

# SENATE . . . . . No. 2912

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July 30, 2024 -- Text of the Senate amendment to the House Bill to ensure legal parentage equality (House, No. 4750) (being the text of Senate, No. 2906, printed as amended)

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## 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 the parent or  
6 parents. In the record of birth of a child born to parents not married to each other, the name of  
7 and other facts relating to the other parent or parents shall not be recorded except as provided in  
8 section 2 of chapter 209C where parentage has been acknowledged or adjudicated under the laws  
9 of the 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 Section 4B of said chapter 46 is hereby repealed.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. Chapter 209C of the General Laws is hereby amended by striking out the  
20 title, as so appearing, and inserting in place thereof the following title:- NONMARITAL  
21 CHILDREN AND PARENTAGE OF CHILDREN.

22 SECTION 5. Section 1 of chapter 209C of the General Laws, as so appearing, is hereby  
23 amended by inserting after the first sentence the following sentence:- A child shall have the same  
24 rights and protections under law to parentage without regard to the marital status, gender, gender  
25 identity or sexual orientation of their parents or the circumstances of the child's birth, including  
26 whether the child was born as a result of assisted reproduction or surrogacy.

27 SECTION 6. Said section 1 of said chapter 209C, as so appearing, is hereby further  
28 amended by striking out, in lines 7 and 8, 14, 15 and 17, the word "paternity" and inserting in  
29 place thereof, in each instance, the following word:- parentage.

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 20, the words "child born out of wedlock" and inserting  
32 in place thereof, in each instance, the following words:- nonmarital child.

33 SECTION 8. Said section 1 of said chapter 209C, as so appearing, is hereby further  
34 amended by striking out, in lines 11 and 12, the words "a man and woman" and inserting in place  
35 thereof the following word:- persons.

36 SECTION 9. Said section 1 of said chapter 209C, as so appearing, is hereby further  
37 amended by striking out, in lines 20 and 25, the word “his”, and inserting in place thereof, in  
38 each instance, the following word:- their.

39 SECTION 10. Said chapter 209C is hereby further amended by inserting after section 1  
40 the following section:-

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

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

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

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

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

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

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

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

65 “Gestational surrogacy agreement”, a surrogacy agreement involving a gestational  
66 surrogate.

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

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

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

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

77 assisted reproduction pursuant to section 27; or (viii) surrogacy pursuant to sections 28 to 28P,  
78 inclusive.

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

81 “Presumed parent”, a person who is presumed to be a parent of a child pursuant to section  
82 6, unless the presumption is overcome in a judicial proceeding, a valid denial of parentage is  
83 made under section 11 or a court adjudicates the person to be a parent.

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

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

89 SECTION 11. Section 2 of said chapter 209C, as appearing in the 2022 Official Edition,  
90 is hereby amended by striking out, in line 1, the word “Paternity” and inserting in place thereof  
91 the following word:- Parentage.

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

95 SECTION 13. Section 3 of said chapter 209C, as so appearing, is hereby amended by  
96 striking out, in lines 3, 7, 32, 35 and 36 and 51, the word “paternity” and inserting in place  
97 thereof, in each instance, the following word:- parentage.

98 SECTION 14. Said section 3 of said chapter 209C, as so appearing, is hereby further  
99 amended by inserting after the word “parentage”, in line 4, the following words:- under this  
100 chapter.

101 SECTION 15. Said section 3 of said chapter 209C, as so appearing, is hereby further  
102 amended by striking out, in line 13, the word “his” and inserting in place thereof the following  
103 word:- their.

104 SECTION 16. Section 4 of said chapter 209C, as so appearing, is hereby amended by  
105 striking out, in lines 1 and 11, the word “paternity” and inserting in place thereof, in each  
106 instance, the following word:- parentage.

107 SECTION 17. Section 5 of said chapter 209C, as so appearing, is hereby amended by  
108 striking out, in lines 1 and 2, 19, 55, 60 and 62, the word “paternity” and inserting in place  
109 thereof, in each instance, the following word:- parentage.

110 SECTION 18. Said section 5 of said chapter 209C, as so appearing, is hereby further  
111 amended by striking out, in line 3, the word “mother” and inserting in place thereof the following  
112 words:- person who gave birth to the child.

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 21, the word “himself” and inserting in place thereof, in  
115 each instance, the following word:- themselves.

116 SECTION 20. Said section 5 of said chapter 209C, as so appearing, is hereby further  
117 amended by striking out, in lines 4 and 9, each time it appears, the word “father” and inserting in  
118 place thereof, in each instance, the following words:- other parent.

119 SECTION 21. Said section 5 of said chapter 209C, as so appearing, is hereby further  
120 amended by striking out, in line 7, the words “mother if the mother” and inserting in place  
121 thereof the following words:- person who gave birth to the child if that person.

122 SECTION 22. Said section 5 of said chapter 209C, as so appearing, is hereby further  
123 amended by striking out, in line 17, the words “mother of the child” and inserting in place  
124 thereof the following words:- person who gave birth to the child.

125 SECTION 23. Said section 5 of said chapter 209C, as so appearing, is hereby further  
126 amended by striking out, in lines 21 and 22, the words “father unless he is or was the mother’s  
127 husband” and inserting in place thereof the following words:- parent unless such parent is or was  
128 the spouse of the person who gave birth to the child.

129 SECTION 24. Said section 5 of said chapter 209C, as so appearing, is hereby further  
130 amended by striking out subsection (b) and inserting in place thereof the following subsection:-

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

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

153 SECTION 25. Section 6 of said chapter 209C, as so appearing, is hereby amended by  
154 striking out, in lines 1 and 2, the words “In all actions under this chapter a man is presumed to be  
155 the father of a child and must be joined as a party” and inserting in place thereof the following  
156 words:- A person is presumed to be the parent of a child and shall be joined as a party in all  
157 actions under this chapter.

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



161 SECTION 27. Said section 6 of said chapter 209C, as so appearing, is hereby further  
162 amended by striking out, in line 3, 7, 12 and 19, the word “mother” and inserting in place  
163 thereof, in each instance, the following words:- person who gave birth to the child.

164 SECTION 28. Said section 6 of said chapter 209C, as so appearing, is hereby further  
165 amended by striking out, in line 17, the word “paternity” and inserting in place thereof the  
166 following word:- parentage.

167 SECTION 29. Said section 6 of said chapter 209C, as so appearing, is hereby further  
168 amended by striking out, in lines 21 to 23, inclusive, the words “he has acknowledged paternity  
169 in a parental responsibility claim as provided in section four A of chapter two hundred and ten  
170 and the mother” and inserting in place thereof the following words:- the person has  
171 acknowledged parentage in a parental responsibility claim as provided in section 4A of chapter  
172 210 and the person who gave birth to the child.

173 SECTION 30. Said section 6 of said chapter 209C, as so appearing, is hereby further  
174 amended by striking out, in lines 25 to 27, inclusive, the words “his consent and the consent of  
175 the child’s mother, he is named as the child’s father” and inserting in place thereof the following  
176 words:- the person’s consent and the consent of the person who gave birth to the child, the  
177 person is named as the child’s parent.

178 SECTION 31. Said section 6 of said chapter 209C, as so appearing, is hereby further  
179 amended by striking out subsection (b) and inserting in place thereof the following subsection:-

180 (b) Notwithstanding subsection (a), a spouse or former spouse shall not be required to be  
181 joined as a party if that person’s non-parentage of the child has previously been adjudicated in a

182 proceeding between the spouse and the person who gave birth to the child in a court or  
183 administrative agency of competent jurisdiction.

184 SECTION 32. Section 7 of said chapter 209C, as so appearing, is hereby amended by  
185 striking out, in lines 3 and 4 and 8, the word “paternity” and inserting in place thereof, in each  
186 instance, the following word:- parentage.

187 SECTION 33. Section 8 of said chapter 209C, as so appearing, is hereby amended by  
188 striking out, in lines 1, 2, 5 and 15, the word “paternity” and inserting in place thereof, in each  
189 instance, the following word:- parentage.

190 SECTION 34. Said section 8 of said chapter 209C, as so appearing, is hereby further  
191 amended by striking out, in line 4, the word “his” and inserting in place thereof the following  
192 words:- the defendant’s.

193 SECTION 35. Said section 8 of said chapter 209C, as so appearing, is hereby further  
194 amended by striking out, in line 7, the words “mother or putative father submits” and inserting in  
195 place thereof the following words:- person who gave birth to the child or alleged genetic parent  
196 submits sufficient evidence of parentage, which may include evidence.

197 SECTION 36. Said section 8 of said chapter 209C, as so appearing, is hereby further  
198 amended by striking out, in lines 12 and 13, the words “father or mother” and inserting in place  
199 thereof the following word:- parent.

200 SECTION 37. Said section 8 of said chapter 209C, as so appearing, is hereby further  
201 amended by striking out, in line 16, the word “mother” and inserting in place thereof the  
202 following words:- person who gave birth to the child.

203 SECTION 38. Section 9 of said chapter 209C, as so appearing, is hereby amended by  
204 striking out, in line 21, the word “his” and inserting in place thereof the following words:- the  
205 defendant’s.

206 SECTION 39. Said section 9 of said chapter 209C, as so appearing, is hereby further  
207 amended by striking out, in line 27, the word “mother” and inserting in place thereof the  
208 following words: another parent.

209 SECTION 40. Subsection (a) of section 10 of said chapter 209C, as so appearing, is  
210 hereby amended by striking out the first paragraph and inserting in place thereof the following  
211 paragraph:-

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

215 SECTION 41. Said section 10 of said chapter 209C, as so appearing, is hereby further  
216 amended by striking out subsection (b) and inserting in place thereof the following subsection:-

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

222 SECTION 42. Section 11 of said chapter 209C, as so appearing, is hereby amended by  
223 striking out, in line 2, the words “putative father” and inserting in place thereof the following  
224 words:- alleged genetic parent, presumed parent or intended parent.

225 SECTION 43. Said section 11 of said chapter 209C, as so appearing, is hereby further  
226 amended by striking out, in line 3, the words “mother of” and inserting in place thereof the  
227 following words:- person who gave birth to.

228 SECTION 44. Said section 11 of said chapter 209C, as so appearing, is hereby further  
229 amended by striking out, in lines 7, 16, 20, 22 and 37, the word “paternity” and inserting in place  
230 thereof, in each instance, the following word:- parentage.

231 SECTION 45. Said section 11 of said chapter 209C, as so appearing, is hereby further  
232 amended by striking out, in line 21, the words “by such putative father and mother”.

233 SECTION 46. Subsection (a) of said section 11 of said chapter 209C, as so appearing, is  
234 hereby amended by striking out the tenth sentence and inserting in place thereof the following  
235 sentence:- If either party rescinds the acknowledgment in a timely fashion and the basis of the  
236 acknowledgment was genetic parentage, the court shall order genetic marker testing and proceed  
237 to adjudicate parentage or nonparentage in accordance with this chapter; provided, however, that  
238 the rescinded acknowledgment shall constitute the proper showing required for an order to  
239 submit to such testing; and provided further, that the rescinded acknowledgment shall be  
240 admissible as evidence of the alleged genetic parent’s parentage and shall serve as sufficient  
241 basis for admitting the report of the results of genetic marker tests.

242 SECTION 47. Said section 11 of said chapter 209C, as so appearing, is hereby further  
243 amended by striking out, in line 56, the word “nonpaternity” and inserting in place thereof the  
244 following word:- nonparentage.

245 SECTION 48. Said section 11 of said chapter 209C, as so appearing, is hereby further  
246 amended by striking out, in line 59, the words “a mother and father” and inserting in place  
247 thereof the following word:- parents.

248 SECTION 49. Section 12 of said chapter 209C, as so appearing, is hereby amended by  
249 striking out, in line 2, the word “paternity” and inserting in place thereof the following word:-  
250 parentage.

251 SECTION 50. Section 13 of said chapter 209C, as so appearing, is hereby amended by  
252 striking out, in lines 1 and 2, the words “paternity or in which paternity” and inserting in place  
253 thereof the following words:- parentage or in which parentage.

254 SECTION 51. Said section 13 of said chapter 209C, as so appearing, is hereby further  
255 amended by striking out, in lines 7 to 9, inclusive, the words “father is adjudicated not to be the  
256 father of the child; provided, however, that the child, the child’s mother, the person adjudicated  
257 to be the father” and inserting in place thereof the following words:- parent is adjudicated not to  
258 be the parent of the child; provided, however, that the child, the person who gave birth to the  
259 child, the person adjudicated to be the parent.

260 SECTION 52. Said chapter 209C is hereby further amended by striking out section 14, as  
261 so appearing, and inserting in place thereof the following section:-

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

269 SECTION 53. Section 16 of said chapter 209C, as so appearing, is hereby amended by  
270 striking out subsections (c) to (e), inclusive, and inserting in place thereof the following 3  
271 subsections:-

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

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

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

284 SECTION 54. Said section 16 of said chapter 209C, as so appearing, is hereby further  
285 amended by striking out, in line 25, the word “mother” and inserting in place thereof the  
286 following words:- person who gave birth to the child.

287 SECTION 55. Said section 16 of said chapter 209C, as so appearing, is hereby further  
288 amended by striking out, in line 36, the word “paternity” and inserting in place thereof the  
289 following word:- parentage.

290 SECTION 56. Section 17 of said chapter 209C, as so appearing, is hereby amended by  
291 striking out, in lines 1 and 2, the words “paternity of a child born out of wedlock” and inserting  
292 in place thereof the following words:- parentage of a nonmarital child based on alleged genetic  
293 parentage.

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 and 28, the word “mother” and inserting in  
296 place thereof, in each instance, the following words:- person who gave birth to the child.

297 SECTION 58. Said section 17 of said chapter 209C, as so appearing, is hereby further  
298 amended by striking out, in lines 4, 9, 10, 13, 26, 28, 31, 48 and 49, the words “putative father”  
299 and inserting in place thereof, in each instance, the following words:- alleged genetic parent.

300 SECTION 59. Said section 17 of said chapter 209C, as so appearing, is hereby further  
301 amended by striking out, in lines 21 and 22, the words “putative father’s” and inserting in place  
302 thereof the following words:- alleged genetic parent’s.

303 SECTION 60. Said section 17 of said chapter 209C, as so appearing, is hereby further  
304 amended by striking out, in lines 22 and 30, the word “paternity” and inserting in place thereof,  
305 in each instance, the following words:- genetic parentage.

306 SECTION 61. Said section 17 of said chapter 209C, as so appearing, is hereby further  
307 amended by striking out, in lines 31 and 32 and in line 49, the first time it appears, the word  
308 “father” and inserting in place thereof, in each instance, the following word:- parent.

309 SECTION 62. Said section 17 of said chapter 209C, as so appearing, is hereby further  
310 amended by adding the following sentence:- Genetic testing shall not be used to challenge the  
311 parentage of an individual who is a parent under sections 25, 27 and 28 to 28P, inclusive, or to  
312 establish the parentage of an individual who is a donor as provided in said sections.

313 SECTION 63. Section 21 of said chapter 209C, as so appearing, is hereby amended by  
314 striking out, in line 4, the word “paternity” and inserting in place thereof the following word:-  
315 parentage.

316 SECTION 64. Section 23 of said chapter 209C, as so appearing, is hereby amended by  
317 striking out, in lines 1, 10, 11 and 14, the word “paternity”, and inserting in place thereof, in each  
318 instance, the following word:- parentage.

319 SECTION 65. Said chapter 209C is hereby further amended by adding the following 20  
320 sections:-

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



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

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

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

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

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

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

350 (i) the plaintiff is or was the defendant to: (A) an abuse prevention order issued after  
351 notice and hearing pursuant to chapter 209A; (B) a protection order issued pursuant to section  
352 34B or 34C of chapter 208; or (C) a harassment prevention order issued pursuant to chapter  
353 258E, involving the child, a parent of the child or a household member of the child;

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

357 (iii) a defendant parent has been an active deployed member of the military during the  
358 past 3 years;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

520 (n) A spouse who has commenced an action for divorce, or a spouse who has been served  
521 with a complaint for divorce, may begin assisted reproduction pursuant to this section; provided,  
522 however, that the spouse that does not begin assisted reproduction pursuant to this section shall  
523 not be a parent of any child born as a result of the assisted reproduction unless both parties  
524 consent in writing to be parents of the child after commencement of the divorce action. A spouse  
525 who proceeds with assisted reproduction pursuant to this section shall not utilize gametes of their  
526 spouse unless their spouse consents in writing to the use of their gametes for assisted  
527 reproduction by the spouse after commencement of a divorce action.

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

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

536 Section 28A. (a) To execute a surrogacy agreement to act as a surrogate, a person shall:  
537 (i) be not less than 21 years of age; (ii) have previously given birth to at least 1 child; (iii)

538 complete a medical evaluation by a licensed physician related to surrogacy; and (iv) complete a  
539 mental health consultation by a licensed mental health professional that is independent of the  
540 health care providers or facility undertaking any assisted reproduction procedure contemplated  
541 by the surrogacy agreement.

542 (b) To execute a surrogacy agreement as an intended parent, whether or not genetically  
543 related to the child, a person shall: (i) be not less than 21 years of age; and (ii) complete a mental  
544 health consultation by a licensed mental health professional that is independent of the health care  
545 providers or facility undertaking any assisted reproduction procedure contemplated by the  
546 surrogacy agreement.

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

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

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

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

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

556 (v) the agreement is executed prior to a medical procedure attempting to cause a  
557 pregnancy in the prospective surrogate, other than the medical evaluation and mental health

558 consultation required by section 28A, and, in every instance, before transfer of embryos or  
559 gametes;

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

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

563 (viii) the prospective surrogate, the surrogate's spouse, if any, and each intended parent  
564 have independent legal representation regarding the terms and potential legal consequences of  
565 the surrogacy agreement, paid for by the intended parent or parents, and each legal representative  
566 shall be identified in the surrogacy agreement; provided, however, that a single attorney for the  
567 prospective surrogate and their spouse and a single attorney for the intended parents shall be  
568 sufficient to meet this requirement; and

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

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

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

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

584 (iii) the intended parent or, if there are more than 1 intended parents, each parent jointly  
585 and severally: (A) except as otherwise provided in sections 28G, 28J, 28M and 28N, agree to be  
586 the exclusive parent or parents and accept parental rights and responsibilities of all resulting  
587 children regardless of the number of children born or the gender or condition of each child; and  
588 (B) except as otherwise provided in sections 28G, 28J, 28M and 28N, agree to assume  
589 responsibility for the financial support of all resulting children immediately upon the birth of the  
590 children regardless of the number of children born or the gender or condition of each child.

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

599 (c) The surrogacy agreement shall not infringe on the rights of the surrogate to make all  
600 health decisions regarding the surrogate, the surrogate's body and the surrogate's pregnancy

601 throughout the duration of the surrogacy agreement, including during attempts to become  
602 pregnant, pregnancy, labor and delivery and post-partum. The surrogacy agreement shall not  
603 infringe upon the right of the surrogate to autonomy in medical decision making, including, but  
604 not limited to, whether to consent to a caesarean section and whether to undergo multiple embryo  
605 transfers. Except as otherwise provided by law, any written or oral agreement purporting to  
606 waive or limit these rights shall be void as against public policy.

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

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

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

615 Section 28D. Unless a surrogacy agreement expressly provides otherwise: (i) the validity  
616 of a surrogacy agreement shall not be affected by the marriage of the surrogate or of an intended  
617 parent after the surrogacy agreement has been signed by all parties and in such instances: (A) the  
618 surrogate's spouse's or intended parent's spouse's consent to the surrogacy agreement shall not  
619 be required; and (B) the surrogate's spouse or intended parent's spouse shall not be a presumed  
620 parent of a child conceived by assisted reproduction under the surrogacy agreement; or (ii) the  
621 divorce or marriage annulment of the surrogate or of an intended parent after the surrogacy  
622 agreement has been signed by all parties shall not affect the validity of the surrogacy agreement.

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

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

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

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

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

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

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

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

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



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

671 Section 28I. (a) Except as otherwise provided in subsection (c) of section 28G or section  
672 28J, before, on or after the birth of a child conceived by assisted reproduction under a gestational  
673 surrogacy agreement, any party to the agreement may commence a proceeding for a judgment of  
674 parentage:

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

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

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

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

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

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

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

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

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

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

704 (e) Upon a finding by a preponderance of the evidence that the complaint satisfies  
705 subsection (d), a court shall expeditiously, but not later than 60 days from the docketing of the  
706 complaint, issue a judgment of parentage. Parentage judgments issued under this section shall  
707 conclusively establish or affirm, where applicable, the parent-child relationship for all purposes.

708 Custody, parenting time, visitation and child support for a nonmarital child shall be determined  
709 in accordance with applicable laws, rules, regulations, orders and guidelines.

710 (f) In the event the certification required by subsection (d) cannot be made because of a  
711 technical or nonmaterial deviation from the requirements of sections 28A, 28B and 28C, the  
712 court with competent jurisdiction may enforce the agreement and issue a judgment of parentage  
713 if the court determines the agreement is in substantial compliance with the requirements of said  
714 sections.

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

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

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

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

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

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

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

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

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

754 Section 28L. (a) An intended parent or genetic surrogate who is a party to the surrogacy  
755 agreement may terminate the agreement at any time before a gamete or embryo transfer or  
756 implantation by giving notice of termination in writing to all other parties. If a gamete or embryo  
757 transfer or implantation does not result in a pregnancy, a party may terminate the agreement at  
758 any time before a subsequent gamete or embryo transfer or implantation. The party's signature  
759 on a notice of termination shall be attested by a notary.

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

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

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

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

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

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

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

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

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

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

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

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

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

801 (d) If a child born to a genetic surrogate is alleged not to have been conceived by assisted  
802 reproduction, the court may, upon finding sufficient evidence, order genetic testing to determine  
803 the genetic parentage of the child. If the child was not conceived by assisted reproduction and the  
804 second source of genetic material is the spouse of the genetic surrogate, then the surrogate and  
805 the spouse shall be found to be the parents of the child. If the second genetic source is a person  
806 other than the spouse of the surrogate, then parentage shall be determined as provided in sections  
807 1 to 27, inclusive; provided, however, that if the second genetic source is an intended parent, the  
808 court, in its sole discretion, shall determine parentage under sections 1 to 27, inclusive. Unless  
809 the genetic surrogacy agreement provides otherwise, the genetic surrogate shall not be entitled to  
810 any non-expense related compensation paid for acting as a surrogate if the child was not  
811 conceived by assisted reproduction.

812 (e) If an intended parent fails to file the notice required under subsection (b), the person  
813 acting as genetic surrogate may file with the court, not later than 60 days after the birth of a child  
814 conceived by assisted reproduction under the genetic surrogacy agreement, notice that the child

815 has been born to the genetic surrogate. On proof of a court order issued under sections 28K or  
816 28N validating the agreement, the court shall order that each intended parent is a parent of the  
817 child.

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

821 (b) If all parties agree, a court may validate a genetic surrogacy agreement after assisted  
822 reproduction has occurred and before the birth of a child conceived by assisted reproduction  
823 under the agreement if the court finds by a preponderance of the evidence that: (i) sections 28A,  
824 28B or 28C are satisfied; and (ii) all parties entered into the agreement voluntarily and  
825 understand its terms.

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

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

833 Section 28O. (a) Except as otherwise provided in sections 28M or 28N, upon the birth of  
834 a child conceived by assisted reproduction under a genetic surrogacy agreement, each intended  
835 parent shall be, by operation of law, a parent of the child, notwithstanding the death of an



836 intended parent during the period between the transfer of a gamete or embryo and the birth of the  
837 child.

838 (b) Except as otherwise provided in sections 28M or 28N, an intended parent shall not be  
839 a parent of a child conceived by assisted reproduction under a genetic surrogacy agreement if the  
840 intended parent dies before the transfer of a gamete or embryo unless: (i) the agreement provides  
841 otherwise; and (ii) the transfer of the gamete or embryo occurs not later than 36 months after the  
842 death of the intended parent, or birth of the child occurs not later than 45 months after the death  
843 of the intended parent.

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

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

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

856 SECTION 66. The trial court of the commonwealth, in accordance with section 24 of  
857 chapter 209C of the General Laws, shall update existing forms and promulgate new forms as

858 necessary for use under said chapter 209C, which shall be in such form and language to permit a  
859 person to prepare and file such forms pro se.

860 SECTION 67. This act shall take effect on January 1, 2025.