

**HOUSE . . . . . No. 1602**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

***Kay Khan and Adam Scanlon***

*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:	DATE ADDED:
<i>Kay Khan</i>	<i>11th Middlesex</i>	<i>1/19/2023</i>
<i>Adam Scanlon</i>	<i>14th Bristol</i>	<i>1/19/2023</i>
<i>Lindsay N. Sabadosa</i>	<i>1st Hampshire</i>	<i>1/30/2023</i>
<i>Natalie M. Higgins</i>	<i>4th Worcester</i>	<i>2/23/2023</i>
<i>Samantha Montaño</i>	<i>15th Suffolk</i>	<i>2/27/2023</i>
<i>Jay D. Livingstone</i>	<i>8th Suffolk</i>	<i>5/30/2023</i>
<i>Joanne M. Comerford</i>	<i>Hampshire, Franklin and Worcester</i>	<i>5/30/2023</i>
<i>Steven Owens</i>	<i>29th Middlesex</i>	<i>7/5/2023</i>

**HOUSE . . . . . No. 1602**

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By Representatives Khan of Newton and Scanlon of North Attleborough, a petition (accompanied by bill, House, No. 1602) of Kay Khan, Adam Scanlon and others relative to the rights and protections of children. The Judiciary.

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[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE HOUSE, NO. 1714 OF 2021-2022.]

**The Commonwealth of Massachusetts**

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**In the One Hundred and Ninety-Third General Court  
(2023-2024)**  
\_\_\_\_\_

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           SECTION 1. Section 1 of chapter 209C of the General Laws, as appearing in the 2018  
2   Official Edition, is hereby amended in line 3 by inserting after the word “children.” the  
3   following sentence:- It is the public policy of the Commonwealth under this chapter, as well as  
4   under chapter 209E, that every child has the same rights and protections under law as any other  
5   child without regard to the marital status or gender of the parents or the circumstances of the  
6   birth of the child, including whether the child was born as a result of assisted reproduction or  
7   surrogacy.

8           SECTION 1A. Section 1 of chapter 209C of the General Laws, as so appearing, is hereby  
9   amended by striking out, in line X, the words “a man and woman” and inserting in place thereof  
10  the following word:- people.

11 SECTION 1B. Said section 1 of chapter 209C of the General Laws, as so appearing, is  
12 hereby amended by striking out, in lines 7 and 8, and in lines 14, 15 and 17, the word “paternity”  
13 and inserting in place thereof, in each instance, the following word:- parentage.

14 SECTION 2. Said section 1 of said chapter 209C, as so appearing, is hereby further  
15 amended by striking out, in line 11 and in line 20, the words “child born out of wedlock” and  
16 inserting in place thereof, in each instance, the following words:- nonmarital child.

17 SECTION 3. Section 2 of said chapter 209C, as so appearing, is hereby amended by  
18 striking out, in line 1, the word “Paternity” and inserting in place thereof the following word:-  
19 Parentage.

20 SECTION 4. Said section 2 of said chapter 209C, as so appearing, is hereby further  
21 amended by striking out, in lines 12, 13, 16, and in line 18, the word “paternity” and inserting in  
22 place thereof, in each instance, the following word:- parentage.

23 SECTION 5. Said section 2 of said chapter 209C, as so appearing, is hereby further  
24 amended by striking out, in line 5, the words “paternity filed pursuant to this chapter” and  
25 inserting in place thereof the following words:- parentage filed pursuant to this chapter or chapter  
26 209E.

27 SECTION 6. Section 3 of said chapter 209C, as so appearing, is hereby amended by  
28 striking out, in lines 3, 7, lines 35 and 36, and in line 51, the word “paternity” and inserting in  
29 place thereof, in each instance, the following word:- parentage.

30 SECTION 7. Said section 3 of said chapter 209C, as so appearing, is hereby further  
31 amended by inserting after the word “parentage”, in line 4, the following words:- under this  
32 chapter.

33 SECTION 8. Section 4 of said chapter 209C, as so appearing, is hereby amended by  
34 striking out, in lines 1 and 11, the word “paternity”, and inserting in place thereof, in each  
35 instance, the following word:- parentage.

36 SECTION 9. Section 5 of said chapter 209C, as so appearing, is hereby amended by  
37 striking out, in lines 1 and 2, lines 19, 35, 55, 60 and 62, the word “paternity” and inserting in  
38 place thereof, in each instance, the following word:- parentage.

39 SECTION 10. Said section 5 of said chapter 209C, as so appearing, is hereby further  
40 amended by inserting after the word “mother”, in lines 3, 7, the first time it appears, and in line  
41 17, the following words:- person who gave birth.

42 SECTION 11. Said section 5 of said chapter 209C, as so appearing, is hereby further  
43 amended by striking out, in line 4, the words “the mother” and inserting in place thereof the  
44 following words:- that person.

45 SECTION 12, Said section 5 of said chapter 209C, as so appearing, is hereby further  
46 amended by striking out, in line 4 and in line 9, the second time it appears, the word “father” and  
47 inserting in place thereof, in each instance, the following words:- other parent.

48 SECTION 13. Said section 5 of said chapter 209C, as so appearing, is hereby further  
49 amended by striking out, in lines 4 and 21, the word “himself” and inserting in place thereof, in  
50 each instance, the following word:- themselves.

51 SECTION 14. Said section 5 of said chapter 209C, as so appearing, is hereby further  
52 amended by striking out, in lines 21 and 22, the words “mother’s husband” and inserting in place  
53 thereof the following word:- spouse.

54 SECTION 15. Said section 5 of said chapter 209C, as so appearing, is hereby amended  
55 by striking out, in lines 24 to 37, inclusive, the words “mother and the putative father, whether  
56 either or both is a minor, and may be registered pursuant to section 11 only if the signatures of  
57 the mother and the father are notarized. If the mother of the child was or is married and the  
58 child’s birth occurs during the marriage or within 300 days of its termination by divorce, a  
59 voluntary acknowledgment of parentage naming the putative father may be executed by the  
60 mother and the putative father only if the mother and the person who was the spouse of the  
61 mother at the time of the child’s birth or conception sign an affidavit denying that the spouse is  
62 the father of the child; provided, however, that where the marriage has been terminated by  
63 annulment or by the death of either spouse, paternity of the putative father may only be  
64 established by filing a complaint to establish paternity as provided in this chapter. A mother and  
65 a putative father” and inserting in place thereof the following words:- person who gave birth and  
66 either a presumed parent or alleged genetic parent as provided in this chapter or an intended  
67 parent as provided in Article 6 of chapter 209E, whether either or both is a minor and may be  
68 registered pursuant to section 11 only if the signatures of both signatories are notarized or  
69 witnessed. If the person who gave birth to the child was or is married and the child’s birth occurs  
70 during the marriage or within 300 days of its termination by divorce, a voluntary  
71 acknowledgment of parentage naming the other parent may be executed by the person who gave  
72 birth and the other parent only if the person who gave birth and the person who was the spouse  
73 of the person who gave birth at the time of the child’s birth or conception sign an affidavit

74 denying that the spouse is the parent of the child; provided, however, that where the marriage has  
75 been terminated by annulment or by the death of either spouse, parentage of the other parent may  
76 only be established by filing a complaint to establish parentage as provided in this chapter. A  
77 person who gave birth and the other parent.

78 SECTION 15A. Subsection (b) of said section 5 of said chapter 209C, as so appearing, is  
79 hereby further amended in line 50 by inserting, after the word “chapter.” the following sentence:-  
80 For the purposes of this chapter the term “alleged genetic parent”, means an individual who is  
81 alleged to be, or alleges that the individual is, a genetic parent or possible genetic parent of a  
82 child whose parentage has not been adjudicated. The term includes a putative parent, an alleged  
83 genetic father and alleged genetic mother. The term does not include: (A) a presumed parent; (B)  
84 an individual whose parental rights have been terminated or declared not to exist; or (C) a donor,  
85 as defined in chapter 209E, section 102.

86 SECTION 16. Section 6 of said chapter 209C, as so appearing, is hereby amended by  
87 striking out, in lines 1 and 2, the words “In all actions under this chapter a man is presumed to be  
88 the father of a child and must be joined as a party” and inserting in place thereof the following  
89 words:- A person is presumed to be the parent of a child and shall be joined as a party in all  
90 actions under this chapter.

91 SECTION 17. Said section 6 of said chapter 209C, as so appearing, is hereby further  
92 amended by striking out, in lines 3, 6, 11,14, 16, 18 and 26, the word “he” and inserting in place  
93 thereof, in each instance, the following words:- the person.

94 SECTION 18. Said section 6 of said chapter 209C, as so appearing, is hereby further  
95 amended by striking out, in lines 3, 7 and 32, the word “mother” and inserting in place thereof, in  
96 each instance, the following words:- person who gave birth.

97 SECTION 19. Said section 6 of said chapter 209C, as so appearing, is hereby further  
98 amended by striking out, in lines 21 to 23, inclusive, the words “he has acknowledged paternity  
99 in a parental responsibility claim as provided in section four A of chapter two hundred and ten  
100 and the mother” and inserting in place thereof the following words:- the person has  
101 acknowledged parentage in a parental responsibility claim as provided in section 4A of chapter  
102 210 and the person who gave birth.

103 SECTION 20. Said section 6 of said chapter 209C, as so appearing, is hereby further  
104 amended by striking out subsection (b) and inserting in place thereof the following subsection:-

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

109 SECTION 21. Said section 6 of said chapter 209C, as so appearing, is hereby further  
110 amended by adding the following subsection:-

111 (d) A presumption of parentage under this section may be overcome, and competing  
112 claims to parentage may be resolved, only by a valid denial of parentage under section 11 of this  
113 chapter or as follows:

114 (1) A presumption of parentage cannot be overcome after the child attains 2 years of age  
115 unless the court determines: (i) the presumed parent is not a genetic parent, never resided with  
116 the child, and never held out the child as the presumed parent's child; or (ii) the child has more  
117 than 1 presumed parent.

118 (2) A proceeding to challenge the marital presumption by an alleged genetic parent who  
119 is not a presumed parent may be permitted by a court only if the alleged genetic parent proves,  
120 by clear and convincing evidence, that the alleged genetic parent has a substantial parent-child  
121 relationship with the child. If the court permits the proceeding, the court shall adjudicate  
122 parentage under chapter 209E, section 511.

123 (3) The following rules apply in a proceeding to adjudicate a presumed parent's  
124 parentage of a child if the individual who gave birth to the child is the only other individual with  
125 a claim to parentage of the child: (i) If no party to the proceeding challenges the presumed  
126 parent's parentage of the child, the court shall adjudicate the presumed parent to be a parent of  
127 the child; (ii) If the presumed parent is identified as a genetic parent of the child and that  
128 identification is not successfully challenged, the court shall adjudicate the presumed parent to be  
129 a parent of the child; (iii) If the presumed parent is not identified as a genetic parent of the child  
130 and the presumed parent or the individual who gave birth to the child challenges the presumed  
131 parent's parentage of the child, the court shall adjudicate the parentage of the child in the best  
132 interest of the child based on the factors of chapter 209E, section 511(a) and (b).

133 (4) Subject to other limitations in this part, if in a proceeding to adjudicate a presumed  
134 parent's parentage of a child, another individual in addition to the individual who gave birth to



135 the child asserts a claim to parentage of the child, the court shall adjudicate parentage under  
136 chapter 209E, section 511.

137 SECTION 22. Section 7 of said chapter 209C, as so appearing, is hereby amended by  
138 striking out, in lines 3 and 4 and in line 8, the word “paternity” and inserting in place thereof, in  
139 each instance, the word:- parentage.

140 SECTION 23. Section 8 of said chapter 209C, as so appearing, is hereby amended by  
141 striking out, in lines 1, 2, 5 and 15, the word “paternity” and inserting in place thereof the  
142 following word:- parentage.

143 SECTION 24. Said section 8 of said chapter 209C, as so appearing, is hereby further  
144 amended by striking out, in line 7, the words “mother or putative father submits” and inserting in  
145 place thereof the following words:- person who gave birth or alleged genetic parent submits  
146 sufficient evidence, which may include evidence.

147 SECTION 25. Said section 8 of said chapter 209C, as so appearing, is hereby further  
148 amended by striking out, in lines 12 and 13, the word “father or mother” and inserting in place  
149 thereof the following word:- parent.

150 SECTION 26. Said section 8 of said chapter 209C, as so appearing, is hereby further  
151 amended by striking out, in line 16, the word “mother” and inserting in place thereof the  
152 following words:- person who gave birth.

153 SECTION 26A. Section 9 of said chapter 209C, as so appearing, is hereby amended by  
154 striking out, in line X, the word “mother” and inserting in place thereof, the following word:  
155 person who gave birth.

156 SECTION 27. Subsection (a) of section 10 of said chapter 209C, as so appearing, is  
157 hereby amended by striking out the first paragraph and inserting in place thereof the following  
158 paragraph:-

159 Upon or after an adjudication or voluntary acknowledgment of parentage for a nonmarital  
160 child, the court may award custody to either parent or to them jointly or to another suitable  
161 person as hereafter further specified as may be appropriate in the best interests of the child.

162 SECTION 28. Said section 10 of said chapter 209C, as so appearing, is hereby further  
163 amended by striking out subsection (b) and inserting in place thereof the following subsection:-

164 (b) Prior to or in the absence of an adjudication or voluntary acknowledgment of  
165 parentage, the person who gave birth shall have custody of a nonmarital child. In the absence of  
166 an order or judgment of a probate and family court relative to custody, the person who gave birth  
167 shall continue to have custody of a child after an adjudication of parentage or voluntary  
168 acknowledgment of parentage.

169 SECTION 29. Section 11 of said chapter 209C, as so appearing, is hereby amended by  
170 striking out, in line 2, the words “putative father” and inserting in place thereof, in each instance,  
171 the following words:- alleged genetic parent, presumed parent or intended parent.

172 SECTION 29A. Section 11 of said chapter 209C, as so appearing, is hereby further  
173 amended by striking out, in line 3 the word “mother” and inserting in place thereof the following  
174 words:- person who gave birth to.

175 SECTION 29B. Section 11 of said chapter 209C, as so appearing, is hereby further  
176 amended by striking out, in line 21 the word “mother” and inserting in place thereof the  
177 following words: - person who gave birth.

178 SECTION 30. Said section 11 of said chapter 209C, as so appearing, is hereby further  
179 amended by striking out, in lines 7, 20, 22, 37 and 49 the word “paternity” and inserting in place  
180 thereof, in each instance, the following word:- parentage.

181 SECTION 31. Said section 11 of said chapter 209C, as so appearing, is hereby amended  
182 by striking out, in line 21, the word “father” and inserting in place thereof the following word:-  
183 parent.

184 SECTION 32. Said section 11 of said chapter 209C, as so appearing, is hereby further  
185 amended by striking out, in lines 2 and 59, the word “father” and inserting in place thereof, in  
186 each instance, the following words:- parent, presumed parent or intended parent.

187 SECTION 33. Said section 11 of said chapter 209C, as so appearing, is hereby further  
188 amended by inserting after the word “be”, in line 16, the following words:- in a record signed by  
189 the person who gave birth and by the individual seeking to establish a parent-child relationship  
190 and the signatures must be and is hereby further amended by inserting after the word “public,” in  
191 line 17 and in line 77, the following words:- or witnessed.

192 SECTION 34. Said section 11 of said chapter 209C, as so appearing, is hereby further  
193 amended by striking out, in line 43, the word “rescind” and inserting in place thereof the  
194 following word:- challenge.

195 SECTION 35. Said section 11 of said chapter 209C, as so appearing, is hereby further  
196 amended by striking out the tenth sentence and inserting in place thereof the following sentence:-  
197 If either party rescinds the acknowledgment in a timely fashion and the basis of the  
198 acknowledgment is genetic parentage, the court shall order genetic marker testing and proceed to  
199 adjudicate parentage or nonparentage in accordance with this chapter; provided, however, that  
200 the rescinded acknowledgment shall constitute the proper showing required for an order to  
201 submit to such testing; and provided, further, that the rescinded acknowledgment shall be  
202 admissible as evidence of the alleged genetic parent's parentage and shall serve as sufficient  
203 basis for admitting the report of the results of genetic marker tests.

204 SECTION 36. Said section 11 of said chapter 209C, as so appearing, is hereby further  
205 amended by striking out, in line 56, the word "nonpaternity" and inserting in place thereof the  
206 following word:- nonparentage.

207 SECTION 37. Said section 11 of said chapter 209C, as so appearing, is hereby further  
208 amended by striking out, in line 59, the word "a mother and father" and inserting in place thereof  
209 the following words:- parents.

210 SECTION 38 . Said section 11 of said chapter 209C, as so appearing, is hereby further  
211 amended by adding the following subsection:-

212 (e) If there are competing claims of parentage of a child with an acknowledged parent,  
213 the court shall adjudicate parentage as provided in section 511 of chapter 209E.

214 SECTION 39. Section 12 of said chapter 209C, as so appearing, is hereby amended by  
215 striking out, in line 2, the word "paternity" and inserting in place thereof the following word:-  
216 parentage.

217 SECTION 40. Section 13 of said chapter 209C, as so appearing, is hereby amended by  
218 striking out, in lines 1 and 2, the words “paternity or in which paternity of a child is an issue” and  
219 inserting in place thereof the following words:- parentage or in which parentage of a child is an  
220 issue pursuant to this chapter.

221 SECTION 41. Said section 13 of said chapter 209C, as so appearing, is hereby further  
222 amended by striking out, in lines 7 to 9, inclusive, the words “father is adjudicated not to be the  
223 father of the child; provided, however, that the child, the child’s mother, the person adjudicated  
224 to be the father” and inserting in place thereof the following words:- parent is adjudicated not to  
225 be the parent of the child; provided, however, that the child, the person who gave birth to the  
226 child, the person adjudicated to be the parent.

227 SECTION 42. Said chapter 209C is hereby further amended by striking out section 14, as  
228 so appearing, and inserting in place thereof the following section:-

229 Section 14. An action to establish parentage of a child pursuant to this chapter may be  
230 instituted during pregnancy but shall only be filed by the person to give birth or their  
231 representative or by the IV-D agency as set forth in chapter 119A on behalf of the person to give  
232 birth. In the case of any complaint brought prior to the birth of the child, no final judgment on  
233 the issue of parentage shall be made until after the birth of the child; provided, however, that the  
234 court may order temporary support or health care coverage.

235 SECTION 43. Section 16 of said chapter 209C, as so appearing, is hereby amended by  
236 striking out subsections (c), (d) and (e) and inserting in place thereof the following 3  
237 subsections:-

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

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

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

250 SECTION 44. Said section 16(f) of said chapter 209C, as so appearing, is hereby further  
251 amended by striking out, in line 25, the word “mother” and inserting in place thereof the  
252 following words:- person who gave birth.

253 SECTION 45. Said section 16 of said chapter 209C, as so appearing, is hereby amended  
254 by striking out subsection (g) and inserting in place thereof the following subsection:-

255 (g) All other evidence relevant to the issue of parentage of the child, custody of a child or  
256 support of a child shall also be admissible.

257 SECTION 46. Section 17 of said chapter 209C, as so appearing, is hereby amended by  
258 striking out, in line 1, the words “paternity of a child born out of wedlock” and inserting in place  
259 thereof the following words:- parentage of a nonmarital child based on alleged genetic parentage.

260 SECTION 47. Said section 17 of said chapter 209C, as so appearing, is hereby further  
261 amended by striking out, in lines 4, 9, 10, 13,26 and 28, the word “mother” and inserting in place  
262 thereof, in each instance, the following words:- person who gave birth.

263 SECTION 48. Said section 17 of said chapter 209C, as so appearing, is hereby further  
264 amended by striking out, in lines 4, 10, 13, lines 21 and 22, 28, 31, lines 48 and 49, both times  
265 they appear, the word “father” and inserting in place thereof, in each instance, the following  
266 words:- genetic parent.

267 SECTION 49. Said section 17 of said chapter 209C, as so appearing, is hereby further  
268 amended by striking out, in lines 31 and 49, the word “father” and inserting in place thereof, in  
269 each instance, the following words:- parent.

270 SECTION 50. Said section 17 of said chapter 209C, as so appearing, is hereby amended  
271 in line 56 by inserting, after the word “party.” the following sentence:- Genetic testing shall not  
272 be used to challenge the parentage of an individual who is a parent under Article 6 of chapter  
273 209E or to establish the parentage of an individual who is a donor as provided in said chapter  
274 209E.

275 SECTION 51. Section 21 of said chapter 209C, as so appearing, is hereby amended by  
276 striking out, in line 2, the word “establishing paternity shall apply” and inserting in place thereof  
277 the following words:- determining the existence of a father and child relationship shall apply.

278 SECTION 52. Section 22 of said chapter 209C, as so appearing, is hereby amended by  
279 striking out, in line 9, the word “or”,- and by inserting after the word “nine D”, in lines 6 and 10,  
280 the following words:- , or 209E.

281 SECTION 53. Section 23 of said chapter 209C, as so appearing, is hereby amended by  
282 striking out, in lines 1, 10, 11 and 14, the word “paternity” and inserting in place thereof, in each  
283 instance, the following word:- parentage.

284 SECTION 54. The General Laws are hereby amended by inserting after chapter 209D the  
285 following chapter:

286 Chapter 209E

287 The Massachusetts Parentage Act.

288 Article 1. GENERAL PROVISIONS

289 Section 101. This chapter may be cited as the Massachusetts Parentage Act.

290 Section 102. For the purposes of this chapter the following terms shall, unless the context  
291 clearly requires otherwise, have the following meanings:

292 “Acknowledged parent”, an individual who has established a parent-child relationship  
293 through a voluntary acknowledgement of parentage.

294 “Adjudicated parent”, an individual who has been adjudicated to be a parent of a child by  
295 a court with jurisdiction.

296 “Alleged genetic parent”, an individual who is alleged to be, or alleges that the individual  
297 is, a genetic parent or possible genetic parent of a child whose parentage has not been



298 adjudicated. The term includes a putative parent, alleged genetic father and alleged genetic  
299 mother. The term does not include: (A) a presumed parent; (B) an individual whose parental  
300 rights have been terminated or declared not to exist; or (C) a donor.

301 “Assisted reproduction”, a method of causing pregnancy other than sexual intercourse  
302 and includes but is not limited to:

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

304 (B) donation of gametes;

305 (C) donation of embryos;

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

307 (E) intracytoplasmic sperm injection.

308 “Birth”, includes stillbirth.

309 “Child”, an individual whose parentage may be determined under this chapter.

310 “Child-support agency”, a government entity or public official authorized to provide  
311 parentage-establishment services under Title IV-D of the Social Security Act, 42 U.S.C. sections  
312 651 through 669.

313 “Determination of parentage”, establishment of a parent-child relationship by a court  
314 adjudication or signing of a valid acknowledgment of parentage.

315 “Donor”, an individual who provides a gamete or gametes or an embryo or embryos  
316 intended for assisted reproduction or gestation, whether or not for consideration. This term does  
317 not include:

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

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

321 “Embryo”, a cell or group of cells containing a diploid complement of chromosomes or a  
322 group of such cells, not including a gamete, that has the potential to develop into a live born  
323 human being if transferred into the body of a person under conditions in which gestation may be  
324 reasonably expected to occur.

325 “Gamete”, sperm or egg.

326 “Individual”, a natural person of any age.

327 “Intended parent”, an individual, married or unmarried, who manifests an intent to be  
328 legally bound as a parent of a child conceived by assisted reproduction or a gestational or genetic  
329 carrier agreement.

330 “Marriage”, includes any legal relationship that provides substantially the same rights,  
331 benefits and responsibilities as marriage and is recognized as valid in the state or jurisdiction in  
332 which it was entered.

333 “Parent”, an individual who has established parentage that meets the requirements of this  
334 chapter.

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

337 “Presumed parent”, an individual who under section 6 of chapter 209C is presumed to be  
338 a parent of a child, unless the presumption is overcome in a judicial proceeding, a valid denial of  
339 parentage is made under section 5 of said chapter 209C or a court adjudicates the individual to be  
340 a parent.

341 “Record”, information that is inscribed on a tangible medium or that is stored in an  
342 electronic or other medium and is retrievable in perceivable form.

343 “Sign”, with intent to authenticate or adopt a record to: (A) execute or adopt a tangible  
344 symbol; or (B) attach to or logically associate with the record an electronic symbol, sound or  
345 process.

346 “Signatory”, an individual who signs a record.

347 “State”, a state of the United States, the District of Columbia, Puerto Rico, the United  
348 States Virgin Islands, or any territory or insular possession under the jurisdiction of the United  
349 States. The term includes a federally recognized Indian tribe.

350 “Transfer”, a procedure for assisted reproduction by which an embryo or sperm is placed  
351 in the body of individual who will give birth to the child.

352 “Witnessed”, that at least 1 individual who is competent and disinterested has signed a  
353 record to verify that the individual personally observed a signatory sign the record.

354 Section 103. SCOPE.

355 (a) This chapter applies to an adjudication or determination of parentage.

356 (b) This chapter does not create, affect, enlarge or diminish parental rights or duties under  
357 the law of this state other than this chapter.

358 Section 104. AUTHORIZED COURT.

359 The probate and family court department has jurisdiction to adjudicate parentage under  
360 this chapter. The district, Boston municipal, and juvenile court departments shall retain  
361 concurrent jurisdiction over adjudication of parentage and to accept registration of voluntary  
362 acknowledgments of parentage as provided in section 3 of chapter 209C.

363 Section 105. APPLICABLE LAW.

364 The court shall apply the law of this state to adjudicate parentage under this chapter,  
365 regardless of:

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

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

368 Section 106. DATA PRIVACY.

369 A proceeding under this chapter is subject to the law of this state other than this chapter  
370 which governs the health, safety, privacy and liberty of a child or other individual who could be  
371 affected by disclosure of information that could identify the child or other individual, including  
372 address, telephone number, digital contact information, place of employment, Social Security  
373 number, and the child's day-care facility or school.

374 Section 107. ESTABLISHMENT OF PARENTAGE.

375 To the extent practicable, a provision of this chapter applicable to a father-child  
376 relationship applies to a mother-child relationship and a provision of this chapter applicable to a  
377 mother-child relationship applies to a father-child relationship. This chapter is intended to allow  
378 access to establish parentage in a gender-neutral manner.

379 Article 2. PARENT-CHILD RELATIONSHIP

380 Section 201. ESTABLISHMENT OF PARENT-CHILD RELATIONSHIP.

381 A parent-child relationship is established between an individual and a child by any of the  
382 following:

383 (1) Birth: the individual gives birth to the child, except as otherwise provided in Article 7  
384 of this chapter;

385 (2) Presumption: there is a presumption under section 6 of chapter 209C, unless the  
386 presumption is overcome in a judicial proceeding or a valid denial of parentage is made;

387 (3) Adjudication: the individual is adjudicated a parent of the child by a court with  
388 jurisdiction;

389 (4) Adoption: the individual adopts the child pursuant to chapter 210;

390 (5) Acknowledgment: the individual acknowledges parentage of the child under chapter  
391 209C, unless the acknowledgment is rescinded or successfully challenged;

392 (6) De Facto Parentage: the individual is adjudicated a de facto parent of the child under  
393 section 508;

394 (7) Assisted reproduction: the individual's parentage of the child is established under  
395 Article 6 of this chapter; or

396 (8) Gestational or genetic surrogacy agreement: the individual's parentage of the child is  
397 established under Article 7 of this chapter.

398 Section 202. NONDISCRIMINATION.

399 Every child has the same rights under law as any other child without regard to the marital  
400 status or gender of the parents or the circumstances of the birth of the child.

401 Section 203. CONSEQUENCES OF ESTABLISHING PARENTAGE. Unless parental  
402 rights have been terminated or an exception has been stated explicitly in this chapter, a parent-  
403 child relationship established under this chapter applies for all purposes, including the rights and  
404 duties of parentage.

405 Section 204. FULL FAITH AND CREDIT.

406 The commonwealth shall give full faith and credit to a determination of parentage from  
407 another state if the determination is valid and effective in accordance with the law of the other  
408 state.

409 Article 3. [Reserved]

410 Article 4. [Reserved]

411 Article 5. PROCEEDING TO ADJUDICATE PARENTAGE

412 Section 501. PROCEEDING AUTHORIZED.

413 (a) A proceeding may be commenced to adjudicate the parentage of a child as provided  
414 for in this chapter. Except as otherwise provided in this chapter, the proceeding is governed by  
415 the Massachusetts rules of domestic relations procedure.

416 (b) A proceeding to adjudicate the parentage of a child born under a surrogacy agreement  
417 is governed by Article 7 of this chapter.

418 Section 502. STANDING TO MAINTAIN PROCEEDING.

419 Except as otherwise provided in sections 507 through 509, a proceeding to adjudicate  
420 parentage under this chapter may be maintained by:

421 (1) the child;

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

424 (3) an individual who has an established parent-child relationship under section 201 of  
425 this chapter;

426 (4) an individual whose parentage of the child is to be adjudicated under this chapter;

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

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

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

436 Section 503. NOTICE OF PROCEEDING.

437 (a) The plaintiff shall give notice of a proceeding to adjudicate parentage under Article 5  
438 to the following individuals:

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

441 (2) an individual who is a parent of the child under this chapter;

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

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

444 (5) the child, if the child is above the age of 14; and

445 (6) if the child is a recipient of any type of public assistance, the IV-D agency as set forth  
446 in chapter 119A on behalf of the department of transitional assistance, the department of children  
447 and families, the division of medical assistance or any other public assistance program of the  
448 commonwealth.

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



451 (c) Lack of notice required by subsection (a) does not render a judgment void. Lack of  
452 notice does not preclude an individual entitled to notice under subsection (a) from bringing a  
453 proceeding under subsection (b) of section 511.

454 (d) A donor shall not be entitled to notice.

455 Section 504. PERSONAL JURISDICTION.

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

458 Section 505. VENUE.

459 Venue for a proceeding to adjudicate parentage under this chapter is in the county of this  
460 state in which:

461 (1) the child resides or, for the purposes of Article 6 or 7, is or will be born;

462 (2) any parent or intended parent resides;

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

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

466 Section 506. ADJUDICATING PARENTAGE OF CHILD WITH ALLEGED GENETIC  
467 PARENT.

468 A proceeding to determine whether an alleged genetic parent who is not a presumed  
469 parent is a parent of a child shall be commenced pursuant to chapter 209C.

470 Section 507. ADJUDICATING PARENTAGE OF CHILD WITH PRESUMED  
471 PARENT.

472 (a) A proceeding to determine whether a presumed parent is a parent of a child shall be  
473 commenced pursuant to chapter 209C.

474 Section 508. ADJUDICATING CLAIM OF DE FACTO PARENTAGE OF CHILD.

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

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

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

479 (b) An individual who claims to be a de facto parent of a child shall commence a  
480 proceeding to establish parentage of a child under this section:

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

482 (2) while the child is alive.

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

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

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

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

495 If the court holds a hearing under this subsection, the hearing shall be held on an  
496 expedited basis. The court may enter an interim order concerning contact between the child and  
497 an individual with standing seeking adjudication under this section as a de facto parent of the  
498 child.

499 (d) In a proceeding to adjudicate parentage of an individual who claims to be a de facto  
500 parent of the child, if there is only 1 other individual who is a parent or has a claim to parentage  
501 of the child, the court shall adjudicate the individual who claims to be a de facto parent to be a  
502 parent of the child if the individual demonstrates by clear-and convincing evidence that:

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

505 (2) the individual engaged in consistent caretaking of the child which may include  
506 regularly caring for the child's needs and making day-to-day decisions regarding the child  
507 individually or cooperatively with another parent;

508 (3) the individual undertook full and permanent responsibilities of a parent of the child  
509 without expectation or payment of financial compensation;

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

511 (5) the individual established a bonded and dependent relationship with the child, which  
512 is parental in nature;

513 (6) another parent of the child fostered or supported the bonded and dependent  
514 relationship required under paragraph (5). A parent's consent to guardianship shall not be  
515 considered as evidence that a parent fostered or supported the bonded and dependent relationship  
516 required under (5); and

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

519 (e) A parent of the child may use evidence of duress, coercion, or threat of harm to  
520 contest an allegation that the parent fostered or supported a bonded and dependent  
521 relationship as

522 provided in subsection (d)(6) of this section. Such evidence may include whether, within  
523 the prior ten years, the individual seeking to be adjudicated a de facto parent has been convicted  
524 of rape, assault with intent to commit rape, indecent assault and battery, assault or assault and  
525 battery on a family or household member domestic assault, of the child or a parent of the child;  
526 was the subject of a final abuse prevention order pursuant to Chapter 209A because the  
527 individual was found to have committed abuse against the child or a parent of the child; or was  
528 substantiated for abuse against the child or a parent.

529 (f) Subject to other limitations in this part, if in a proceeding to adjudicate parentage of an  
530 individual who claims to be a de facto parent of the child, there is more than 1 other individual  
531 who is a parent or has a claim to parentage of the child and the court determines that the  
532 requirements of subsection (d) are satisfied, the court shall adjudicate parentage under section  
533 511 of this chapter.

534 (g) The adjudication of an individual as a de facto parent under this section does not  
535 disestablish the parentage of any other parent.

536 Section 508A. ADJUDICATING PARENTAGE OF CHILD WITH ACKNOWLEDGED  
537 PARENT.

538 (a) If a child has an acknowledged parent, a proceeding to challenge that  
539 acknowledgment of parentage or a denial of parentage, brought by a signatory to the  
540 acknowledgment or denial, is governed by chapter 209C.

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

545 (i) The individual must commence the proceeding not later than one year after the  
546 effective date of the acknowledgment unless the individual did not know and could not have  
547 reasonably known of the individual's potential parentage due to a material misrepresentation or  
548 concealment, in which case the proceeding shall be commenced within one year after the  
549 discovery of the individual's potential parentage.

550 (ii) After the action is commenced, the court must first determine whether permitting the  
551 proceeding is in the best interests of the child.

552 (iii) If the court finds that permitting the proceeding is in the best interests of the child,  
553 the court shall adjudicate parentage under section 511 of this chapter.

554 Section 509. ADJUDICATING PARENTAGE OF CHILD WITH ADJUDICATED  
555 PARENT.

556 (a) If a child has an adjudicated parent, a proceeding to challenge the adjudication,  
557 brought by an individual who was a party to the adjudication or received notice, is governed by  
558 the rules governing a collateral attack on a judgment.

559 (b) If a child has an adjudicated parent, the following rules apply to a proceeding to  
560 challenge the adjudication of parentage brought by an individual, other than the child, who has  
561 standing under section 502 and was not a party to the adjudication and did not receive notice  
562 under section 503:

563 (1) the individual must commence the proceeding not later than 2 years after the effective  
564 date of the adjudication;

565 (2) after the action is commenced, the court must first determine whether permitting the  
566 proceeding is in the best interest of the child; and

567 (3) if the court finds that permitting the proceeding is in the best interests of the child, the  
568 court shall adjudicate parentage under section 511 of this chapter.

569 Section 510. ADJUDICATING PARENTAGE OF CHILD OF ASSISTED  
570 REPRODUCTION.

571 (a) An individual who is a parent under Article 6 of this chapter or the individual who  
572 gave birth to the child may bring a proceeding to adjudicate parentage. If the court determines  
573 the individual is a parent under Article 6, the court shall adjudicate the individual to be a parent  
574 of the child.

575 (b) In a proceeding to adjudicate an individual's parentage of a child, if another  
576 individual other than the person who gave birth to the child is a parent under Article 6, the court  
577 shall adjudicate the individual's parentage of a child under section 511 of this chapter.

578 Section 511. ADJUDICATING COMPETING CLAIMS OF PARENTAGE.

579 (a) In a proceeding to adjudicate competing claims of, or challenges under this article or  
580 chapter 209C to, parentage of a child by 2 or more individuals, the court shall adjudicate  
581 parentage in the best interest of the child, based on:

582 (1) the age of the child;

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

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

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

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

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

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

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

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

597 (c) The court may adjudicate a child to have more than 2 parents under this chapter if the  
598 court finds that it is in the best interests of the child to do so. A finding of best interests of the  
599 child under this subsection does not require a finding of unfitness of any parent or person seeking  
600 an adjudication of parentage.

601 Section 512. TEMPORARY ORDER.

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

605 (1) a presumed parent of the child;

606 (2) petitioning to be adjudicated a parent;

607 (3) identified as a genetic parent through genetic testing pursuant to this chapter or  
608 chapter 209C;

609 (4) an alleged genetic parent who has declined to submit to genetic testing pursuant to  
610 this chapter or chapter 209C;



611 (5) shown by a preponderance of evidence to be a parent of the child; or

612 (6) a parent under this chapter.

613 (b) A temporary order may include a provision for custody, parenting time, and visitation  
614 under law of this state other than this chapter.

615 (c) If the child on whose behalf an order of support is sought is a recipient of benefits  
616 pursuant to chapter 117, 118 or 119 and the department of transitional assistance, the department  
617 of children and families, the division of medical assistance or any other public assistance  
618 program has not been made a party, the court shall notify the IV-D agency of the order or  
619 judgment of support. Each judgment or order of support which is issued pursuant to this chapter  
620 shall conform to and shall be enforced in accordance with the provisions of chapter one hundred  
621 and nineteen A.

622 Section 513. CONSOLIDATING PROCEEDINGS.

623 (a) Except as otherwise provided in subsection (b) and consistent with the jurisdiction of  
624 the court under the law of this state other than this chapter, the court may combine a proceeding  
625 to adjudicate parentage under this chapter with a proceeding for adoption, termination of parental  
626 rights, care and protection, child custody or parenting time or visitation, guardianship, child  
627 support, divorce, annulment, separate support, administration of an estate or other appropriate  
628 proceeding.

629 (b) A defendant may not combine a proceeding described in subsection (a) with a  
630 proceeding to adjudicate parentage brought under chapter 209D, the Uniform Interstate Family  
631 Support Act.

632 Section 514. PROCEEDING BEFORE BIRTH.

633 Except as otherwise provided in Article 6 and Article 7 of this chapter, a proceeding to  
634 adjudicate parentage may be commenced before the birth of the child and an order or judgment  
635 may be entered before birth, but enforcement of the order or judgment of parentage must be  
636 stayed until the birth of the child.

637 Section 515. COURT TO ADJUDICATE PARENTAGE.

638 The court shall adjudicate parentage of a child without a jury.

639 Section 516. HEARING; INSPECTION OF RECORDS.

640 (a) On request of a party, the court may close a proceeding under this article to the  
641 general public.

642 (b) All complaints, pleadings, papers or documents filed pursuant to this article, including  
643 docket entries, shall not be available for inspection, unless a judge of probate and family court of  
644 the county where such records are kept, for good cause shown, shall otherwise order or unless  
645 requested by the child or the parties. All such complaints, pleadings, papers or documents shall  
646 be segregated.

647 Section 517. DISMISSAL FOR WANT OF PROSECUTION.

648 The court may dismiss a proceeding under this chapter for want of prosecution only  
649 without prejudice. An order of dismissal for want of prosecution purportedly with prejudice is  
650 void and has only the effect of a dismissal without prejudice.

651 Section 518. ORDER ADJUDICATING PARENTAGE.

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

654 (b) A final judgment under subsection (a) shall identify the child by name and date of  
655 birth.

656 (c) On request of a party and consistent with law of this state other than this chapter, the  
657 court in a proceeding under this article may order the name of the child changed.

658 (d) If the final judgment under subsection (a) is at variance with the child's birth  
659 certificate, the court shall order the department of public health to issue an amended birth  
660 certificate.

661 Section 519. BINDING EFFECT OF DETERMINATION OF PARENTAGE.

662 (a) Except as otherwise provided herein:

663 (1) a signatory to an acknowledgment of parentage or denial of parentage is bound by the  
664 acknowledgment and denial as provided in chapter 209C; and

665 (2) a party to an adjudication of parentage by a court acting under circumstances that  
666 satisfy the jurisdiction requirements of section 2-201 of chapter 209D and any individual who  
667 received notice of the proceeding are bound by the adjudication.

668 (b) A child is not bound by a determination of parentage under this chapter unless: (1) the  
669 determination as based on an unrescinded acknowledgement of parentage and the  
670 acknowledgment is consistent with the results of genetic testing; (2) the determination was based  
671 on a finding consistent with the results of genetic testing and the consistency is declared in the

672 determination or otherwise shown; (3) the determination of parentage was made under Article 6  
673 or 7; or

674 (4) the child was a party or was represented by an attorney, guardian ad litem or similar  
675 individual in the proceeding.

676 (c) In a proceeding for divorce or annulment, the court is deemed to have made an  
677 adjudication of parentage of a child if the court acts under circumstances that satisfy the  
678 jurisdiction requirements of section 2-201 of chapter 209D, and the final order:

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

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

683 (d) Except as otherwise provided in subsection (b) or section 509, a determination of  
684 parentage may be asserted as a defense in a subsequent proceeding seeking to adjudicate  
685 parentage of an individual who was not a party to the earlier proceeding.

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

## 689 Article 6. ASSISTED REPRODUCTION

### 690 Section 601. SCOPE OF ARTICLE.

691 This article shall not apply to the birth of a child conceived by sexual intercourse or  
692 assisted reproduction by surrogacy agreement under Article 7.

693 Section 602. PARENTAL STATUS OF DONOR.

694 A donor is not a parent of a child conceived through assisted reproduction by virtue of the  
695 donor's genetic connection.

696 Section 603. PARENTAGE OF CHILD OF ASSISTED REPRODUCTION.

697 An individual who consents under section 604 to assisted reproduction by a person with  
698 the intent to be a parent of a child conceived by the assisted reproduction is a parent of the child.

699 Section 604. CONSENT TO ASSISTED REPRODUCTION.

700 (a) Except as otherwise provided in subsection (b), the consent described in section 603  
701 must be in a record signed by the individual giving birth to a child conceived by assisted  
702 reproduction and an individual who intends to be a parent of the child.

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

706 (1) prior to conception or birth of the child, both parties agreed that they would be parents  
707 of the child; or

708 (2) the individual who seeks to be a parent of the child voluntarily participated in and  
709 consented to the assisted reproduction that resulted in the conception of the child.

710 Section 605. LIMITATION ON SPOUSE'S DISPUTE OF PARENTAGE.

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

714 (1) not later than 2 years after the birth of the child, the spouse commences a proceeding  
715 to adjudicate their own parentage of the child; and

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

718 (b) A proceeding by a spouse to challenge that their own parentage of a child born by  
719 assisted reproduction may be commenced at any time if the court determines:

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

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

723 (3) the spouse never openly held out the child as their child.

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

726 (d) The person giving birth shall not challenge a spouse's parentage under this section.

727 Section 606. EFFECT OF CERTAIN LEGAL PROCEEDINGS REGARDING  
728 MARRIAGE.

729 If a marriage of a person who gives birth to a child conceived by assisted reproduction is  
730 terminated through divorce or annulment before transfer or implantation of gametes or embryos

731 to the person giving birth, a former spouse of the person giving birth is not a parent of the child  
732 unless the former spouse consented in a record that the former spouse would be a parent of the  
733 child if assisted reproduction were to occur after a divorce or annulment, and the former spouse  
734 did not withdraw consent under section 607.

735 Section 607. WITHDRAWAL OF CONSENT.

736 (a) An individual who consents under section 604 to assisted reproduction may withdraw  
737 consent any time before a transfer or implantation of gametes or embryos that results in a  
738 pregnancy, by giving notice in a record of the withdrawal of consent to the person who agreed to  
739 give birth to a child conceived by assisted reproduction and to any clinic or health-care provider  
740 who may be facilitating the assisted reproduction. Failure to give notice to the clinic or health-  
741 care provider does not affect a determination of parentage under this chapter.

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

744 Section 608. PARENTAL STATUS OF DECEASED INDIVIDUAL.

745 (a) If an individual who intends to be a parent of a child conceived by assisted  
746 reproduction dies during the period between the transfer or implantation of a gamete or embryo  
747 and the birth of the child, the individual's death does not preclude the establishment of the  
748 individual's parentage of the child if the individual otherwise would be a parent of the child  
749 under this chapter.

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

753 (1) either:

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

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

758 (2) either:

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

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

761 Section 609. LABORATORY ERROR.

762 If due to a laboratory error the child is not genetically related to either the intended parent  
763 or parents or any donor who donated to the intended parent or parents, the intended parent or  
764 parents are the parents of the child unless otherwise determined by the court.

765 Section 610. LIMITATIONS ON GENETIC TESTING.

766 Genetic testing, including genetic marker testing pursuant to section 11 of chapter 209C,  
767 shall not be used: (1) to challenge the parentage of an individual who is a parent under this  
768 Article; or (2) to establish the parentage of an individual who is a donor.



769           Section 611. PARENTAGE JUDGMENTS OF CHILDREN BORN OF ASSISTED  
770 REPRODUCTION.

771           (a) A party consenting to assisted reproduction, an individual who is a parent pursuant to  
772 sections 603 and 604 of this chapter, an intended parent or parents or the individual giving birth  
773 may commence a proceeding to obtain an order:

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

777           (2) Designating the contents of the birth certificate and directing the department of public  
778 health to designate the intended parent or parents as the parent or parents of the resulting child.

779           (b) A proceeding under this section may be commenced before or after the date of birth  
780 of the child, though an order issued before the birth of the resulting child does not take effect  
781 unless and until the birth of the resulting child. Nothing in this subsection shall be construed to  
782 limit the court's authority to issue other orders under any other provision of the general laws.

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

785           Section 612. INSPECTION OF DOCUMENTS.

786           All complaints, pleadings, papers or documents filed pursuant to this section, including  
787 docket entries, shall not be available for inspection, unless a judge of probate and family court of  
788 the county where such records are kept, for good cause shown, shall otherwise order or unless

789 requested by the resulting child or a party. All such complaints, pleadings, papers or documents  
790 shall be segregated.

791 Article 7. PARENTAGE BY SURROGACY AGREEMENT

792 PART 1 GENERAL REQUIREMENTS

793 Section 701. DEFINITIONS.

794 In this article the following terms shall, unless the context clearly requires otherwise,  
795 have the following meanings:

796 “Genetic surrogate”, an individual who is at least 21 years of age, is not an intended  
797 parent and who agrees to become pregnant through assisted reproduction using the individual’s  
798 own gamete, under a genetic surrogacy agreement as provided in this article.

799 “Gestational surrogate”, an individual who is at least 21 years of age, is not an intended  
800 parent and who agrees to become pregnant through assisted reproduction using gametes that are  
801 not the individual’s own, under a gestational surrogacy agreement as provided in this article.

802 “Surrogacy agreement”, an agreement between 1 or more intended parents and an  
803 individual who is not an intended parent in which the person agrees to become pregnant through  
804 assisted reproduction and which provides that each intended parent is a parent of a child  
805 conceived under the agreement. Unless otherwise specified, surrogacy agreement refers to both a  
806 gestational surrogacy agreement and a genetic surrogacy agreement.

807 Section 702. ELIGIBILITY TO ENTER GESTATIONAL OR GENETIC SURROGACY  
808 AGREEMENT.

809 (a) To execute an agreement to act as a gestational or genetic surrogate, an individual  
810 shall:

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

812 (2) previously have given birth to at least 1 child;

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

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

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

819 (b) To execute a surrogacy agreement, each intended parent, whether or not genetically  
820 related to the child, shall:

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

822 (2) complete a mental-health consultation by a licensed mental health professional; and

823 (3) have independent legal representation of the intended parent's choice throughout the  
824 surrogacy agreement regarding the terms of the surrogacy agreement and the potential legal  
825 consequences of the agreement.

826 Section 703. REQUIREMENTS OF GESTATIONAL OR GENETIC SURROGACY  
827 AGREEMENT: PROCESS.

828 A surrogacy agreement shall be executed in compliance with the following rules:

829 (1) At least 1 party shall be a resident of this state or, if no party is a resident of this state,  
830 at least 1 medical evaluation or procedure or mental-health consultation under the agreement  
831 shall occur in this state, or the birth is anticipated to or does occur in this state.

832 (2) An individual acting as a surrogate and each intended parent shall meet the  
833 requirements of section 702.

834 (3) Each intended parent, the individual acting as surrogate, and spouse, if any, of the  
835 individual acting as surrogate shall be parties to the agreement.

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

837 (5) The surrogate and each intended parent shall receive a copy of the agreement.

838 (6) The signature of each party to the agreement shall be attested by a notary or  
839 witnessed.

840 (7) The individual acting as surrogate and, if married, the spouse of the individual acting  
841 as surrogate and the intended parent or parents shall have independent legal representation  
842 throughout the surrogacy agreement regarding the terms of the surrogacy agreement and the  
843 potential legal consequences of the agreement paid for by the intended parent or parents, and  
844 each counsel shall be identified in the surrogacy agreement. A single attorney for the individual  
845 acting as surrogate and the individual's spouse, if married, and a single attorney for the intended  
846 parents is sufficient to meet this requirement, provided the representation otherwise conforms to  
847 the Rules of Professional Conduct.

848 (8) The intended parent or parents shall pay for independent legal representation for the  
849 individual acting as surrogate and the individual's spouse, if any.

850 (9) The agreement shall be executed before a medical procedure occurs related to  
851 attempting to achieve a pregnancy in the individual acting as surrogate, other than the medical  
852 evaluation and mental health consultation required by section 702.

853 Section 704. REQUIREMENTS OF GESTATIONAL OR GENETIC SURROGACY  
854 AGREEMENT: CONTENT.

855 (a) A surrogacy agreement shall comply with the following requirements:

856 (1) An individual acting as surrogate agrees to attempt to become pregnant by means of  
857 assisted reproduction.

858 (2) Except as otherwise provided in sections 711, 715, and 716, the individual acting as  
859 surrogate and the surrogate's spouse or former spouse, if any, have no claim to parentage of a  
860 child conceived by assisted reproduction under the surrogacy agreement.

861 (3) The surrogate's spouse, if any, shall acknowledge and agree to comply with the  
862 obligations imposed on the individual acting as surrogate by the surrogacy agreement.

863 (4) Except as otherwise provided in sections 709, 712, , 715, and 716, the intended parent  
864 or, if there are 2 intended parents, each one jointly and severally, immediately on birth of the  
865 child shall be the exclusive parent or parents of the child, regardless of the number of children  
866 born or gender or mental or physical condition of each child.

867 (5) Except as otherwise provided in sections 709, 712, 715, and 716, the intended parent  
868 or, if there are 2 intended parents, each parent jointly and severally, immediately on birth of the

869 child shall assume responsibility for the financial support of the child, regardless of the number  
870 of children born or the gender or mental or physical condition of each child.

871 (6) The surrogacy agreement shall include information providing that the intended parent  
872 or parents shall be responsible for the surrogacy-related expenses, including medical expenses, of  
873 the individual acting as surrogate and the medical expenses of the child.

874 (7) The intended parent or parents are liable for the surrogacy-related expenses of the  
875 person acting as surrogate, including expenses for health care provided for assisted reproduction,  
876 prenatal care, labor and delivery and for the medical expenses of the resulting child that are not  
877 paid by insurance. This subdivision shall not be construed to supplant any health insurance  
878 coverage that is otherwise available to the individual acting as surrogate or an intended parent for  
879 the coverage of health care costs. This subdivision shall not change the health insurance  
880 coverage of the individual acting as surrogate or the responsibility of the insurance company to  
881 pay benefits under a policy that covers a individual acting as surrogate.

882 (8) The surrogacy agreement shall not infringe on the rights of the individual acting as  
883 surrogate to make all health and welfare decisions regarding the person, the person's body and  
884 the person's pregnancy throughout the duration of the surrogacy arrangement, including during  
885 attempts to become pregnant, pregnancy, delivery and post-partum. The agreement shall not  
886 infringe upon the right of the individual acting as surrogate to autonomy in medical decision  
887 making by, including, but not limited to, requiring the individual acting as surrogate to undergo a  
888 scheduled, nonmedically indicated caesarean section or to undergo multiple embryo transfer.  
889 Except as otherwise provided by law, any written or oral agreement purporting to waive or limit  
890 the rights described in this subdivision are void as against public policy.

891 (9) The surrogacy agreement shall include information about each party's right under this  
892 article to terminate the surrogacy agreement.

893 (b) A surrogacy agreement may provide for:

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

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

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

898 Section 705. SURROGACY AGREEMENT: EFFECT OF SUBSEQUENT CHANGE  
899 OF MARITAL STATUS.

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

901 (1) the marriage of an individual acting as surrogate after the surrogacy agreement is  
902 signed by all parties shall not affect the validity of the agreement, the spouse's consent to the  
903 surrogacy agreement is not required and the surrogate's spouse is not a presumed parent of a  
904 child conceived by assisted reproduction under the surrogacy agreement; and

905 (2) the divorce or annulment of the individual acting as surrogate after the surrogacy  
906 agreement is signed by all parties shall not affect the validity of the surrogacy agreement.

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

908 (1) the marriage of an intended parent after the agreement is signed by all parties shall not  
909 affect the validity of a surrogacy agreement, the consent of the spouse of the intended parent is

910 not required, and the spouse of the intended parent is not, based on the surrogacy agreement, a  
911 parent of a child conceived by assisted reproduction under the surrogacy agreement; and

912 (2) the divorce or annulment of an intended parent after the surrogacy agreement is  
913 signed by all parties shall not affect the validity of the surrogacy agreement and the intended  
914 parents are the parents of the child.

915 Section 706. INSPECTION OF DOCUMENTS.

916 All complaints, pleadings, papers or documents filed pursuant to this section, including  
917 docket entries, shall not be available for inspection, unless a judge of probate and family court of  
918 the county where such records are kept, for good cause shown, shall otherwise order or unless  
919 requested by the child resulting from the surrogacy agreement or by a party to the surrogacy  
920 agreement. All such complaints, pleadings, papers or documents shall be segregated.

921 Section 707. EXCLUSIVE, CONTINUING JURISDICTION.

922 During the period after the execution of a surrogacy agreement until 90 days after the  
923 birth of a child conceived by assisted reproduction under the surrogacy agreement, a court of this  
924 state conducting a proceeding under this chapter has exclusive, continuing jurisdiction over all  
925 matters arising out of the agreement. This section does not give the court jurisdiction over a child  
926 custody or child support proceeding if jurisdiction is not otherwise authorized by the law of this  
927 state other than this chapter.

928 PART 2. SPECIAL RULES FOR GESTATIONAL SURROGACY AGREEMENT

929 Section 708. TERMINATION OF GESTATIONAL SURROGACY AGREEMENT.



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

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

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

942 Section 709. PARENTAGE UNDER GESTATIONAL SURROGACY AGREEMENT.

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

947 (b) Except as otherwise provided in subsection (c) or section 712, neither an individual  
948 acting as gestational surrogate nor the surrogate's spouse or former spouse, if any, is a parent of  
949 the child.

950 (c) If a child is alleged to be a genetic child of the individual who agreed to be a  
951 gestational surrogate, the court shall, upon finding sufficient evidence, order genetic testing of  
952 the child. If the child is a genetic child of the individual who agreed to be a gestational surrogate,  
953 parentage shall be determined based on Articles 1 through 5 of this chapter.

954 (d) Except as otherwise provided in subsection (c) or subsection (b) of section 710 or  
955 section 712, if, due to a clinical or laboratory error, a child conceived by assisted reproduction  
956 under a gestational surrogacy agreement is not genetically related to an intended parent or a  
957 donor who donated to the intended parent or parents, each intended parent, and not the individual  
958 acting as gestational surrogate and the surrogate's spouse or former spouse, if any, is a parent of  
959 the child.

960 Section 710. GESTATIONAL SURROGACY AGREEMENT: PARENTAGE OF  
961 DECEASED INTENDED PARENT.

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

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

967 (1) the surrogacy agreement provides otherwise; and

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

971 Section 711. GESTATIONAL SURROGACY AGREEMENT: ORDER OR  
972 JUDGMENT OF PARENTAGE.

973 (a) Except as otherwise provided in subsection (c) of section 709 or section 712, before,  
974 on or after the birth of a child conceived by assisted reproduction under a gestational surrogacy  
975 agreement, any party to the agreement may commence a proceeding in the probate and family  
976 court in the county where the intended parents(s) reside, where the individual acting as a  
977 gestational surrogate resides or where the resulting child is born or expected to be born for an  
978 order or judgment of parentage:

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

981 (2) declaring that the individual acting as gestational surrogate and the surrogate's spouse  
982 or former spouse, if any, are not the parents of the child;

983 (3) designating the content of the birth record in accordance with chapter 46 and directing  
984 the department of public health to designate each intended parent as a parent of the child;

985 (4) to protect the privacy of the child and the parties, declaring that the court record and  
986 related pleadings shall be impounded in accordance with section 706;

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

988 (6) if necessary, that the hospital where the child will be or has been born, treat the  
989 intended parent(s) as the sole legal parent(s) for the purpose of naming and medical decisions;  
990 and

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

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

994 (c) Neither this state or the department of public health nor any town clerk nor the  
995 hospital where the child is to be born is a necessary party to a proceeding under subsection (a).  
996 Any party to the surrogacy agreement not joining in the action shall be provided with notice of  
997 the proceeding.

998 (d) A complaint under this section shall be supported by the following: (i) sworn  
999 affidavits of the parties to the surrogacy agreement and the assisted reproductive physician  
1000 demonstrating the intent of the parties for the intended parent or parents to be the sole legal  
1001 parent or parents of the child and that the child was born pursuant to assisted reproduction and  
1002 (ii) certifications from the attorneys representing the intended parent(s) and the individual acting  
1003 as gestational surrogate that the requirements of sections 702, 703 and 704 have been met. A  
1004 complaint supported by such affidavits and certifications shall be sufficient to establish  
1005 parentage, and a hearing shall not be required unless the court requires additional information  
1006 which cannot reasonably be ascertained without a hearing.

1007 (e) Where a complaint satisfies subsection (d), a court shall, within 30 days of the filing  
1008 of the complaint, issue an order or judgment of parentage. Such parentage orders or judgments  
1009 issued under this section shall conclusively establish or affirm, where applicable, the parent-child  
1010 relationship.

1011 (f) In the event the certification required by subsection (d) of this section cannot be made  
1012 because of a technical or nonmaterial deviation from the requirements of sections 702, 703 and  
1013 704 of this chapter, the court may nevertheless enforce the agreement and issue a judgment of

1014 parentage if the court determines the agreement is in substantial compliance with the  
1015 requirements of said sections.

1016 Section 712. EFFECT OF GESTATIONAL SURROGACY AGREEMENT.

1017 (a) A gestational surrogacy agreement that substantially complies with sections 702, 703  
1018 and 704 is enforceable.

1019 (b) If a child was conceived by assisted reproduction under a gestational surrogacy  
1020 agreement that does not substantially comply with sections 702, 703 and 704, the court shall  
1021 determine the rights and duties of the parties to the agreement consistent with the intent of the  
1022 parties at the time of execution of the agreement. Each party to the agreement and any individual  
1023 who at the time of the execution of the agreement was a spouse of a party to the agreement has  
1024 standing to maintain a proceeding to adjudicate an issue related to the enforcement of the  
1025 agreement.

1026 (c) Except as expressly provided in a gestational surrogacy agreement or subsection (d)  
1027 or (e) of this section, if the agreement is breached by the individual acting as gestational  
1028 surrogate or 1 or more intended parents, the non-breaching party is entitled to the remedies  
1029 available at law or in equity.

1030 (d) Specific performance is not a remedy available for breach by an individual acting as  
1031 gestational surrogate of a provision in the agreement that the individual acting as gestational  
1032 surrogate be impregnated, terminate or not terminate a pregnancy, or submit to medical  
1033 procedures.

1034 (e) Except as otherwise provided in subsection (d), if an intended parent is determined to  
1035 be a parent of the child, specific performance is a remedy available for:

1036 (1) breach of the agreement by an individual acting as gestational surrogate which  
1037 prevents the intended parent from exercising immediately on birth of the child the full rights of  
1038 parentage; or

1039 (2) breach by the intended parent which prevents the intended parent's acceptance,  
1040 immediately on birth of the child conceived by assisted reproduction under the agreement, of the  
1041 duties of parentage.

1042 PART 3. SPECIAL RULES FOR GENETIC SURROGACY AGREEMENT

1043 Section 713. REQUIREMENTS TO VALIDATE GENETIC SURROGACY  
1044 AGREEMENT.

1045 (a) Except as otherwise provided in section 716, to be enforceable, a genetic surrogacy  
1046 agreement shall be validated by a probate and family court. A proceeding to validate the  
1047 agreement shall be commenced before assisted reproduction related to the surrogacy agreement.

1048 (b) The court shall issue an order validating a genetic surrogacy agreement if the court  
1049 finds that:

1050 (1) sections 702, 703 and 704 of this chapter are satisfied; and

1051 (2) all parties entered into the agreement voluntarily and understand its terms.

1052 (c) An individual who terminates a genetic surrogacy agreement under section 714 shall  
1053 file notice of the termination with the court and parties. On receipt of the notice, the court shall  
1054 vacate any order issued under subsection (b).

1055 Section 714. TERMINATION OF GENETIC SURROGACY AGREEMENT.

1056 (a) A party to a genetic surrogacy agreement may terminate the agreement as follows:

1057 An intended parent or individual acting as genetic surrogate who is a party to the  
1058 agreement may terminate the agreement at any time before a gamete or embryo transfer by  
1059 giving notice of termination in a record to all other parties. If a gamete or embryo transfer does  
1060 not result in a pregnancy, a party may terminate the agreement at any time before a subsequent  
1061 gamete or embryo transfer. The notice of termination shall be attested by a notary or witnessed.

1062 (b) An intended parent or individual acting as genetic surrogate who terminates the  
1063 agreement after the court issues an order validating the agreement under sections 713 or 716 of  
1064 this chapter, but before the individual acting as genetic surrogate becomes pregnant by means of  
1065 assisted reproduction, shall also file notice of the termination with such court.

1066 (c) A person may not terminate a validated genetic surrogacy agreement if a gamete or  
1067 embryo transfer has resulted in a pregnancy.

1068 (d) On termination of the genetic surrogacy agreement, the parties are released from all  
1069 obligations under the agreement except that any intended parent remains responsible for all  
1070 expenses incurred by the individual acting as genetic surrogate through the date of termination  
1071 which are reimbursable under the agreement. Unless the agreement provides otherwise, the

1072 individual acting as surrogate is not entitled to any non-expense related compensation paid for  
1073 acting as a surrogate.

1074 (e) Except in a case involving fraud, neither an individual acting as genetic surrogate nor  
1075 the surrogate's spouse or former spouse, if any, is liable to the intended parent or parents for a  
1076 penalty or liquidated damages, for terminating a genetic surrogacy agreement under this section.

1077 Section 715. PARENTAGE UNDER VALIDATED GENETIC SURROGACY  
1078 AGREEMENT.

1079 (a) On birth of a child conceived by assisted reproduction under a genetic surrogacy  
1080 agreement validated under section 713 or 716 of this chapter, each intended parent is, by  
1081 operation of law, a parent of the resulting child.

1082 (b) On birth of a child conceived by assisted reproduction under a genetic surrogacy  
1083 agreement validated under section 713 or 716 of this chapter, the intended parent or parents shall  
1084 file a notice with the court that validated the agreement that a child has been born as a result of  
1085 assisted reproduction. Upon receiving such notice, the court shall immediately, or as soon as  
1086 practicable, issue an order without notice and hearing:

1087 (1) declaring that any intended parent or parents is a parent of a child conceived by  
1088 assisted reproduction under the agreement and ordering that parental rights and duties vest  
1089 exclusively in any intended parent;

1090 (2) declaring that the individual acting as genetic surrogate and the surrogate's spouse or  
1091 former spouse, if any, are not parents of the child;



1092 (3) designating the contents of the birth certificate in accordance with chapter 46 and  
1093 directing the department of public health to designate any intended parent as a parent of the  
1094 child;

1095 (4) to protect the privacy of the child and the parties, declaring that the court record is not  
1096 open to inspection in accordance with section 706;

1097 (5) if necessary, that the child be surrendered to the intended parent or parents; and

1098 (6) for other relief the court determines necessary and proper.

1099 (c) Except as otherwise provided in subsection (d) or section 717, if, due to a clinical or  
1100 laboratory error, a child conceived by assisted reproduction under a genetic surrogacy agreement  
1101 is not genetically related to an intended parent or a donor who donated to the intended parent or  
1102 parents, each intended parent, and not the individual acting as genetic surrogate and the  
1103 surrogate's spouse or former spouse, if any, is a parent of the child.

1104 (d) If a child born to an individual acting as genetic surrogate is alleged not to have been  
1105 conceived by assisted reproduction, the court may, upon finding sufficient evidence, order  
1106 genetic testing to determine the genetic parentage of the child. If the child was not conceived by  
1107 assisted reproduction and the second source of genetic material is the spouse of the individual  
1108 acting as genetic surrogate, then the surrogate and her spouse shall be found to be the parents of  
1109 the child. If the second genetic source is an individual other than the spouse of the surrogate,  
1110 then parentage shall be determined as provided in chapter 209C. However, if the second genetic  
1111 source is an intended parent, the court, in its sole discretion, may determine parentage under  
1112 Articles 1 through 5 of this chapter. Unless the genetic surrogacy agreement provides otherwise,

1113 the individual acting as genetic surrogate is not entitled to any non-expense related compensation  
1114 paid for acting as a surrogate if the child was not conceived by assisted reproduction.

1115 (e) If an intended parent fails to file the notice required under subsection (b) of this  
1116 section, the individual acting as genetic surrogate may file with the court, not later than 60 days  
1117 after the birth of a child conceived by assisted reproduction under the agreement, notice that the  
1118 child has been born to the individual acting as genetic surrogate. On proof of a court order issued  
1119 under sections 713 or 716 of this chapter validating the agreement, the court shall order that each  
1120 intended parent is a parent of the child.

1121 Section 716. EFFECT OF NONVALIDATED GENETIC SURROGACY  
1122 AGREEMENT.

1123 (a) A genetic surrogacy agreement, whether or not in a record, that is not validated under  
1124 section 713 is enforceable only to the extent provided in this section and section 718.

1125 (b) If all parties agree, a court may validate a genetic surrogacy agreement after assisted  
1126 reproduction has occurred but before the birth of a child conceived by assisted reproduction  
1127 under the agreement if the court finds that:

1128 (1) sections 702, 703 and 704 of this chapter are satisfied; and

1129 (2) all parties entered into the agreement voluntarily and understand its terms.(c) If a  
1130 child conceived by assisted reproduction under a genetic surrogacy agreement that is not  
1131 validated under section 713 or subsection (b) of this section is born, the individual acting as  
1132 genetic surrogate is not automatically a parent and the court shall adjudicate parentage of the

1133 child based on the best interest of the child, taking into account the factors in subsection (a) of  
1134 section 511 and the intent of the parties at the time of the execution of the agreement.

1135 (d) The parties to a genetic surrogacy agreement have standing to maintain a proceeding  
1136 to adjudicate parentage under this section.

1137 Section 717. GENETIC SURROGACY AGREEMENT: PARENTAGE OF DECEASED  
1138 INTENDED PARENT.

1139 (a) Except as otherwise provided in section 715 or 716, on birth of a child conceived by  
1140 assisted reproduction under a genetic surrogacy agreement, each intended parent is, by operation  
1141 of law, a parent of the child, notwithstanding the death of an intended parent during the period  
1142 between the transfer of a gamete or embryo and the birth of the child.

1143 (b) Except as otherwise provided in section 715 or 716, an intended parent is not a parent  
1144 of a child conceived by assisted reproduction under a genetic surrogacy agreement if the  
1145 intended parent dies before the transfer of a gamete or embryo unless:

1146 (1) the agreement provides otherwise; and

1147 (2) the transfer of the gamete or embryo occurs not later than 36 months after the death of  
1148 the intended parent, or birth of the child occurs not later than 45 months after the death of the  
1149 intended parent.

1150 Section 718. BREACH OF GENETIC SURROGACY AGREEMENT.

1151 (a) Subject to section 714(d), if a genetic surrogacy agreement is breached by an  
1152 individual acting as a genetic surrogate or 1 or more intended parents, the non-breaching party is  
1153 entitled to the remedies available at law or in equity.

1154 (b) Specific performance is not a remedy available for breach by an individual acting as  
1155 genetic surrogate of a requirement of a validated or nonvalidated genetic surrogacy agreement  
1156 that the surrogate be impregnated, terminate or not terminate a pregnancy, or submit to medical  
1157 procedures.

1158 (c) Except as otherwise provided in subsection (b), specific performance is a remedy  
1159 available for:

1160 (1) breach of a validated genetic surrogacy agreement by an individual acting as genetic  
1161 surrogate of a requirement which prevents an intended parent from exercising, immediately upon  
1162 birth of the child, the full rights of parentage; or

1163 (2) breach by an intended parent which prevents the intended parent's acceptance,  
1164 immediately upon birth of the child, of the duties of parentage.

1165 Article 8. MISCELLANEOUS PROVISIONS

1166 Section 1. UNIFORMITY OF APPLICATION AND CONSTRUCTION.

1167 In applying and construing this uniform act, consideration shall be given to the need to  
1168 promote uniformity of the law with respect to its subject matter among states that enact it.

1169 Section 2. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND  
1170 NATIONAL COMMERCE ACT.

1171 This chapter modifies, limits or supersedes the Electronic Signatures in Global and  
1172 National Commerce Act, 15 U.S.C. Section 7001 et seq., but does not modify limit, or supersede  
1173 Section 101(c) of that act, 15 U.S.C. Section 7001(c), or authorize electronic delivery of any of  
1174 the notices described in Section 103(b) of that act, 15 U.S.C. Section 7003(b).

1175 Section 3. Severability.

1176 If any provision of this chapter or its application to any individual or circumstance is held  
1177 invalid, the invalidity shall not affect other provisions or applications of this chapter which can  
1178 be given effect without the invalid provision or application and to this end the provisions of this  
1179 chapter are severable.

1180 Section 4. Transitional provision.

1181 This chapter applies to a proceeding in which no judgment has entered before the  
1182 effective date of this act with respect to an individual's parentage that has not already been  
1183 adjudicated by a court of competent jurisdiction or determined by operation of law.

1184 SECTION 55. This act shall take effect 1 year after its enactment.