

# SENATE . . . . . No. 2906

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## The Commonwealth of Massachusetts

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

SENATE, July 29, 2024.

The committee on Senate Ways and Means to whom was referred the House Bill to ensure legal parentage equality (House, No. 4750); reports, recommending that the same ought to pass with an amendment striking out all after the enacting clause and inserting in place thereof the text of Senate document numbered 2906.

For the committee,  
Michael J. Rodrigues

**The Commonwealth of Massachusetts**

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**In the One Hundred and Ninety-Third General Court  
(2023-2024)**  
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1           SECTION 1. Section 1 of chapter 46 of the General Laws, as appearing in the 2022  
2 Official Edition, is hereby amended by striking out the second paragraph and inserting in place  
3 thereof the following paragraph:-

4           In the record of births, name, date of birth, place of birth and sex of child; legal names,  
5 dates of birth, residences, places of birth and surname at birth or adoption of parents. In the  
6 record of birth of a child born to parents not married to each other, the name of and other facts  
7 relating to the other parent or parents shall not be recorded except as provided in section 2 of  
8 chapter 209C where parentage has been acknowledged or adjudicated under the laws of the  
9 commonwealth or under the law of any other jurisdiction.

10           SECTION 2. Section 4B of said chapter 46 is hereby repealed.

11           SECTION 3. Section 13 of said chapter 46, as appearing in the 2022 Official Edition, is  
12 hereby amended by striking out, in lines 53 to 56, inclusive, the words “paternity by a court or  
13 administrative agency of competent jurisdiction in the commonwealth and the court orders the  
14 state registrar to amend the birth certificate to include the information relating to the father” and  
15 inserting in place thereof the following words:- parentage by a court or administrative agency of  
16 competent jurisdiction in the commonwealth and the court orders the state registrar to originally

17 issue or to amend the birth certificate to include the information relating to the parentage of the  
18 child.

19 SECTION 4. Section 1 of chapter 209C of the General Laws, as so appearing, is hereby  
20 amended by inserting after the first sentence the following sentence:- A child shall have the same  
21 rights and protections under law to parentage without regard to the marital status, gender, gender  
22 identity or sexual orientation of their parents or the circumstances of the child’s birth, including  
23 whether the child was born as a result of assisted reproduction or surrogacy.

24 SECTION 5. Said section 1 of said chapter 209C, as so appearing, is hereby further  
25 amended by striking out, in lines 7 and 8, 14, 15 and 17, the word “paternity” and inserting in  
26 place thereof, in each instance, the following word:- parentage.

27 SECTION 6. Said section 1 of said chapter 209C, as so appearing, is hereby further  
28 amended by striking out, in lines 11 and 20, the words “child born out of wedlock” and inserting  
29 in place thereof, in each instance, the following words:- nonmarital child.

30 SECTION 7. Said section 1 of said chapter 209C, as so appearing, is hereby further  
31 amended by striking out, in lines 11 and 12, the words “a man and woman” and inserting in place  
32 thereof the following word:- persons.

33 SECTION 8. Said section 1 of said chapter 209C, as so appearing, is hereby further  
34 amended by striking out, in lines 20 and 25, the word “his”, and inserting in place thereof, in  
35 each instance, the following word:- their.

36 SECTION 9. Said chapter 209C is hereby further amended by inserting after section 1 the  
37 following section:-

38           Section 1A. For the purposes of this chapter the following terms shall have the following  
39 meanings, unless the context clearly requires otherwise:

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

42           “Adjudicated parent”, a person who has been adjudicated to be a parent of a child by a  
43 court of competent jurisdiction.

44           “Alleged genetic parent”, a person who is alleged to be or alleges to be a genetic parent  
45 of a child whose parentage has not been adjudicated; provided, however, that “alleged genetic  
46 parent” shall include a putative parent, an alleged genetic father and an alleged genetic mother;  
47 and provided further, that “alleged genetic parent” shall not include a presumed parent under  
48 section 6, an individual whose parental rights have been terminated or declared not to exist or a  
49 donor as described in section 27.

50           “Assisted reproduction”, a method of causing pregnancy other than sexual intercourse  
51 including, but not limited to, artificial insemination, intrauterine, intracervical or vaginal  
52 insemination, donation of gametes or embryos, in vitro fertilization and transfer of embryos and  
53 intracytoplasmic sperm injection.

54           “Donor”, a person who provides a gamete or embryo intended for use in assisted  
55 reproduction or gestation, whether or not for consideration; provided, however, that this term  
56 shall not include a person who consents to assisted reproduction with the intent to be a parent of  
57 the resulting child.

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

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

62           “Gestational surrogacy agreement”, a surrogacy agreement involving a gestational  
63 surrogate.

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

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

69           “Nonmarital child”, a child born to persons who are not married to each other.

70           “Parent”, a person who has established parentage of a child through: (i) birth except as  
71 otherwise provided in sections 28 to 28P, inclusive; (ii) presumption pursuant to section 6; (iii)  
72 adjudication by a court of competent jurisdiction; (iv) adoption pursuant to chapter 210; (v)  
73 acknowledgement pursuant to section 11; (vi) de facto parentage pursuant to section 25; (vii)  
74 assisted reproduction pursuant to section 27; or (viii) surrogacy pursuant to sections 28 to 28P,  
75 inclusive.

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

78 “Presumed parent”, a person who is presumed to be a parent of a child pursuant to section  
79 6, unless the presumption is overcome in a judicial proceeding, a valid denial of parentage is  
80 made under section 11 or a court adjudicates the person to be a parent.

81 “Surrogacy agreement”, an agreement between 1 or more intended parents and a person  
82 who is not an intended parent in which that person agrees to become pregnant through assisted  
83 reproduction and which provides that each intended parent is a parent of a child conceived under  
84 the agreement.

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

86 SECTION 10. Section 2 of said chapter 209C, as appearing in the 2022 Official Edition,  
87 is hereby amended by striking out, in line 1, the word “Paternity” and inserting in place thereof  
88 the following word:- Parentage.

89 SECTION 11. Said section 2 of said chapter 209C, as so appearing, is hereby further  
90 amended by striking out, in lines 5, 6, 12, 13, 16 and 18, the word “paternity” and inserting in  
91 place thereof, in each instance, the following word:- parentage.

92 SECTION 12. Section 3 of said chapter 209C, as so appearing, is hereby amended by  
93 striking out, in lines 3, 7, 32, 35 and 36 and 51, the word “paternity” and inserting in place  
94 thereof, in each instance, the following word:- parentage.

95 SECTION 13. Said section 3 of said chapter 209C, as so appearing, is hereby further  
96 amended by inserting after the word “parentage”, in line 4, the following words:- under this  
97 chapter.

98 SECTION 14. Said section 3 of said chapter 209C, as so appearing, is hereby further  
99 amended by striking out, in line 13, the word “his” and inserting in place thereof the following  
100 word:- their.

101 SECTION 15. Section 4 of said chapter 209C, as so appearing, is hereby amended by  
102 striking out, in lines 1 and 11, the word “paternity” and inserting in place thereof, in each  
103 instance, the following word:- parentage.

104 SECTION 16. Section 5 of said chapter 209C, as so appearing, is hereby amended by  
105 striking out, in lines 1 and 2, 19, 55, 60 and 62, the word “paternity” and inserting in place  
106 thereof, in each instance, the following word:- parentage.

107 SECTION 17. Said section 5 of said chapter 209C, as so appearing, is hereby further  
108 amended by striking out, in line 3, the word “mother” and inserting in place thereof the following  
109 words:- person who gave birth to the child.

110 SECTION 18. Said section 5 of said chapter 209C, as so appearing, is hereby further  
111 amended by striking out, in lines 4 and 21, the word “himself” and inserting in place thereof, in  
112 each instance, the following word:- themselves.

113 SECTION 19. Said section 5 of said chapter 209C, as so appearing, is hereby further  
114 amended by striking out, in lines 4 and 9, each time it appears, the word “father” and inserting in  
115 place thereof, in each instance, the following words:- other parent.

116 SECTION 20. Said section 5 of said chapter 209C, as so appearing, is hereby further  
117 amended by striking out, in line 7, the words “mother if the mother” and inserting in place  
118 thereof the following words:- person who gave birth to the child if that person.

119 SECTION 21. Said section 5 of said chapter 209C, as so appearing, is hereby further  
120 amended by striking out, in line 17, the words “mother of the child” and inserting in place  
121 thereof the following words:- person who gave birth to the child.

122 SECTION 22. Said section 5 of said chapter 209C, as so appearing, is hereby further  
123 amended by striking out, in lines 21 and 22, the words “father unless he is or was the mother’s  
124 husband” and inserting in place thereof the following words:- parent unless such parent is or was  
125 the spouse of the person who gave birth to the child.

126 SECTION 23. Said section 5 of said chapter 209C, as so appearing, is hereby further  
127 amended by striking out subsection (b) and inserting in place thereof the following subsection:-

128 (b) Voluntary acknowledgments of parentage may be executed by the person who gave  
129 birth and either an alleged genetic parent, presumed parent or intended parent as provided in this  
130 chapter, whether either or both is a minor, and may be registered pursuant to section 11 only if  
131 the signatures of both signatories are notarized. If the person who gave birth to the child was or  
132 is married to a spouse other than the other parent and the child’s birth occurs during the marriage  
133 or within 300 days of its termination by divorce, a voluntary acknowledgment of parentage  
134 naming the other parent may be executed by the person who gave birth and the other parent only  
135 if the person who gave birth and their spouse or former spouse at the time of the child’s birth or  
136 conception sign an affidavit denying that the spouse is the parent of the child; provided,  
137 however, that where the marriage has been terminated by annulment or by the death of either  
138 spouse, parentage of the other parent may only be established by filing a complaint to establish  
139 parentage as provided in this chapter. Prior to signing a voluntary acknowledgment of parentage  
140 at the hospital or thereafter at the office of the city or town clerk as part of the birth registration

141 process pursuant to section 3C of chapter 46, with the department of transitional assistance, with  
142 the IV–D agency set forth in chapter 119A, with any agency designated by the United States  
143 Secretary of Health and Human Services or with any official of a court, a person who gave birth  
144 and the other parent shall receive notice orally, or through the use of video or audio equipment,  
145 and in writing of alternatives to signing the acknowledgment, including the availability of  
146 genetic marker testing, as well as the benefits and responsibilities with respect to child support,  
147 custody and visitation that may arise from signing the acknowledgment and subsequently filing  
148 the acknowledgment with the court or with the registrar of vital records and statistics as provided  
149 in this chapter.

150 SECTION 24. Section 6 of said chapter 209C, as so appearing, is hereby amended by  
151 striking out, in lines 1 and 2, the words “In all actions under this chapter a man is presumed to be  
152 the father of a child and must be joined as a party” and inserting in place thereof the following  
153 words:- A person is presumed to be the parent of a child and shall be joined as a party in all  
154 actions under this chapter.

155 SECTION 25. Said section 6 of said chapter 209C, as so appearing, is hereby further  
156 amended by striking out, in lines 3, 6, 11, 14, 16 and 18, the word “he” and inserting in place  
157 thereof, in each instance, the following words:- the person.

158 SECTION 26. Said section 6 of said chapter 209C, as so appearing, is hereby further  
159 amended by striking out, in line 3, 7, 12 and 19, the word “mother” and inserting in place  
160 thereof, in each instance, the following words:- person who gave birth to the child.

161 SECTION 27. Said section 6 of said chapter 209C, as so appearing, is hereby further  
162 amended by striking out, in line 17, the word “paternity” and inserting in place thereof the  
163 following word:- parentage.

164 SECTION 28. Said section 6 of said chapter 209C, as so appearing, is hereby further  
165 amended by striking out, in lines 21 to 23, inclusive, the words “he has acknowledged paternity  
166 in a parental responsibility claim as provided in section four A of chapter two hundred and ten  
167 and the mother” and inserting in place thereof the following words:- the person has  
168 acknowledged parentage in a parental responsibility claim as provided in section 4A of chapter  
169 210 and the person who gave birth to the child.

170 SECTION 29. Said section 6 of said chapter 209C, as so appearing, is hereby further  
171 amended by striking out, in lines 25 to 27, inclusive, the words “his consent and the consent of  
172 the child’s mother, he is named as the child’s father” and inserting in place thereof the following  
173 words:- the person’s consent and the consent of the person who gave birth to the child, the  
174 person is named as the child’s parent.

175 SECTION 30. Said section 6 of said chapter 209C, as so appearing, is hereby further  
176 amended by striking out subsection (b) and inserting in place thereof the following subsection:-

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

181 SECTION 31. Section 7 of said chapter 209C, as so appearing, is hereby amended by  
182 striking out, in lines 3 and 4 and 8, the word “paternity” and inserting in place thereof, in each  
183 instance, the following word:- parentage.

184 SECTION 32. Section 8 of said chapter 209C, as so appearing, is hereby amended by  
185 striking out, in lines 1, 2, 5 and 15, the word “paternity” and inserting in place thereof, in each  
186 instance, the following word:- parentage.

187 SECTION 33. Said section 8 of said chapter 209C, as so appearing, is hereby further  
188 amended by striking out, in line 4, the word “his” and inserting in place thereof the following  
189 words:- the defendant’s.

190 SECTION 34. Said section 8 of said chapter 209C, as so appearing, is hereby further  
191 amended by striking out, in line 7, the words “mother or putative father submits” and inserting in  
192 place thereof the following words:- person who gave birth to the child or alleged genetic parent  
193 submits sufficient evidence of parentage, which may include evidence.

194 SECTION 35. Said section 8 of said chapter 209C, as so appearing, is hereby further  
195 amended by striking out, in lines 12 and 13, the words “father or mother” and inserting in place  
196 thereof the following word:- parent.

197 SECTION 36. Said section 8 of said chapter 209C, as so appearing, is hereby further  
198 amended by striking out, in line 16, the word “mother” and inserting in place thereof the  
199 following words:- person who gave birth to the child.

200 SECTION 37. Section 9 of said chapter 209C, as so appearing, is hereby amended by  
201 striking out, in line 21, the word “his” and inserting in place thereof the following words:- the  
202 defendant’s.

203 SECTION 38. Said section 9 of said chapter 209C, as so appearing, is hereby further  
204 amended by striking out, in line 27, the word “mother” and inserting in place thereof the  
205 following words: another parent.

206 SECTION 39. Subsection (a) of section 10 of said chapter 209C, as so appearing, is  
207 hereby amended by striking out the first paragraph and inserting in place thereof the following  
208 paragraph:-

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

212 SECTION 40. Said section 10 of said chapter 209C, as so appearing, is hereby further  
213 amended by striking out subsection (b) and inserting in place thereof the following subsection:-

214 (b) Prior to or in the absence of an adjudication or voluntary acknowledgment of  
215 parentage, the person who gave birth shall have custody of a nonmarital child. In the absence of  
216 an order or judgment of a probate and family court relative to custody, the person who gave birth  
217 shall continue to have custody of a nonmarital child after an adjudication of parentage or  
218 voluntary acknowledgment of parentage.

219 SECTION 41. Section 11 of said chapter 209C, as so appearing, is hereby amended by  
220 striking out, in line 2, the words “putative father” and inserting in place thereof the following  
221 words:- alleged genetic parent, presumed parent or intended parent.

222 SECTION 42. Said section 11 of said chapter 209C, as so appearing, is hereby further  
223 amended by striking out, in line 3, the words “mother of” and inserting in place thereof the  
224 following words:- person who gave birth to.

225 SECTION 43. Said section 11 of said chapter 209C, as so appearing, is hereby further  
226 amended by striking out, in lines 7, 16, 20, 22 and 37, the word “paternity” and inserting in place  
227 thereof, in each instance, the following word:- parentage.

228 SECTION 44. Said section 11 of said chapter 209C, as so appearing, is hereby further  
229 amended by striking out, in line 21, the words “by such putative father and mother”.

230 SECTION 45. Subsection (a) of said section 11 of said chapter 209C, as so appearing, is  
231 hereby amended by striking out the tenth sentence and inserting in place thereof the following  
232 sentence:- If either party rescinds the acknowledgment in a timely fashion and the basis of the  
233 acknowledgment was genetic parentage, the court shall order genetic marker testing and proceed  
234 to adjudicate parentage or nonparentage in accordance with this chapter; provided, however, that  
235 the rescinded acknowledgment shall constitute the proper showing required for an order to  
236 submit to such testing; and provided further, that the rescinded acknowledgment shall be  
237 admissible as evidence of the alleged genetic parent’s parentage and shall serve as sufficient  
238 basis for admitting the report of the results of genetic marker tests.

239 SECTION 46. Said section 11 of said chapter 209C, as so appearing, is hereby further  
240 amended by striking out, in line 56, the word “nonpaternity” and inserting in place thereof the  
241 following word:- nonparentage.

242 SECTION 47. Said section 11 of said chapter 209C, as so appearing, is hereby further  
243 amended by striking out, in line 59, the words “a mother and father” and inserting in place  
244 thereof the following word:- parents.

245 SECTION 48. Section 12 of said chapter 209C, as so appearing, is hereby amended by  
246 striking out, in line 2, the word “paternity” and inserting in place thereof the following word:-  
247 parentage.

248 SECTION 49. Section 13 of said chapter 209C, as so appearing, is hereby amended by  
249 striking out, in lines 1 and 2, the words “paternity or in which paternity” and inserting in place  
250 thereof the following words:- parentage or in which parentage.

251 SECTION 50. Said section 13 of said chapter 209C, as so appearing, is hereby further  
252 amended by striking out, in lines 7 to 9, inclusive, the words “father is adjudicated not to be the  
253 father of the child; provided, however, that the child, the child’s mother, the person adjudicated  
254 to be the father” and inserting in place thereof the following words:- parent is adjudicated not to  
255 be the parent of the child; provided, however, that the child, the person who gave birth to the  
256 child, the person adjudicated to be the parent.

257 SECTION 51. Said chapter 209C is hereby further amended by striking out section 14, as  
258 so appearing, and inserting in place thereof the following section:-

259           Section 14. Except as otherwise provided in this chapter, an action to establish parentage  
260 of a child may be instituted during pregnancy but shall only be filed by the person who is to give  
261 birth to the child or such person's representative or by the IV-D agency as set forth in chapter  
262 119A on behalf of the person who is to give birth. In the case of any complaint brought prior to  
263 the birth of the child, no final judgment on the issue of parentage shall be made until after the  
264 birth of the child; provided, however, that the court may order temporary support or health care  
265 coverage.

266           SECTION 52. Section 16 of said chapter 209C, as so appearing, is hereby amended by  
267 striking out subsections (c) to (e), inclusive, and inserting in place thereof the following 3  
268 subsections:-

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

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

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

281 SECTION 53. Said section 16 of said chapter 209C, as so appearing, is hereby further  
282 amended by striking out, in line 25, the word “mother” and inserting in place thereof the  
283 following words:- person who gave birth to the child.

284 SECTION 54. Said section 16 of said chapter 209C, as so appearing, is hereby further  
285 amended by striking out, in line 36, the word “paternity” and inserting in place thereof the  
286 following word:- parentage.

287 SECTION 55. Section 17 of said chapter 209C, as so appearing, is hereby amended by  
288 striking out, in lines 1 and 2, the words “paternity of a child born out of wedlock” and inserting  
289 in place thereof the following words:- parentage of a nonmarital child based on alleged genetic  
290 parentage.

291 SECTION 56. Said section 17 of said chapter 209C, as so appearing, is hereby further  
292 amended by striking out, in lines 4, 9, 10, 13, 26 and 28, the word “mother” and inserting in  
293 place thereof, in each instance, the following words:- person who gave birth to the child.

294 SECTION 57. Said section 17 of said chapter 209C, as so appearing, is hereby further  
295 amended by striking out, in lines 4, 9, 10, 13, 26, 28, 31, 48 and 49, the words “putative father”  
296 and inserting in place thereof, in each instance, the following words:- alleged genetic parent.

297 SECTION 58. Said section 17 of said chapter 209C, as so appearing, is hereby further  
298 amended by striking out, in lines 21 and 22, the words “putative father’s” and inserting in place  
299 thereof the following words:- alleged genetic parent’s.

300 SECTION 59. Said section 17 of said chapter 209C, as so appearing, is hereby further  
301 amended by striking out, in lines 22 and 30, the word “paternity” and inserting in place thereof,  
302 in each instance, the following words:- genetic parentage.

303 SECTION 60. Said section 17 of said chapter 209C, as so appearing, is hereby further  
304 amended by striking out, in lines 31 and 32 and in line 49, the first time it appears, the word  
305 “father” and inserting in place thereof, in each instance, the following word:- parent.

306 SECTION 61. Said section 17 of said chapter 209C, as so appearing, is hereby further  
307 amended by adding the following sentence:- Genetic testing shall not be used to challenge the  
308 parentage of an individual who is a parent under sections 25, 27 and 28 to 28P, inclusive, or to  
309 establish the parentage of an individual who is a donor as provided in said sections.

310 SECTION 62. Section 21 of said chapter 209C, as so appearing, is hereby amended by  
311 striking out, in line 4, the word “paternity” and inserting in place thereof the following word:-  
312 parentage.

313 SECTION 63. Section 23 of said chapter 209C, as so appearing, is hereby amended by  
314 striking out, in lines 1, 10, 11 and 14, the word “paternity”, and inserting in place thereof, in each  
315 instance, the following word:- parentage.

316 SECTION 64. Said chapter 209C is hereby further amended by adding the following 20  
317 sections:-

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

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

322 (c) A proceeding under this section shall be commenced during a child's lifetime and  
323 before the child attains 18 years of age.

324 (d) Proceedings under this section shall be governed by the Massachusetts Rules of  
325 Domestic Relations Procedure.

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

328 (f) The plaintiff shall file a verified complaint alleging specific facts to support each  
329 element required to establish de facto parentage as set forth in subsection (i), along with any  
330 other pleadings, affidavits or information required by the court. The verified complaint shall be  
331 served on all parents, legal guardians and legal custodians of the child and any other party to the  
332 proceeding. Prior to an adjudication of the merits, and within 60 days of the commencement of a  
333 proceeding under this section, the court shall determine, based on the pleadings, whether the  
334 plaintiff has alleged facts sufficient to satisfy each element required to establish de facto  
335 parentage. Upon request made by a party entitled to notice or upon the court's own initiative, the  
336 court may hold a hearing on the sufficiency of the pleadings; provided, however, that if the court  
337 holds any such hearing, the hearing shall be held on an expedited basis. Failure of a pleading to  
338 meet these standards shall constitute grounds for the court to enter a sua sponte judgment of  
339 dismissal without prejudice.

340 (g) Prior to an adjudication of the merits, and within 60 days of the commencement of a  
341 proceeding under this section, the court shall determine whether the plaintiff has standing to seek  
342 an adjudication of parentage of a child under this section. Upon request made by a party entitled  
343 to notice or upon the court's own initiative, the court may hold a hearing on the issue of  
344 standing; provided, however, that any such hearing shall be held on an expedited basis; and  
345 provided further, that a hearing shall be required and there shall be a rebuttable presumption  
346 against standing if the court finds by a preponderance of the evidence that:

347 (i) the plaintiff is or was the defendant to: (A) an abuse prevention order issued after  
348 notice and hearing pursuant to chapter 209A; (B) a protection order issued pursuant to section  
349 34B or 34C of chapter 208; or (C) a harassment prevention order issued pursuant to chapter  
350 258E, involving the child, a parent of the child or a household member of the child;

351 (ii) the department of children and families has made a determination supporting an  
352 allegation of abuse against the plaintiff with respect to the subject child or another child in the  
353 same household;

354 (iii) a respondent has been an active deployed member of the military during the past 3  
355 years;

356 (iv) a defendant executed a military family care plan and but for the plan, the plaintiff  
357 would not meet at least 1 of the requirements of subsection (i), unless the defendant consents in  
358 writing and such written consent is filed with the complaint; or

359 (v) the plaintiff is or was the foster parent or guardian of the child and but for the  
360 plaintiff's role as foster parent or guardian, the plaintiff would not meet at least 1 of the  
361 requirements of subsection (i).

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

367 (i) Subject to subsection (j), the court shall adjudicate a plaintiff with standing in a  
368 proceeding commenced under this section to be a de facto parent of the subject child if the  
369 plaintiff demonstrates by clear and convincing evidence that: (i) the plaintiff resided with the  
370 child as a regular member of the child's household for not less than 3 years or 40 per cent of the  
371 child's life, whichever is shorter, except in extraordinary circumstances for good cause shown as  
372 the court may determine at the court's discretion; (ii) the plaintiff engaged in consistent  
373 caregiving of the child, including, but not limited to, shaping the child's daily routine, addressing  
374 the child's developmental needs and providing for the child's education and medical care,  
375 individually or cooperatively with another parent; (iii) the plaintiff undertook full and permanent  
376 responsibilities of a parent of the child without expectation or payment of financial  
377 compensation; (iv) the plaintiff held out the child as the plaintiff's child; (v) the plaintiff  
378 established a bonded and dependent relationship with the child that is parental in nature; (vi)  
379 each parent of the child consented to the bonded and dependent relationship required under  
380 clause (v); provided, however, that for the purposes of this section, consent may include that  
381 each parent, over a period of not less than 6 months: (a) held out the plaintiff as a parent of the  
382 child; and (b) engaged in shared decision making with the plaintiff regarding significant issues of  
383 the child's education, health and welfare; provided further, that the court may determine that a  
384 parent has impliedly consented where that parent has not, without good cause, meaningfully

385 engaged with the subject child through direct contact, participation in decision making or regular  
386 financial support for a period of 2 years; provided further, that good cause may include evidence  
387 that the parent attempted to meaningfully engage with the subject child by regularly requesting  
388 contact or participation in decision making but was prevented from doing so by another person;  
389 and provided further, that a notarized document affirming consent executed by a parent shall be  
390 evidence of that parent's consent; and (vii) adjudicating the plaintiff to be the child's parent is in  
391 the best interest of the child. In making this determination, the court shall consider evidence of  
392 past or present abuse by the plaintiff toward a parent or the child as a factor contrary to the best  
393 interest of the child; provided, however, that a finding by a preponderance of the evidence that  
394 the plaintiff engaged in duress, coercion or threat of harm in order to establish any of the  
395 elements of clauses (i) to (vi), inclusive, shall be considered evidence of abuse; provided further,  
396 that a finding by a preponderance of the evidence that a pattern or serious incident of abuse as  
397 defined in section 10 by the plaintiff against a parent or child has occurred shall create a  
398 rebuttable presumption that it is not in the best interest of the child that the plaintiff be  
399 adjudicated a parent; and provided further, that where there is credible evidence of abuse and the  
400 court adjudicates the plaintiff to be a parent of the subject child, the court shall make detailed  
401 written findings on the presence and nature of the abuse, its effect on the child and its impact on  
402 the plaintiff's parenting ability.

403 (j) Subject to other limitations in this section, if in a proceeding to adjudicate the plaintiff  
404 as a de facto parent, there is more than 1 defendant parent and the court determines that the  
405 requirements of subsection (i) are satisfied, the court shall adjudicate parentage under subsection  
406 (c) of section 26.

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

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

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

414 Section 26. (a) In a proceeding to adjudicate competing claims of, or challenges to,  
415 parentage of a child by 2 or more persons, the court shall adjudicate parentage in the best interest  
416 of the child, based on: (i) the age of the child; (ii) the length of time during which each person  
417 assumed the role of parent of the child; (iii) the nature of the relationship between the child and  
418 each person; (iv) the harm to the child if the relationship between the child and each person is not  
419 recognized; (v) the basis for each person's claim to parentage of the child; and (vi) other  
420 equitable factors arising from the disruption of the relationship between the child and each  
421 person or the likelihood of other harm to the child.

422 (b) If a person challenges parentage based on the results of genetic testing, in addition to  
423 the factors listed in subsection (a), the court shall consider: (i) the facts surrounding the  
424 discovery that the person might not be a genetic parent of the child; and (ii) the length of time  
425 between the time that the person was placed on notice that the person might not be a genetic  
426 parent and the commencement of the proceeding.

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

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

432 Section 27. (a) This section shall apply to nonmarital and marital children. This section  
433 shall not apply to the parentage of a child conceived by sexual intercourse or assisted  
434 reproduction under a surrogacy agreement under sections 28 to 28P, inclusive.

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

439 (c) A donor shall not be deemed a parent of a child conceived through assisted  
440 reproduction based solely on the donor's genetic connection to such child. A donor shall not be  
441 entitled to establish the donor's parentage by signing an acknowledgment pursuant to this  
442 chapter. A donor shall not be entitled to notice in a proceeding under this chapter.

443 (d) A person who consents to assisted reproduction with the intent to be a parent of the  
444 child conceived by said assisted reproduction shall be a parent of the child. Consent to assisted  
445 reproduction may be established by: (i) a record signed by the person giving birth to a child  
446 conceived by assisted reproduction and by an intended parent before, on or after the birth of the  
447 child; or (ii) a finding by the court, by a preponderance of the evidence, that: (a) prior to  
448 conception or birth of the child, the parties agreed that they would be parents of the child; or (b)

449 the person who seeks to be a parent of the child, together with the person giving birth,  
450 voluntarily participated in and consented to the assisted reproduction that resulted in the  
451 conception of the child.

452 (e)(1) Except as provided in paragraph (2), a person who, at the time of a child's birth, is  
453 the spouse of the person who gave birth to the child by assisted reproduction may not challenge  
454 their own parentage of the child unless, not later than 2 years after the birth of the child, they  
455 commence a proceeding to adjudicate their own parentage of the child and the court finds that  
456 they did not consent to the assisted reproduction before, on, or after the birth of the child or  
457 withdrew consent pursuant to subsection (g).

458 (2) A proceeding to adjudicate a spouse's parentage of a child born by assisted  
459 reproduction may be commenced at any time if the court determines that the spouse who is  
460 challenging the parentage: (i) neither provided a gamete for, nor consented to, the assisted  
461 reproduction; (ii) has not cohabitated with the person who gave birth to the child since the  
462 probable time of assisted reproduction; or (iii) t never openly held out the child as their child.  
463 This subsection shall apply to a spouse's challenge of parentage even if the spouse's marriage is  
464 declared invalid after assisted reproduction occurs.

465 (f) A person who consents to assisted reproduction pursuant to subsection (d) may  
466 withdraw consent any time before a transfer or implantation of gametes or embryos that results  
467 in a pregnancy by giving notice in writing of their withdrawal of consent to the person who  
468 agreed to give birth to a child conceived by assisted reproduction and to any clinic or healthcare  
469 provider facilitating the assisted reproduction; provided, however, that failure to give notice to a  
470 clinic or healthcare provider shall not affect a determination of parentage pursuant to this section.

471 A person who withdraws consent in compliance with this subsection shall not be a parent of the  
472 child under this section.

473 (g)(1) If a person who intends to be a parent of a child conceived by assisted reproduction  
474 dies during the period between the transfer or implantation of a gamete or embryo and the birth  
475 of the child, said person's death shall not preclude the establishment of their parentage of the  
476 child if said person would be a parent of the child under this section but for the death.

477 (2) If a person who consented in writing to assisted reproduction by a person who agreed  
478 to give birth to a child dies before a transfer or implantation of gametes or embryos, the deceased  
479 person shall be a parent of a child conceived by the assisted reproduction if: (i) (a) the person  
480 consented in writing that if assisted reproduction were to occur after their death, they would be a  
481 parent of the child; or (b) the person's intent to be a parent of a child conceived by assisted  
482 reproduction after their death is established by a preponderance of the evidence; and (ii) (a) the  
483 embryo is in utero not later than 36 months after the person's death; or (b) the child is born not  
484 later than 45 months after the person's death.

485 (h) If, due to a clinical or laboratory error, a child conceived by assisted reproduction is  
486 not genetically related to any intended parent or any donor who donated to the intended parent or  
487 parents, the intended parent or parents shall be the parent or parents of the child unless otherwise  
488 determined by the court.

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

492 (j) (1) A person giving birth or a person who is or claims to be a parent pursuant to this  
493 section may commence a proceeding prior to or after the birth of a child by assisted reproduction  
494 to obtain a judgment: (i) declaring that the intended parent or parents are the parent or parents of  
495 the resulting child immediately upon the birth of the child and ordering that parental rights and  
496 responsibilities vest exclusively in the intended parent or parents immediately upon birth of the  
497 child; and (ii) designating the contents of the birth certificate and directing the department of  
498 public health to designate the intended parent or parents as the parent or parents of the resulting  
499 child.

500 (2) A judgment issued by a court pursuant to this subsection before the birth of the  
501 resulting child by assisted reproduction shall not take effect until the birth of the resulting child.  
502 Nothing in this subsection shall be construed to limit said court's authority to issue orders under  
503 any other provision of the General Laws.

504 (3) The commonwealth, the department of public health and the hospital where the child  
505 is or is expected to be born shall not be necessary parties to a proceeding under this section.

506 (4) The burden of proof in proceedings pursuant to this section shall be by a  
507 preponderance of the evidence.

508 (k) At the request of a party to a proceeding pursuant to this section, the court shall close  
509 the proceeding to the general public.

510 (l) The court shall issue a final judgment adjudicating whether a person alleged or  
511 claiming to be a parent is the parent of a child in a proceeding pursuant to this section. At the  
512 request of a party, and subject to other applicable laws, the court in a proceeding pursuant to this  
513 section may order the legal name of the child to be changed. If the final judgment of the court is

514 at variance with the child’s birth certificate, the court shall order the department of public health  
515 to issue an amended birth certificate that conforms with the final judgment.

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

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

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

526 Section 28A. (a) To execute a surrogacy agreement to act as a surrogate, a person shall:  
527 (i) be not less than 21 years of age; (ii) have previously given birth to at least 1 child; (iii)  
528 complete a medical evaluation by a licensed physician related to surrogacy; and (iv) complete a  
529 mental health consultation by a licensed mental health professional that is independent of the  
530 health care providers or facility undertaking any assisted reproduction procedure contemplated  
531 by the surrogacy agreement.

532 (b) To execute a surrogacy agreement as an intended parent, whether or not genetically  
533 related to the child, a person shall: (i) be not less than 21 years of age; and (ii) complete a mental  
534 health consultation by a licensed mental health professional that is independent of the health care

535 providers or facility undertaking any assisted reproduction procedure contemplated by the  
536 surrogacy agreement.

537 Section 28B. A surrogacy agreement shall be enforceable if:

538 (i) the prospective surrogate, their spouse, if any, and each intended parent are parties to  
539 the agreement;

540 (ii) the prospective surrogate and each intended parent meet the eligibility requirements  
541 of section 28A;

542 (iii) at least 1 party is a resident of the commonwealth or, if no party is a resident of the  
543 commonwealth, at least 1 medical evaluation, medical procedure or mental health consultation  
544 under the agreement occurs in the commonwealth;

545 (iv) the agreement is in writing and signed by all parties;

546 (v) the agreement is executed prior to a medical procedure attempting to cause a  
547 pregnancy in the prospective surrogate, other than the medical evaluation and mental health  
548 consultation required by section 28A, and, in every instance, before transfer of embryos or  
549 gametes;

550 (vi) the signature of each party to the agreement is attested by a notary;

551 (vii) each party to the agreement signs a written acknowledgment of having received a  
552 copy of the agreement;

553 (viii) the prospective surrogate, the surrogate's spouse, if any, and each intended parent  
554 have independent legal representation regarding the terms and potential legal consequences of

555 the surrogacy agreement, paid for by the intended parent or parents, and each legal representative  
556 shall be identified in the surrogacy agreement; provided, however, that a single attorney for the  
557 prospective surrogate and their spouse and a single attorney for the intended parents shall be  
558 sufficient to meet this requirement; and

559 (ix) records related to the medical evaluation and mental health consultations conducted  
560 pursuant to section 28A shall be made available to the surrogate, the surrogate's spouse, if any,  
561 and each intended parent; provided, however, that all such records shall remain otherwise  
562 confidential absent a court order.

563 Section 28C. (a) For a surrogacy agreement to be enforceable, the agreement shall  
564 provide that:

565 (i) the surrogate: (A) shall undergo assisted reproduction and attempt to carry and give  
566 birth to any resulting child; (B) except as otherwise provided in sections 28I, 28M and 28N, shall  
567 have no claim to parentage of any resulting child; and (C) acknowledges the exclusive parentage  
568 of the intended parent or parents of all resulting children;

569 (ii) if the surrogate is married, their spouse: (A) acknowledges and agrees to abide by all  
570 obligations imposed on the surrogate by the terms of the surrogacy agreement; (B) except as  
571 otherwise provided in sections 28I, 28M and 28N, shall have no claim to parentage of any  
572 resulting child; and (C) acknowledges the exclusive parentage of the intended parent or parents  
573 of all resulting children; and

574 (iii) the intended parent or, if there are more than 1 intended parents, each parent jointly  
575 and severally: (A) except as otherwise provided in sections 28G, 28J, 28M and 28N, agree to be  
576 the exclusive parent or parents and accept parental rights and responsibilities of all resulting

577 children regardless of the number of children born or the gender or condition of each child; and  
578 (B) except as otherwise provided in sections 28G, 28J, 28M and 28N, agree to assume  
579 responsibility for the financial support of all resulting children immediately upon the birth of the  
580 children regardless of the number of children born or the gender or condition of each child.

581 (b) The intended parent or parents shall pay for all surrogacy-related expenses of the  
582 surrogate, including expenses for healthcare provided for assisted reproduction, prenatal care,  
583 labor and delivery and the medical expenses of all resulting children, that are not covered by  
584 insurance; provided, however, that this subsection shall not be construed to supplant any health  
585 insurance coverage that is otherwise available to the surrogate or an intended parent for the  
586 coverage of healthcare costs; provided further, that this subsection shall not change the health  
587 insurance coverage of the surrogate or the responsibility of the insurance company to pay  
588 benefits under a policy that covers a surrogate.

589 (c) The surrogacy agreement shall not infringe on the rights of the surrogate to make all  
590 health and welfare decisions regarding the surrogate, the surrogate's body and the surrogate's  
591 pregnancy throughout the duration of the surrogacy agreement, including during attempts to  
592 become pregnant, pregnancy, labor and delivery and post-partum. The surrogacy agreement shall  
593 not infringe upon the right of the surrogate to autonomy in medical decision making, including,  
594 but not limited to, whether to consent to a caesarean section and whether to undergo multiple  
595 embryo transfers. Except as otherwise provided by law, any written or oral agreement purporting  
596 to waive or limit these rights shall be void as against public policy.

597 (d) The surrogacy agreement shall include information about the right of each party to  
598 terminate the surrogacy agreement.

599 (e) Rights created under a surrogacy agreement shall not be assignable and there shall be  
600 no third-party beneficiary to a surrogacy agreement other than the resulting child of the  
601 surrogacy.

602 (f) A surrogacy agreement may provide for: (i) payment of consideration and reasonable  
603 expenses; and (ii) reimbursement of specific expenses if the agreement is terminated pursuant to  
604 this chapter.

605 Section 28D. Unless a surrogacy agreement expressly provides otherwise: (i) the  
606 marriage of the surrogate or of an intended parent after the surrogacy agreement has been signed  
607 by all parties shall not affect the validity of the surrogacy agreement; (ii) the surrogate or  
608 intended parent's spouse's consent to the surrogacy agreement shall not be required; (iii) the  
609 surrogate or intended parent's spouse shall not be a presumed parent of a child conceived by  
610 assisted reproduction under the surrogacy agreement; and (iv) the divorce or annulment of the  
611 surrogate or of an intended parent after the surrogacy agreement has been signed by all parties  
612 shall not affect the validity of the surrogacy agreement.

613 Section 28E. After the execution of a surrogacy agreement and before the date of  
614 termination of the surrogacy agreement pursuant its terms or 180 days after the birth of a child  
615 conceived by assisted reproduction under the surrogacy agreement, whichever occurs earlier, the  
616 court conducting a proceeding under sections 28 to 28P, inclusive, shall have exclusive,  
617 continuing jurisdiction over all matters arising out of the surrogacy agreement; provided,  
618 however, that the court shall not have jurisdiction over a child custody or child support  
619 proceeding if jurisdiction is not otherwise authorized.

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

625 (b) Unless a gestational surrogacy agreement provides otherwise, upon termination of the  
626 agreement under subsection (a), the parties shall be released from the agreement; provided,  
627 however, that the intended parent or parents remain responsible for expenses that are  
628 reimbursable under the agreement and incurred by the gestational surrogate through the date of  
629 the termination of the agreement.

630 (c) Except in a case involving fraud, neither a gestational surrogate nor the surrogate's  
631 spouse or former spouse, if any, shall be liable to the intended parent or parents for punitive or  
632 liquidated damages for terminating a gestational surrogacy agreement in compliance with this  
633 section.

634 Section 28G. (a) Except as otherwise provided in subsection (c), or sections 28H or 28J,  
635 upon the birth of a child conceived by assisted reproduction under a gestational surrogacy  
636 agreement, each intended parent shall be, by operation of law, a parent of the child. Parental  
637 rights shall vest exclusively in the intended parent or parents immediately upon birth of the  
638 resulting child.

639 (b) Except as otherwise provided in subsection (c) or section 28J, a person acting as  
640 gestational surrogate or such person's spouse or former spouse, if any, shall not be, by operation  
641 of law, a parent of the child.

642 (c) If a child is alleged to be a genetic child of the gestational surrogate, the court shall,  
643 upon finding sufficient evidence, order genetic testing of the child. If the child is a genetic child  
644 of the gestational surrogate, parentage shall be determined in accordance with sections 1 to 27,  
645 inclusive.

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

652 (e) This section shall apply to an intended parent, including an intended parent who dies  
653 during the period between the transfer or implantation of a gamete or embryo and the birth of the  
654 child.

655 Section 28H. Except as otherwise provided in section 28J, an intended parent shall not be  
656 a parent of a child conceived by assisted reproduction under a gestational surrogacy agreement if  
657 the intended parent dies before the transfer or implantation of a gamete or embryo unless: (i) the  
658 surrogacy agreement provides otherwise; and (ii) the transfer of a gamete or embryo occurs not  
659 later than 36 months after the death of the intended parent or birth of the child occurs not later  
660 than 45 months after the death of the intended parent.

661 Section 28I. (a) Except as otherwise provided in subsection (c) of section 28G or section  
662 28J, before, on or after the birth of a child conceived by assisted reproduction under a gestational

663 surrogacy agreement, any party to the agreement may commence a proceeding for a judgment of  
664 parentage:

665 (i) declaring that each intended parent is a parent of the child and ordering that parental  
666 rights and duties vest immediately upon the birth of the child exclusively in each intended  
667 parent;

668 (ii) declaring that the gestational surrogate and the surrogate's spouse or former spouse, if  
669 any, are not the parents of the child;

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

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

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

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

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

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

682 (c) The commonwealth, the department of public health, the town or city clerk and the  
683 hospital where the child is born or is intended to be born shall not be necessary parties to a  
684 proceeding under subsection (a). Any party to the surrogacy agreement not joining in the action  
685 shall be provided with notice of the proceeding.

686 (d) A complaint filed pursuant to this section shall include: (i) a copy of the executed  
687 surrogacy agreement; (ii) a sworn affidavit of the assisted reproductive physician confirming that  
688 the child was conceived pursuant to assisted reproduction; and (iii) certifications from the  
689 attorneys representing the intended parent or parents and the gestational surrogate that the  
690 requirements of sections 28A, 28B and 28C have been met. A complaint supported by such  
691 affidavit and certifications shall be sufficient to establish parentage and a hearing shall not be  
692 required unless the court requires additional information which cannot reasonably be ascertained  
693 without a hearing.

694 (e) Upon a finding by a preponderance of the evidence that the complaint satisfies  
695 subsection (d), a court shall expeditiously, but not later than 60 days from the docketing of the  
696 complaint, issue a judgment of parentage. Parentage judgments issued under this section shall  
697 conclusively establish or affirm, where applicable, the parent-child relationship for all purposes.  
698 Custody, parenting time, visitation and child support for a nonmarital child shall be determined  
699 in accordance with applicable laws, rules, regulations, orders and guidelines.

700 (f) In the event the certification required by subsection (d) cannot be made because of a  
701 technical or nonmaterial deviation from the requirements of sections 28A, 28B and 28C, the  
702 court with competent jurisdiction may enforce the agreement and issue a judgment of parentage

703 if the court determines the agreement is in substantial compliance with the requirements of said  
704 sections.

705 (g) At the request of a party, the court of competent jurisdiction shall close a proceeding  
706 under this section to the general public. All complaints, pleadings, papers or documents filed  
707 pursuant to this section, and docket entries, shall not be available for inspection unless the court  
708 where such records are kept, for good cause shown, otherwise orders or unless requested by the  
709 child or the parties. All such complaints, pleadings, papers or documents shall be segregated.

710 Section 28J. (a) A gestational surrogacy agreement that substantially complies with  
711 sections 28A, 28B and 28C shall be enforceable.

712 (b) If a child was conceived by assisted reproduction under a gestational surrogacy  
713 agreement that does not substantially comply with sections 28A, 28B and 28C, the court shall  
714 determine the rights and duties of the parties to the agreement consistent with the intent of the  
715 parties at the time of execution of the agreement. Each party to the agreement and any person  
716 who at the time of the execution of the agreement was a spouse of a party to the agreement shall  
717 have standing to commence a proceeding to adjudicate an issue related to the enforcement of the  
718 agreement.

719 (c) Except as expressly provided in a gestational surrogacy agreement or subsection (d)  
720 or (e), if the agreement is breached by the gestational surrogate or 1 or more intended parents,  
721 the non-breaching party shall be entitled to the remedies available at law or in equity.

722 (d) Specific performance shall not be an available remedy for breach by a gestational  
723 surrogate of a provision in an agreement that the gestational surrogate become pregnant,  
724 terminate or not terminate a pregnancy or submit to medical procedures.

725 (e) Except as otherwise provided in subsection (c), if an intended parent is determined to  
726 be a parent of the child pursuant to this chapter, specific performance shall be a remedy available  
727 for: (i) breach of the agreement by a gestational surrogate which prevents the intended parent  
728 from exercising, immediately on birth of the child, the full rights of parentage; or (ii) breach by  
729 the intended parent which prevents the intended parent's acceptance, immediately on birth of the  
730 child conceived by assisted reproduction under the agreement, of the duties of parentage.

731 Section 28K. (a) Except as otherwise provided in section 28N, a genetic surrogacy  
732 agreement shall be validated by a probate and family court. A proceeding to validate the  
733 agreement shall be commenced before assisted reproduction related to the surrogacy agreement.  
734 A complaint filed pursuant to this section shall include: (i) a copy of the executed surrogacy  
735 agreement; and (ii) certifications from the legal representatives of the intended parent or parents  
736 and the genetic surrogate that the requirements of sections 28A, 28B and 28C have been met.

737 (b) The court shall issue an order validating a genetic surrogacy agreement, within 60  
738 days of the commencement of such a proceeding, if the court finds by a preponderance of the  
739 evidence that: (i) sections 28A, 28B and 28C are satisfied; and (ii) all parties entered into the  
740 agreement voluntarily and understand its terms.

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

744 Section 28L. (a) An intended parent or genetic surrogate who is a party to the surrogacy  
745 agreement may terminate the agreement at any time before a gamete or embryo transfer or  
746 implantation by giving notice of termination in writing to all other parties. If a gamete or embryo

747 transfer or implantation does not result in a pregnancy, a party may terminate the agreement at  
748 any time before a subsequent gamete or embryo transfer or implantation. The party's signature  
749 on a notice of termination shall be attested by a notary.

750 (b) An intended parent or genetic surrogate who terminates the agreement after the court  
751 issues an order validating the agreement under sections 28K or 28N, but before the genetic  
752 surrogate becomes pregnant by means of assisted reproduction, shall file notice of the  
753 termination with the court.

754 (c) A person shall not terminate a validated genetic surrogacy agreement if a gamete or  
755 embryo transfer or implantation has resulted in a pregnancy.

756 (d) Upon the proper termination or completion of a genetic surrogacy agreement, the  
757 parties shall be released from all obligations under the agreement except that any intended parent  
758 or parents shall remain responsible for all expenses incurred by the genetic surrogate through the  
759 date of the completion which are reimbursable under the agreement. Unless the agreement  
760 provides otherwise, the genetic surrogate is not entitled to any non-expense related compensation  
761 paid for acting as a surrogate.

762 (e) Except in a case involving fraud, neither a genetic surrogate nor their spouse or  
763 former spouse, if any, shall be liable to the intended parent or parents for punitive or liquidated  
764 damages, for terminating a genetic surrogacy agreement in compliance with this section.

765 Section 28M. (a) Upon the birth of a child conceived by assisted reproduction under a  
766 genetic surrogacy agreement validated pursuant to section 28K or 28N, each intended parent  
767 shall be a parent of the resulting child.

768 (b) Upon the birth of a child conceived by assisted reproduction under a genetic  
769 surrogacy agreement validated under section 28K or 28N, the intended parent or parents shall  
770 file a notice with the court that validated said agreement that a child has been born as a result of  
771 assisted reproduction under that agreement. Upon receiving such notice, the court shall  
772 immediately, or as soon as practicable, issue an order without notice and hearing:

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

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

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

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

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

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

786 (c) Except as otherwise provided in subsection (d) or section 28O, if, due to a clinical or  
787 laboratory error, a child conceived by assisted reproduction under a genetic surrogacy agreement  
788 is not genetically related to an intended parent or a donor who donated to the intended parent or

789 parents, each intended parent and not the genetic surrogate and their spouse or former spouse, if  
790 any, shall be a parent of the child.

791 (d) If a child born to a genetic surrogate is alleged not to have been conceived by assisted  
792 reproduction, the court may, upon finding sufficient evidence, order genetic testing to determine  
793 the genetic parentage of the child. If the child was not conceived by assisted reproduction and the  
794 second source of genetic material is the spouse of the genetic surrogate, then the surrogate and  
795 the spouse shall be found to be the parents of the child. If the second genetic source is a person  
796 other than the spouse of the surrogate, then parentage shall be determined as provided in sections  
797 1 to 27, inclusive; provided, however, that if the second genetic source is an intended parent, the  
798 court, in its sole discretion, shall determine parentage under sections 1 to 27, inclusive. Unless  
799 the genetic surrogacy agreement provides otherwise, the genetic surrogate shall not be entitled to  
800 any non-expense related compensation paid for acting as a surrogate if the child was not  
801 conceived by assisted reproduction.

802 (e) If an intended parent fails to file the notice required under subsection (b), the person  
803 acting as genetic surrogate may file with the court, not later than 60 days after the birth of a child  
804 conceived by assisted reproduction under the genetic surrogacy agreement, notice that the child  
805 has been born to the genetic surrogate. On proof of a court order issued under sections 28K or  
806 28N validating the agreement, the court shall order that each intended parent is a parent of the  
807 child.

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

811 (b) If all parties agree, a court may validate a genetic surrogacy agreement after assisted  
812 reproduction has occurred and before the birth of a child conceived by assisted reproduction  
813 under the agreement if the court finds by a preponderance of the evidence that: (i) sections 28A,  
814 28B or 28C are satisfied; and (ii) all parties entered into the agreement voluntarily and  
815 understand its terms.

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

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

823 Section 28O. (a) Except as otherwise provided in sections 28M or 28N, upon the birth of  
824 a child conceived by assisted reproduction under a genetic surrogacy agreement, each intended  
825 parent shall be, by operation of law, a parent of the child, notwithstanding the death of an  
826 intended parent during the period between the transfer of a gamete or embryo and the birth of the  
827 child.

828 (b) Except as otherwise provided in sections 28M or 28N, an intended parent shall not be  
829 a parent of a child conceived by assisted reproduction under a genetic surrogacy agreement if the  
830 intended parent dies before the transfer of a gamete or embryo unless: (i) the agreement provides  
831 otherwise; and (ii) the transfer of the gamete or embryo occurs not later than 36 months after the

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

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

837 (b) Specific performance shall not be an available remedy for breach by a genetic  
838 surrogate of a requirement of a validated or nonvalidated genetic surrogacy agreement that the  
839 genetic surrogate become pregnant, terminate or not terminate a pregnancy or submit to medical  
840 procedures.

841 (c) Except as otherwise provided in subsection (b), specific performance shall be a  
842 remedy available for: (i) breach of a validated genetic surrogacy agreement by a genetic  
843 surrogate of a requirement which prevents an intended parent from exercising, immediately upon  
844 birth of the child, the full rights of parentage; or (ii) breach by an intended parent which prevents  
845 the intended parent's acceptance, immediately upon birth of the child, of the duties of parentage.

846 SECTION 65. The department of the trial court, in accordance with section 24 of chapter  
847 209C of the General Laws, shall update existing forms and promulgate new forms as necessary  
848 for use under said chapter 209C, which shall be in such form and language to permit a person to  
849 prepare and file such forms pro se.

850 SECTION 66. This act shall take effect on January 1, 2025.