetically related to an intended parent or a donor who donated to the intended parent or

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1170 parents, each intended parent, and not the genetic surrogate and the surrogate's spouse or
1171 former

1172 spouse, if any, is a parent of the child, subject to any other claim of parentage.

1173 (e) If a child born to a genetic surrogate is alleged not to have been conceived by assisted
1174 reproduction, the court shall order genetic testing to determine the genetic parentage of the child.
1175 If the child was not conceived by assisted reproduction, parentage must be determined under
1176 Articles 1 through 5, and unless the genetic surrogacy agreement provides otherwise, the
1177 surrogate is not entitled to any non-expense related compensation paid for serving as a surrogate.

1178 (f) Unless a genetic surrogate exercises the right under Section 714 to terminate the
1179 genetic surrogacy agreement, if an intended parent fails to file notice required under Section

1180 714(a), the genetic surrogate or the state IV-D agency may file with the court, not later
1181 than 60 days after the birth of a child conceived by assisted reproduction under the agreement,
1182 notice that the child has been born to the genetic surrogate. Unless the genetic surrogate has

1183 properly exercised the right under Section 714 to withdraw consent to the agreement, on proof of
1184 a court order issued under Section 713 validating the agreement, the court shall order that each
1185 intended parent is a parent of the child.

1186 SECTION 716. EFFECT OF NONVALIDATED GENETIC SURROGACY
1187 AGREEMENT.

1188 (a) A genetic surrogacy agreement, whether or not in a record, that is not validated under
1189 Section 713 is enforceable only to the extent provided in this section and Section 718.

1190 (b) If all parties agree, a court may validate a genetic surrogacy agreement after assisted
1191 reproduction has occurred but before the birth of a child conceived by assisted reproduction
1192 under the agreement.

1193 (c) If a child conceived by assisted reproduction under a genetic surrogacy agreement that
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1195 is not validated under Section 713 is born and the genetic surrogate, consistent with
1196 Section

1197 714(a)(2), withdraws her consent to the agreement before 72 hours after the birth of the
1198 child, the court shall adjudicate the parentage of the child under Articles 1 through 5.

1199 (d) If a child conceived by assisted reproduction under a genetic surrogacy agreement
1200 that is not validated under Section 713 is born and a genetic surrogate does not withdraw her
1201 consent to the agreement, consistent with Section 714(a)(2), before 72 hours after the birth of the

1202 child, the genetic surrogate is not automatically a parent and the court shall adjudicate parentage
1203 of the child based on the best interest of the child, taking into account the factors in Section
1204 513(a) and the intent of the parties at the time of the execution of the agreement.

1205 (e) The parties to a genetic surrogacy agreement have standing to maintain a proceeding
1206 to adjudicate parentage under this section.

1207 SECTION 717. GENETIC SURROGACY AGREEMENT: PARENTAGE OF
1208 DECEASED INTENDED PARENT.

1209 (a) Except as otherwise provided in Section 715 or 716, on birth of a child conceived by
1210 assisted reproduction under a genetic surrogacy agreement, each intended parent is, by operation
1211 of law, a parent of the child, notwithstanding the death of an intended parent during the period
1212 between the transfer of a gamete or embryo and the birth of the child.

1213 (b) Except as otherwise provided in Section 715 or 716, an intended parent is not a parent
1214 of a child conceived by assisted reproduction under a genetic surrogacy agreement if the
1215 intended parent dies before the transfer of a gamete or embryo unless: (1) the agreement
1216 provides otherwise; and

1217 (2) the transfer of the gamete or embryo occurs not later than 36 months after the death of
1218 the intended parent, or birth of the child occurs not later than 45 months after the death

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1220 of the intended parent.

1221 SECTION 718. BREACH OF GENETIC SURROGACY AGREEMENT.

1222 (a) Subject to Section 714(b), if a genetic surrogacy agreement is breached by a genetic
1223 surrogate or one or more intended parents, the non-breaching party is entitled to the remedies
1224 available at law or in equity.

1225 (b) Specific performance is not a remedy available for breach by a genetic surrogate of a
1226 requirement of a validated or non-validated genetic surrogacy agreement that the surrogate be
1227 impregnated, terminate or not terminate a pregnancy, or submit to medical procedures.

1228 (c) Except as otherwise provided in subsection (b), specific performance is a remedy
1229 available for:

1230 (1) breach of a validated genetic surrogacy agreement by a genetic surrogate of a
1231 requirement which prevents an intended parent from exercising the full rights of parentage 72
1232 hours after the birth of the child; or

1233 (2) breach by an intended parent which prevents the intended parent's acceptance of
1234 duties of parentage 72 hours after the birth of the child.

1235 ARTICLE 8

1236 MISCELLANEOUS PROVISIONS

1237 SECTION 801. UNIFORMITY OF APPLICATION AND CONSTRUCTION. In
1238 applying and construing this uniform act, consideration must be given to the need to promote
1239 uniformity of the law with respect to its subject matter among states that enact it.

1240 SECTION 802. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND
1241 NATIONAL COMMERCE ACT. This act modifies, limits, or supersedes the Electronic
1242 Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001 et seq., but does not

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1244 modify limit, or supersede Section 101(c) of that act, 15 U.S.C. Section 7001(c), or
1245 authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15
1246 U.S.C. Section 7003(b).

1247 SECTION 803. TRANSITIONAL PROVISION. This act applies to a pending
1248 proceeding to adjudicate parentage commenced before the effective date of this act for an issue
1249 on which a judgment has not been entered.

1250 SECTION 804. REPEALS; CONFORMING AMENDMENTS. Insofar as the provisions
1251 of this act differ from provisions regarding the establishment of parentage in Chapter
1252 209C, the provisions of this act shall supersede Chapter 209C.

1253 SECTION 805. EFFECTIVE DATE. This act takes effect sixty days after enactment.