

# HOUSE . . . . . No. 4672

---

---

## The Commonwealth of Massachusetts

---

HOUSE OF REPRESENTATIVES, May 28, 2024.

The committee on The Judiciary, to whom were referred the petition (accompanied by bill, Senate, No. 947) of Julian Cyr, Bruce E. Tarr, Adam Scanlon, Robyn K. Kennedy and other members of the General Court for legislation to ensure legal parentage equality, the petition (accompanied by bill, Senate, No. 1130) of Bruce E. Tarr, Adam Scanlon and Michael J. Barrett for legislation relative to parentage to promote children's security, the petition (accompanied by bill, House, No. 1602) of Kay Khan, Adam Scanlon and others relative to the rights and protections of children, and the petition (accompanied by bill, House, No. 1713) of Sarah K. Peake, Hannah Kane and others for legislation to provide that every child have the same rights and protections under law as any other child without regard to the marital status, gender, gender identity, or sexual orientation of the parent or parents, reports recommending that the accompanying bill (House, No. 4672) ought to pass.

For the committee,

MICHAEL S. DAY.

**HOUSE . . . . . No. 4672**

---

**The Commonwealth of Massachusetts**

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

An Act to ensure legal parentage equality.

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

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 Section 4B of chapter 46 is hereby repealed.

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

10 SECTION 3. Section 1 of chapter 209C of the General Laws, as so appearing, is hereby  
11 amended by inserting after the first sentence the following sentence:- Every child shall have the  
12 same rights and protections under law to parentage without regard to the marital status, gender,

13 gender identity or sexual orientation of their parents or the circumstances of their birth, including  
14 whether they were born as a result of assisted reproduction or surrogacy.

15 SECTION 4. Said section 1 is hereby further amended by striking out, in lines 11 and 12,  
16 the words “a man and woman” and inserting in place thereof the following word:- persons.

17 SECTION 5. Said section 1 is hereby further amended by striking out, in lines 7 and 8,  
18 and in line 14, 15 and 17, each time it appears, the word “paternity” and inserting in place  
19 thereof, in each instance, the following word:- parentage.

20 SECTION 6. Said section 1 is hereby further amended by striking out, in line 11 and 20,  
21 each time it appears, the words “child born out of wedlock” and inserting in place thereof, in  
22 each instance, the following words:- nonmarital child.

23 SECTION 7. Said section 1 is hereby further amended by striking out, in line 20 and 25,  
24 each time it appears, the word “his” and inserting in place thereof, in each instance, the following  
25 word:- their.

26 SECTION 8. Said chapter 209C is hereby amended by inserting after section 1 the  
27 following section:-

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

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

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

34 “Alleged genetic parent”, a person who is alleged to be or alleges to be a genetic parent  
35 of a child whose parentage has not been adjudicated; provided, however, that this term includes a  
36 putative parent, an alleged genetic father and an alleged genetic mother; provided further,  
37 however, that the term does not include a presumed parent, an individual whose parental rights  
38 have been terminated or declared not to exist, or a donor as defined in section 27.

39 “Assisted reproduction”, a method of causing pregnancy other than sexual intercourse  
40 that includes, but is not limited to, artificial insemination, intrauterine, intracervical or vaginal  
41 insemination, donation of gametes or embryos, in vitro fertilization and transfer of embryos, and  
42 intracytoplasmic sperm injection.

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

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

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

51 “Gestational surrogacy agreement”, a surrogacy agreement involving a gestational  
52 surrogate.

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

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

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

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

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

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

69 “Surrogacy agreement”, an agreement between one or more intended parents and a  
70 person who is not an intended parent in which that person agrees to become pregnant through  
71 assisted reproduction and which provides that each intended parent is a parent of a child  
72 conceived under the agreement.

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

74 SECTION 9. Section 2 of said chapter 209C, as so appearing, is hereby amended by  
75 striking out, in line 1, the word “Paternity” and inserting in place thereof the following word:-  
76 Parentage.

77 SECTION 10. Said section 2 is hereby further amended by striking out, in line 5, 6, 12,  
78 13, 16 and 18, each time it appears, the word “paternity” and inserting in place thereof, in each  
79 instance, the following word:- parentage.

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

83 SECTION 12. Said section 3 is hereby further amended by inserting, in line 4, after the  
84 word “parentage” the following words:- under this chapter.

85 SECTION 13. Said section 3 is hereby further amended by striking out, in line 13, the  
86 word “his” and inserting in place thereof the following word:- their.

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

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

93 SECTION 16. Said section 5 is hereby further amended by striking out, in line 3 and in  
94 line 7, the first time it appears, the word “mother” and inserting in place thereof, in each  
95 instance, the following words:- person who gave birth.

96 SECTION 17. Said section 5 is hereby further amended by striking out, in line 4 and 9,  
97 each time it appears, the word “father” and inserting in place thereof, in each instance, the  
98 following words:- other parent.

99 SECTION 18. Said section 5 is hereby further amended by striking out, in line 4 and 21,  
100 each time it appears, the word “himself” and inserting in place thereof, in each instance, the  
101 following word:- themselves.

102 SECTION 19. Said section 5 is hereby further amended by striking out, in line 7, the  
103 second time it appears, the words “the mother” and inserting in place thereof the following  
104 words:- that person.

105 SECTION 20. Said section 5 is hereby further amended by striking out, in line 17, the  
106 words “mother of the child” and inserting in place thereof the following words:- person who  
107 gave birth.

108 SECTION 21. Said section 5 is hereby further amended by striking out, in lines 21 and  
109 22, the words “father unless he is or was the mother’s husband” and inserting in place thereof the  
110 following words:- parent unless they are or were the spouse.

111 SECTION 22. Said section 5 is hereby further amended by striking out subsection (b) and  
112 inserting in place thereof the following subsection:-

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

134 SECTION 23. Section 6 of said chapter 209C, as so appearing, is hereby amended by  
135 striking out, in lines 1 and 2, the words “In all actions under this chapter a man is presumed to be

136 the father of a child and must be joined as a party” and inserting in place thereof the following  
137 words:- A person is presumed to be the parent of a child and shall be joined as a party in all  
138 actions under this chapter.

139 SECTION 24. Said section 6 is hereby further amended by striking out, in line 3, 6, 11,  
140 14, 16, 18 and 26, each time it appears, the word “he” and inserting in place thereof, in each  
141 instance, the following words:- the person.

142 SECTION 25. Said section 6 is hereby further amended by striking out, in line 3, 7, 12  
143 and 19, each time it appears, the word “mother” and inserting in place thereof, in each instance,  
144 the following words:- person who gave birth.

145 SECTION 26. Said section 6 is hereby further amended by striking out, in line 17, the  
146 word “paternity” and inserting in place thereof the following word:- parentage.

147 SECTION 27. Said section 6 is hereby further amended by striking out, in lines 21 to 23,  
148 inclusive, the words “he has acknowledged paternity in a parental responsibility claim as  
149 provided in section four A of chapter two hundred and ten and the mother” and inserting in place  
150 thereof the following words:- the person has acknowledged parentage in a parental responsibility  
151 claim as provided in section 4A of chapter 210 and the person who gave birth.

152 SECTION 28. Said section 6 is hereby further amended by striking out, in lines 25 to 27,  
153 inclusive, the words “his consent and the consent of the child’s mother, he is named as the  
154 child’s father” and inserting in place thereof the following words:- the person’s consent and the  
155 consent of the person who gave birth, the person is named as the child’s parent.

156 SECTION 29. Said section 6 is hereby further amended by striking out subsection (b) and  
157 inserting in place thereof the following subsection:-

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

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

165 SECTION 31. Section 8 of said chapter 209C, as so appearing, is hereby amended by  
166 striking out, in line 1, 2, 5 and 15, each time it appears, the word "paternity" and inserting in  
167 place thereof, in each instance, the following word:- parentage.

168 SECTION 32. Said section 8 is hereby further amended by striking out, in line 4, the  
169 word "his" and inserting in place thereof the following words:- the defendant's.

170 SECTION 33. Said section 8 is hereby further amended by striking out, in line 7, the  
171 words "mother or putative father submits" and inserting in place thereof the following words:-  
172 person who gave birth or alleged genetic parent submits sufficient evidence of parentage, which  
173 may include evidence.

174 SECTION 34. Said section 8 is hereby further amended by striking out, in lines 12 and  
175 13, the word "father or mother" and inserting in place thereof the following word:- parent.

176 SECTION 35. Said section 8 is hereby further amended by striking out, in line 16, the  
177 word “mother” and inserting in place thereof the following words:- person who gave birth.

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

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

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

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

189 SECTION 39. Said section 10 of said chapter 209C is hereby further amended by striking  
190 out subsection (b) and inserting in place thereof the following subsection:-

191 (b) Prior to or in the absence of an adjudication or voluntary acknowledgment of  
192 parentage, the person who gave birth shall have custody of a nonmarital child. In the absence of  
193 an order or judgment of a probate and family court relative to custody, the person who gave birth  
194 shall continue to have custody of a nonmarital child after an adjudication of parentage or  
195 voluntary acknowledgment of parentage.

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

199 SECTION 41. Said section 11 is hereby further amended by striking out, in line 3 the  
200 words “mother of” and inserting in place thereof the following words:- person who gave birth to.

201 SECTION 42. Said section 11 is hereby further amended by striking out, in line 7, 16, 20,  
202 22 and 37, each time it appears, the word “paternity” and inserting in place thereof, in each  
203 instance, the following word:- parentage.

204 SECTION 43. Said section 11 is hereby further amended by striking out, in line 21 the  
205 words “by such putative father and mother”.

206 SECTION 44. Said section 11 is hereby further amended by striking out the tenth  
207 sentence and inserting in place thereof the following sentence:- If either party rescinds the  
208 acknowledgment in a timely fashion and the basis of the acknowledgment was genetic parentage,  
209 the court shall order genetic marker testing and proceed to adjudicate parentage or nonparentage  
210 in accordance with this chapter; provided, however, that the rescinded acknowledgment shall  
211 constitute the proper showing required for an order to submit to such testing; and provided,  
212 further, that the rescinded acknowledgment shall be admissible as evidence of the alleged genetic  
213 parent’s parentage and shall serve as sufficient basis for admitting the report of the results of  
214 genetic marker tests.

215 SECTION 45. Said section 11 is hereby further amended by striking out, in line 56, the  
216 word “nonpaternity” and inserting in place thereof the following word:- nonparentage.

217 SECTION 46. Said section 11 is hereby further amended by striking out, in line 59, the  
218 words “a mother and father” and inserting in place thereof the following word:- parents.

219 SECTION 47. Section 12 of said chapter 209C, as so appearing, is hereby amended by  
220 striking out, in line 2, the word “paternity” and inserting in place thereof the following word:-  
221 parentage.

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

225 SECTION 49. Said section 13 is hereby further amended by striking out, in lines 7 to 9,  
226 inclusive, the words “father is adjudicated not to be the father of the child; provided, however,  
227 that the child, the child’s mother, the person adjudicated to be the father” and inserting in place  
228 thereof the following words:- parent is adjudicated not to be the parent of the child; provided,  
229 however, that the child, the person who gave birth to the child, the person adjudicated to be the  
230 parent.

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

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

239 SECTION 51. Section 16 of said chapter 209C, as so appearing, is hereby amended by  
240 striking out subsections (c), (d) and (e) and inserting in place thereof the following subsections:-

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

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

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

253 SECTION 52. Said section 16 is hereby further amended by striking out, in line 25, the  
254 word “mother” and inserting in place thereof the following words:- person who gave birth.

255 SECTION 53. Said section 16 is hereby further amended by striking out, in line 36, the  
256 word “paternity” and inserting in place thereof the following word:- parentage.

257 SECTION 54. Section 17 of said chapter 209C, as so appearing, is hereby amended by  
258 striking out, in lines 1 and 2, the words “paternity of a child born out of wedlock” and inserting

259 in place thereof the following words:- parentage of a nonmarital child based on alleged genetic  
260 parentage.

261 SECTION 55. Said section 17 is hereby further amended by striking out, in line 4, 9, 10,  
262 13, 26 and 28, each time it appears, the word “mother” and inserting in place thereof, in each  
263 instance, the following words:- person who gave birth.

264 SECTION 56. Said section 17 is hereby further amended by striking out, in line 4, 9, 10  
265 and 13, lines 21 and 22, and line 26, 28, 31,48 and 49, each time they appear, the words “putative  
266 father” and inserting in place thereof, in each instance, the following words:- alleged genetic  
267 parent.

268 SECTION 57. Said section 17 is hereby further amended by striking out, in line 22 and  
269 30, each time it appears, the word “paternity” and inserting in place thereof, in each instance, the  
270 following words:- genetic parentage.

271 SECTION 58. Said section 17 is hereby further amended by striking out, in lines 31 and  
272 32, and in line 49, the first time it appears, the word “father” and inserting in place thereof the  
273 following word:- parent.

274 SECTION 59. Said section 17 is hereby further amended by inserting, in line 56, after the  
275 twelfth sentence the following sentence:- Genetic testing shall not be used to challenge the  
276 parentage of an individual who is a parent under sections 25, 27 and 28 to 28P, inclusive, or to  
277 establish the parentage of an individual who is a donor as provided in said sections.

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

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

284 SECTION 62. Said chapter 209C is hereby further amended by inserting after section 24  
285 the following sections:-

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

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

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

292 (d) Proceedings under this section shall be governed by the Rules of Domestic Relations  
293 Procedure.

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

296 (f) The plaintiff shall file a verified complaint alleging specific facts to support each  
297 element required to establish de facto parentage as set forth in subsection (i), along with any  
298 other pleadings, affidavits or information required by the court. The verified complaint shall be

299 served on all parents, legal guardians and legal custodians of the child and any other party to the  
300 proceeding. Prior to an adjudication of the merits, and within 60 days of the commencement of a  
301 proceeding under this section, the court shall determine, based on the pleadings, whether the  
302 plaintiff has alleged facts sufficient to satisfy each element required to establish de facto  
303 parentage. Upon request made by a party entitled to notice or upon the court's own initiative, the  
304 court may hold a hearing on the sufficiency of the pleadings. If the court holds a hearing under  
305 this subsection, the hearing shall be held on an expedited basis. Failure of a pleading to meet  
306 these standards is grounds for the court to enter a sua sponte judgment of dismissal without  
307 prejudice.

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

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

318 (B) the department of children and families has made a determination supporting an  
319 allegation of abuse against the plaintiff with respect to the subject child or another child in the  
320 household;

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

324 (D) a defendant executed a military family care plan and but for the plan the plaintiff  
325 would not meet one or more of the requirements of subsection (i), unless the defendant consents  
326 in writing and such written consent is filed with the complaint;

327 (E) the plaintiff is or was the foster parent or guardian of the child and but for the  
328 plaintiff's role as foster parent or guardian, the plaintiff would not meet one or more of the  
329 requirements of subsection (i); or

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

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

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

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

342 (A) the plaintiff resided with the child as a regular member of the child's household for at  
343 least 3 years or 40% of the child's life, whichever is shorter; provided, however, that the period  
344 is not less than 2 years except in extraordinary circumstances for good cause shown in the court's  
345 discretion;

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

349 (C) the plaintiff undertook full and permanent responsibilities of a parent of the child  
350 without expectation or payment of financial compensation;

351 (D) the plaintiff held out the child as the plaintiff's child;

352 (E) the plaintiff established a bonded and dependent relationship with the child which is  
353 parental in nature;

354 (F) each parent of the child consented to the bonded and dependent relationship required  
355 under paragraph (i)(E). Consent shall include that each parent, over a period of not less than 6  
356 months: (A) held out the plaintiff as a parent of the child; and (B) engaged in shared decision  
357 making with the plaintiff regarding significant issues of the child's education, health and welfare;  
358 provided, however, that the court may determine that a parent has impliedly consented where  
359 that parent has not, without good cause, meaningfully engaged with the subject child through  
360 direct contact, participation in decision making or regular financial support for a period of 2  
361 years; provided further, however, that good cause may include evidence that the parent attempted  
362 to meaningfully engage with the subject child by regularly requesting contact or participation in  
363 decision making but was prevented by another person; provided further, however, that a

364 notarized document affirming consent executed by a parent shall be evidence of that parent's  
365 consent; and

366 (G) adjudicating the plaintiff to be the child's parent is in the best interest of the child. In  
367 making this determination, the court shall consider evidence of past or present abuse by the  
368 plaintiff toward a parent or the child as a factor contrary to the best interest of the child. A  
369 finding by a preponderance of the evidence that the plaintiff engaged in duress, coercion or threat  
370 of harm in order to establish any of the elements of paragraphs (i)(A) through (F) shall be  
371 considered evidence of abuse. A finding by a preponderance of the evidence that a pattern or  
372 serious incident of abuse as defined in section 10 by the plaintiff against a parent or child has  
373 occurred shall create a rebuttable presumption that it is not in the best interest of the child that  
374 the plaintiff be adjudicated a parent. Where there is credible evidence of abuse and the court  
375 adjudicates the plaintiff to be a parent of the subject child, the court shall make detailed written  
376 findings on the presence and nature of the abuse, its effect on the child and its impact on the  
377 plaintiff's parenting ability.

378 (j) Subject to other limitations in this section, if in a proceeding to adjudicate the plaintiff  
379 as a de facto parent, there is more than 1 defendant parent and the court determines that the  
380 requirements of paragraph (i) are satisfied, the court shall adjudicate parentage under section  
381 26(c) of this chapter.

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

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

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

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

392 (i) the age of the child;

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

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

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

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

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

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

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

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

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

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

411 Section 27. (a) This section shall apply to nonmarital and marital children. This section  
412 shall not apply to the birth of a child conceived by sexual intercourse or assisted reproduction by  
413 surrogacy agreement under sections 28-28P.

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

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

422 (d) A person who consents to assisted reproduction with the intent to be a parent of a  
423 child conceived by the assisted reproduction is a parent of the child. Consent to assisted  
424 reproduction may be established either by: (i) a record signed by the person giving birth to a

425 child conceived by assisted reproduction and by an intended parent before, on, or after the birth  
426 of the child; or (ii) a finding by the court, by a preponderance of the evidence, that (A) prior to  
427 conception or birth of the child, the parties agreed that they would be parents of the child, or (B)  
428 the person who seeks to be a parent of the child, together with the person giving birth,  
429 voluntarily participated in and consented to the assisted reproduction that resulted in the  
430 conception of the child.

431 (e)(i) Except as provided in paragraph (ii), a person who, at the time of a child's birth, is  
432 the spouse of the person who gave birth to the child by assisted reproduction may not challenge  
433 their parentage of the child unless, not later than 2 years after the birth of the child, they  
434 commence a proceeding to adjudicate their own parentage of the child and the court finds that  
435 they did not consent to the assisted reproduction, before, on, or after birth of the child, or  
436 withdrew consent under subsection (g).

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

444 (f) A person who has commenced an action for divorce, or a person who has been served  
445 with a complaint for divorce, may begin assisted reproduction pursuant to this section, provided  
446 at least 60 days have elapsed since service of the complaint. In such cases, the spouse shall not

447 be a parent of any child born as a result of the assisted reproduction unless both parties consent  
448 in writing to be parents of that child after commencement of the divorce action. A married  
449 person proceeding with assisted reproduction pursuant to this section shall not utilize gametes of  
450 their spouse unless their spouse consents in writing to the use of their gametes for assisted  
451 reproduction by the married person after commencement of a divorce action.

452 (g) A person who consents under subsection (d) to assisted reproduction may withdraw  
453 consent any time before a transfer or implantation of gametes or embryos that results in a  
454 pregnancy by giving notice in writing of their withdrawal of consent to the person who agreed to  
455 give birth to a child conceived by assisted reproduction and to any clinic or healthcare provider  
456 facilitating the assisted reproduction; provided, however, that failure to give notice to a clinic or  
457 healthcare provider shall not affect a determination of parentage under this section. A person  
458 who withdraws consent in accordance with this subsection is not a parent of the child under this  
459 section.

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

464 (ii) If a person who consented in writing to assisted reproduction by a person who agreed  
465 to give birth to a child dies before a transfer or implantation of gametes or embryos, the deceased  
466 person is a parent of a child conceived by the assisted reproduction only if: (A) either (1) the  
467 person consented in writing that if assisted reproduction were to occur after their death, they  
468 would be a parent of the child, or (2) the person's intent to be a parent of a child conceived by

469 assisted reproduction after their death is established by a preponderance of the evidence; and (B)  
470 either (1) the embryo is in utero not later than 36 months after the person's death, or (2) the child  
471 is born not later than 45 months after the person's death.

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

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

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

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

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

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

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

496 (m) In a proceeding under this section, the court shall issue a final judgment adjudicating  
497 whether a person alleged or claiming to be a parent is the parent of a child. On request of a party,  
498 and subject to other applicable laws, the court in a proceeding under this section may order the  
499 name of the child changed. If the final judgment is at variance with the child's birth certificate,  
500 the court shall order the department of public health to issue an amended birth certificate.

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

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

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

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

516           (b) In order to execute a surrogacy agreement as an intended parent, whether or not  
517 genetically related to the child, a person shall: (i) be at least 21 years of age; and (ii) complete a  
518 mental health consultation by a licensed mental health professional that is independent of the  
519 health care providers or facility undertaking any assisted reproduction procedure contemplated  
520 by the surrogacy agreement.

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

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

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

527           (c) at least 1 party is a resident of the Commonwealth or, if no party is a resident of the  
528 Commonwealth, at least 1 medical evaluation, medical procedure or mental health consultation  
529 under the agreement occurs in the Commonwealth.

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

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

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

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

538 (h) the prospective surrogate, their spouse, if any, and each intended parent have  
539 independent legal representation regarding the terms and potential legal consequences of the  
540 surrogacy agreement, paid for by the intended parent or parents, and each counsel shall be  
541 identified in the surrogacy agreement. A single attorney for the prospective surrogate and their  
542 spouse and a single attorney for the intended parents is sufficient to meet this requirement,  
543 provided the representation otherwise conforms to the Rules of Professional Conduct; and

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

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

550 (a) The surrogate:

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

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

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

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

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

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

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

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

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

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

572 (d) The intended parent or parents shall pay for all surrogacy-related expenses of the  
573 surrogate, including expenses for healthcare provided for assisted reproduction, prenatal care,  
574 labor and delivery, and the medical expenses of all resulting children, that are not covered by  
575 insurance; provided, however, that this subsection shall not be construed to supplant any health  
576 insurance coverage that is otherwise available to the surrogate or an intended parent for the  
577 coverage of healthcare costs; provided further, however, that this subsection shall not change the  
578 health insurance coverage of the surrogate or the responsibility of the insurance company to pay  
579 benefits under a policy that covers a surrogate.

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

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

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

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

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

596 (a) The marriage of the surrogate or of an intended parent after the surrogacy agreement  
597 has been signed by all parties shall not affect the validity of the surrogacy agreement, the  
598 surrogate or intended parent's spouse's consent to the surrogacy agreement is not required and  
599 the surrogate or intended parent's spouse shall not be a presumed parent of a child conceived by  
600 assisted reproduction under the surrogacy agreement.

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

603 Section 28E. During the period after the execution of a surrogacy agreement until the  
604 occurrence of the earlier of the date of termination of the surrogacy agreement pursuant its terms  
605 or 180 days after the birth of a child conceived by assisted reproduction under the surrogacy  
606 agreement, the court conducting a proceeding under sections 28 to 28P of this chapter shall have  
607 exclusive, continuing jurisdiction over all matters arising out of the surrogacy agreement;  
608 provided, however, that the court shall not have jurisdiction over a child custody or child support  
609 proceeding if jurisdiction is not otherwise authorized by the laws of the Commonwealth.

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

615 (b) Unless a gestational surrogacy agreement provides otherwise, upon termination of the  
616 agreement under subsection (a), the parties are released from the agreement, except that the  
617 intended parent or parents remain responsible for expenses that are reimbursable under the  
618 agreement and incurred by the gestational surrogate through the date of the termination of the  
619 agreement.

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

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

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

630 (c) If a child is alleged to be a genetic child of the gestational surrogate, the court shall,  
631 upon finding sufficient evidence, order genetic testing of the child. If the child is a genetic child

632 of the gestational surrogate, parentage shall be determined in accordance with sections 1 through  
633 27 of this chapter.

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

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

642 (b) Except as otherwise provided in section 28J, an intended parent is not a parent of a  
643 child conceived by assisted reproduction under a gestational surrogacy agreement if the intended  
644 parent dies before the transfer or implantation of a gamete or embryo unless: (i) the surrogacy  
645 agreement provides otherwise; and (ii) the transfer of a gamete or embryo occurs not later than  
646 36 months after the death of the intended parent or birth of the child occurs not later than 45  
647 months after the death of the intended parent.

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

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

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

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

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

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

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

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

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

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

672 (d) A complaint under this section shall include: (i) a copy of the executed surrogacy  
673 agreement; (ii) sworn affidavit of the assisted reproductive physician confirming that the child  
674 was born pursuant to assisted reproduction; and (iii) certifications from the attorneys

675 representing the intended parent or parents and the gestational surrogate that the requirements of  
676 sections 28A, 28B, and 28C have been met. A complaint supported by such affidavit and  
677 certifications shall be sufficient to establish parentage, and a hearing shall not be required unless  
678 the court requires additional information which cannot reasonably be ascertained without a  
679 hearing.

680 (e) Upon a finding by a preponderance of the evidence that the complaint satisfies  
681 subsection (d), a court shall expeditiously, but no later than 60 days from the docketing of the  
682 complaint, issue a judgment of parentage. Parentage judgments issued under this section shall  
683 conclusively establish or affirm, where applicable, the parent-child relationship for all purposes.  
684 Custody, parenting time, visitation, and child support for a nonmarital child shall be determined  
685 in accordance with applicable laws, rules, regulations, orders and guidelines.

686 (f) In the event the certification required by subsection (d) of this section cannot be made  
687 because of a technical or nonmaterial deviation from the requirements of sections 28A, 28B, and  
688 28C of this chapter, the court may nevertheless enforce the agreement and issue a judgment of  
689 parentage if the court determines the agreement is in substantial compliance with the  
690 requirements of said sections.

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

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

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

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

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

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

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

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

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

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

727 (i) sections 28A, 28B, and 28C of this chapter are satisfied; and

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

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

732 Section 28L. (a) An intended parent or genetic surrogate who is a party to the agreement  
733 may terminate the agreement at any time before a gamete or embryo transfer or implantation by  
734 giving notice of termination in writing to all other parties. If a gamete or embryo transfer or  
735 implantation does not result in a pregnancy, a party may terminate the agreement at any time

736 before a subsequent gamete or embryo transfer or implantation. The party's signature on a notice  
737 of termination shall be attested by a notary.

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

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

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

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

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

755 (b) On birth of a child conceived by assisted reproduction under a genetic surrogacy  
756 agreement validated under section 28K or 28N of this chapter, the intended parent or parents

757 shall file a notice with the court that validated the agreement that a child has been born as a result  
758 of assisted reproduction. Upon receiving such notice, the court shall immediately, or as soon as  
759 practicable, issue an order without notice and hearing:

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

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

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

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

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

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

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

778 (d) If a child born to a genetic surrogate is alleged not to have been conceived by assisted  
779 reproduction, the court may, upon finding sufficient evidence, order genetic testing to determine  
780 the genetic parentage of the child. If the child was not conceived by assisted reproduction and the  
781 second source of genetic material is the spouse of the genetic surrogate, then the surrogate and  
782 the spouse shall be found to be the parents of the child. If the second genetic source is a person  
783 other than the spouse of the surrogate, then parentage shall be determined as provided in sections  
784 1 through 27 of this chapter. However, if the second genetic source is an intended parent, the  
785 court, in its sole discretion, may determine parentage under sections 1 through 27 of this chapter.  
786 Unless the genetic surrogacy agreement provides otherwise, the genetic surrogate is not entitled  
787 to any non-expense related compensation paid for acting as a surrogate if the child was not  
788 conceived by assisted reproduction.

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

795 Section 28N. (a) A genetic surrogacy agreement, whether or not in writing, that is not  
796 validated under section 28K is enforceable only to the extent provided in this section and section  
797 28P.

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

801 (i) sections 28A, 28B, or 28C of this chapter are satisfied; and

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

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

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

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

814 (b) Except as otherwise provided in section 28M or 28N, an intended parent is not a  
815 parent of a child conceived by assisted reproduction under a genetic surrogacy agreement if the  
816 intended parent dies before the transfer of a gamete or embryo unless: (i) the agreement provides  
817 otherwise; and (ii) the transfer of the gamete or embryo occurs not later than 36 months after the

818 death of the intended parent, or birth of the child occurs not later than 45 months after the death  
819 of the intended parent.

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

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

827           (c) Except as otherwise provided in subsection (b), specific performance is a remedy  
828 available for: (i) breach of a validated genetic surrogacy agreement by a genetic surrogate of a  
829 requirement which prevents an intended parent from exercising, immediately upon birth of the  
830 child, the full rights of parentage; or (ii) breach by an intended parent which prevents the  
831 intended parent's acceptance, immediately upon birth of the child, of the duties of parentage.

832           SECTION 63. The Trial Court, in accordance with section 24 of chapter 209C, shall  
833 update existing forms and promulgate new forms as necessary for use under this chapter, which  
834 shall be in such form and language to permit a person to prepare and file such forms pro se.

835           SECTION 64. Notwithstanding any general or special law to the contrary, chapter 209C  
836 of the General Laws shall be titled "Nonmarital Children and Parentage of Children".

837           SECTION 65. This Act shall be effective January 1, 2025.