

UNIFORM PARENTAGE ACT (2017)

drafted by the

NATIONAL CONFERENCE OF COMMISSIONERS
ON UNIFORM STATE LAWS

and by it

APPROVED AND RECOMMENDED FOR ENACTMENT
IN ALL THE STATES

at its

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NATIONAL CONFERENCE OF COMMISSIONERS
ON UNIFORM STATE LAWS

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UNIFORM PARENTAGE ACT (2017)

[ARTICLE] 1

GENERAL PROVISIONS

SECTION 101. SHORT TITLE. This [act] may be cited as the Uniform Parentage Act (2017).

SECTION 102. DEFINITIONS. In this [act]:

(1) “Acknowledged parent” means an individual who has established a parent-child relationship under [Article] 3.

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

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

(A) a presumed parent;

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

(C) a donor.

(4) “Assisted reproduction” means a method of causing pregnancy other than sexual intercourse. The term includes:

(A) intrauterine or intracervical insemination;

(B) donation of gametes;

(C) donation of embryos;

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

(E) intracytoplasmic sperm injection.

(5) “Birth” includes stillbirth.

(6) “Child” means an individual of any age whose parentage may be determined under this [act].

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

(8) “Determination of parentage” means establishment of a parent-child relationship by a judicial or administrative proceeding or signing of a valid acknowledgment of parentage under [Article] 3.

(9) “Donor” means an individual who provides gametes intended for use in assisted reproduction, whether or not for consideration. The term does not include:

(A) a woman who gives birth to a child conceived by assisted reproduction[, except as otherwise provided in [Article] 8]; or

(B) a parent under [Article] 7[or an intended parent under [Article] 8].

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

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

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

(13) “Intended parent” means an individual, married or unmarried, who manifests an intent to be legally bound as a parent of a child conceived by assisted reproduction.

(14) “Man” means a male individual of any age.

(15) “Parent” means an individual who has established a parent-child relationship under Section 201.

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

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

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

(19) “Sign” means, with present intent to authenticate or adopt a record:

(A) to execute or adopt a tangible symbol; or

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

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

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

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

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

(24) “Woman” means a female individual of any age.

SECTION 103. SCOPE.

(a) This [act] applies to an adjudication or determination of parentage.

(b) This [act] does not create, affect, enlarge, or diminish parental rights or duties under law of this state other than this [act].

[(c) This [act] does not authorize or prohibit an agreement between one or more intended parents and a woman who is not an intended parent in which the woman agrees to become pregnant through assisted reproduction and which provides that each intended parent is a parent of a child conceived through assisted reproduction. If a birth results under the agreement and the agreement is unenforceable under [cite to law of this state regarding surrogacy agreements], the parent-child relationship is established as provided in [Articles] 1 through 6.]

Legislative Note: A state should enact subsection (c) if the state does not enact Article 8 or otherwise does not permit surrogacy agreements.

SECTION 104. AUTHORIZED COURT. The [designate court] may adjudicate parentage under this [act].

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

- (1) the place of birth of the child; or
- (2) the past or present residence of the child.

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

SECTION 107. ESTABLISHMENT OF MATERNITY AND PATERNITY. To the extent practicable, a provision of this [act] applicable to a father-child relationship applies to a mother-child relationship and a provision of this [act] applicable to a mother-child relationship applies to a father-child relationship.

[ARTICLE] 2

PARENT-CHILD RELATIONSHIP

SECTION 201. ESTABLISHMENT OF PARENT-CHILD RELATIONSHIP. A parent-child relationship is established between an individual and a child if:

- (1) the individual gives birth to the child[, except as otherwise provided in [Article] 8];
- (2) there is a presumption under Section 204 of the individual's parentage of the child, unless the presumption is overcome in a judicial proceeding or a valid denial of parentage is made under [Article] 3;
- (3) the individual is adjudicated a parent of the child under [Article] 6;
- (4) the individual adopts the child;
- (5) the individual acknowledges parentage of the child under [Article] 3, unless the acknowledgment is rescinded under Section 308 or successfully challenged under [Article] 3 or 6;[or]
- (6) the individual's parentage of the child is established under [Article] 7[; or
- (7) the individual's parentage of the child is established under [Article] 8].

Legislative Note: *A state should include paragraph (7) if the state includes Article 8 in this act. If the state does not enact Article 8 but otherwise permits and recognizes surrogacy agreements by statute, the state should include a reference to the statute in paragraph (7).*

SECTION 202. NO DISCRIMINATION BASED ON MARITAL STATUS OF PARENT. A parent-child relationship extends equally to every child and parent, regardless of

the marital status of the parent.

SECTION 203. CONSEQUENCES OF ESTABLISHING PARENTAGE. Unless parental rights are terminated, a parent-child relationship established under this [act] applies for all purposes, except as otherwise provided by law of this state other than this [act].

SECTION 204. PRESUMPTION OF PARENTAGE.

(a) An individual is presumed to be a parent of a child if:

(1) except as otherwise provided under[[Article] 8 or] law of this state other than this [act]:

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

(B) the individual and the woman who gave birth to the child were married to each other and the child is born not later than 300 days after the marriage is terminated by death, [divorce, dissolution, annulment, or declaration of invalidity, or after a decree of separation or separate maintenance], whether the marriage is or could be declared invalid; or

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

(i) the assertion is in a record filed with the [state agency maintaining birth records]; or

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

(2) the individual resided in the same household with the child for the first two years of the life of the child, including any period of temporary absence, and openly held out the child as the individual's child.

(b) A presumption of parentage under this section may be overcome, and competing claims to parentage may be resolved, only by an adjudication under [Article] 6 or a valid denial of parentage under [Article] 3.

Legislative Note: A state should use its own terms for the proceedings identified in the bracketed language in subsection (a)(1)(B).

[ARTICLE] 3

VOLUNTARY ACKNOWLEDGMENT OF PARENTAGE

SECTION 301. ACKNOWLEDGMENT OF PARENTAGE. A woman who gave birth to a child and an alleged genetic father of the child, intended parent under [Article] 7, or presumed parent may sign an acknowledgment of parentage to establish the parentage of the child.

SECTION 302. EXECUTION OF ACKNOWLEDGMENT OF PARENTAGE.

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

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

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

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

(B) does not have another acknowledged parent, adjudicated parent, or individual who is a parent of the child under [Article] 7[or 8] other than the woman who gave

birth to the child; and

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

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

(1) an individual other than the individual seeking to establish parentage is a presumed parent, unless a denial of parentage by the presumed parent in a signed record is filed with the [state agency maintaining birth records]; or

(2) an individual, other than the woman who gave birth to the child or the individual seeking to establish parentage, is an acknowledged or adjudicated parent or a parent under [Article] 7[or 8].

SECTION 303. DENIAL OF PARENTAGE. A presumed parent or alleged genetic parent may sign a denial of parentage in a record. The denial of parentage is valid only if:

(1) an acknowledgment of parentage by another individual is filed under Section 305;

(2) the signature of the presumed parent or alleged genetic parent is attested by a notarial officer or witnessed; and

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

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

or

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

SECTION 304. RULES FOR ACKNOWLEDGMENT OR DENIAL OF PARENTAGE.

(a) An acknowledgment of parentage and a denial of parentage may be contained in a single document or may be in counterparts and may be filed with the [state agency maintaining birth records] separately or simultaneously. If filing of the acknowledgment and denial both are required under this [act], neither is effective until both are filed.

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

(c) Subject to subsection (a), an acknowledgment of parentage or denial of parentage takes effect on the birth of the child or filing of the document with the [state agency maintaining birth records], whichever occurs later.

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

SECTION 305. EFFECT OF ACKNOWLEDGMENT OR DENIAL OF PARENTAGE.

(a) Except as otherwise provided in Sections 308 and 309, an acknowledgment of parentage that complies with this [article] and is filed with the [state agency maintaining birth records] is equivalent to an adjudication of parentage of the child and confers on the acknowledged parent all rights and duties of a parent.

(b) Except as otherwise provided in Sections 308 and 309, a denial of parentage by a presumed parent or alleged genetic parent which complies with this [article] and is filed with the [state agency maintaining birth records] with an acknowledgment of parentage that complies with this [article] is equivalent to an adjudication of the nonparentage of the presumed parent or

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

SECTION 306. NO FILING FEE. The [state agency maintaining birth records] may not charge a fee for filing an acknowledgment of parentage or denial of parentage.

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

SECTION 308. PROCEDURE FOR RESCISSION.

(a) A signatory may rescind an acknowledgment of parentage or denial of parentage by filing with the [relevant state agency] a rescission in a signed record which is attested by a notarial officer or witnessed, before the earlier of:

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

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

(b) If an acknowledgment of parentage is rescinded under subsection (a), an associated denial of parentage is invalid, and the [state agency maintaining birth records] shall notify the woman who gave birth to the child and the individual who signed a denial of parentage of the child that the acknowledgment has been rescinded. Failure to give the notice required by this subsection does not affect the validity of the rescission.

SECTION 309. CHALLENGE AFTER EXPIRATION OF PERIOD FOR RESCISSION.

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

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

SECTION 310. PROCEDURE FOR CHALLENGE BY SIGNATORY.

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

(b) By signing an acknowledgment of parentage or denial of parentage, a signatory submits to personal jurisdiction in this state in a proceeding to challenge the acknowledgment or denial, effective on the filing of the acknowledgment or denial with the [state agency maintaining birth records].

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

(d) A party challenging an acknowledgment of parentage or denial of parentage has the burden of proof.

(e) If the court determines that a party has satisfied the burden of proof under subsection

(d), the court shall order the [state agency maintaining birth records] to amend the birth record of the child to reflect the legal parentage of the child.

(f) A proceeding to challenge an acknowledgment of parentage or denial of parentage must be conducted under [Article] 6.

SECTION 311. FULL FAITH AND CREDIT. The court shall give full faith and credit to an acknowledgment of parentage or denial of parentage effective in another state if the acknowledgment or denial was in a signed record and otherwise complies with law of the other state.

SECTION 312. FORMS FOR ACKNOWLEDGMENT AND DENIAL OF PARENTAGE.

(a) The [state agency maintaining birth records] shall prescribe forms for an acknowledgment of parentage and denial of parentage.

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

SECTION 313. RELEASE OF INFORMATION. The [state agency maintaining birth records] may release information relating to an acknowledgment of parentage or denial of parentage to a signatory of the acknowledgment or denial, a court, federal agency, and child-support agency of this or another state.

[SECTION 314. ADOPTION OF RULES. The [state agency maintaining birth records] may adopt rules under [state administrative procedure act] to implement this [article].]

Legislative Note: A state should include Section 314 unless the provision is unnecessary or is inconsistent with other law of the state regarding agency rulemaking authority.

[ARTICLE] 4

REGISTRY OF PATERNITY

[PART] 1

GENERAL PROVISIONS

SECTION 401. ESTABLISHMENT OF REGISTRY. A registry of paternity is established in the [state agency maintaining the registry].

SECTION 402. REGISTRATION FOR NOTIFICATION.

(a) Except as otherwise provided in subsection (b) or Section 405, a man who desires to be notified of a proceeding for adoption of, or termination of parental rights regarding, his genetic child must register in the registry of paternity established by Section 401 before the birth of the child or not later than 30 days after the birth.

(b) A man is not required to register under subsection (a) if[

(1)] a parent-child relationship between the man and the child has been established under this [act] or law of this state other than this [act][; or

(2) the man commences a proceeding to adjudicate his parentage before a court has terminated his parental rights].

(c) A man who registers under subsection (a) shall notify the registry promptly in a record of any change in the information registered. The [state agency maintaining the registry] shall incorporate new information received into its records but need not seek to obtain current information for incorporation in the registry.

SECTION 403. NOTICE OF PROCEEDING. An individual who seeks to adopt a child or terminate parental rights to the child shall give notice of the proceeding to a man who has registered timely under Section 402(a) regarding the child. Notice must be given in a manner

prescribed for service of process in a civil proceeding in this state.

SECTION 404. TERMINATION OF PARENTAL RIGHTS: CHILD UNDER ONE YEAR OF AGE. An individual who seeks to terminate parental rights to or adopt a child is not required to give notice of the proceeding to a man who may be the genetic father of the child if:

- (1) the child is under one year of age at the time of the termination of parental rights;
- (2) the man did not register timely under Section 402(a); and
- (3) the man is not exempt from registration under Section 402(b).

SECTION 405. TERMINATION OF PARENTAL RIGHTS: CHILD AT LEAST ONE YEAR OF AGE. If a child is at least one year of age, an individual seeking to adopt or terminate parental rights to the child shall give notice of the proceeding to each alleged genetic father of the child, whether or not he has registered under Section 402(a) unless his parental rights have already been terminated. Notice must be given in a manner prescribed for service of process in a civil proceeding in this state.

[PART] 2

OPERATION OF REGISTRY

SECTION 406. REQUIRED FORM.

(a) The [state agency maintaining the registry] shall prescribe a form for registering under Section 402(a). The form must state that:

- (1) the man who registers signs the form under penalty of perjury;
- (2) timely registration entitles the man who registers to notice of a proceeding for adoption of the child or termination of the parental rights of the man;
- (3) timely registration does not commence a proceeding to establish parentage;

(4) the information disclosed on the form may be used against the man who registers to establish parentage;

(5) services to assist in establishing parentage are available to the man who registers through [the appropriate child-support agency];

(6) the man who registers also may register in a registry of paternity in another state if conception or birth of the child occurred in the other state;

(7) information on registries of paternity of other states is available from [the appropriate state agency]; and

(8) procedures exist to rescind the registration.

(b) A man who registers under Section 402(a) shall sign the form described in subsection (a) under penalty of perjury.

SECTION 407. FURNISHING INFORMATION; CONFIDENTIALITY.

(a) The [state agency maintaining the registry] is not required to seek to locate the woman who gave birth to the child who is the subject of a registration under Section 402(a), but the [state agency maintaining the registry] shall give notice of the registration to the woman if the [state agency maintaining the registry] has her address.

(b) Information contained in the registry of paternity established by Section 401 is confidential and may be released on request only to:

(1) a court or individual designated by the court;

(2) the woman who gave birth to the child who is the subject of the registration;

(3) an agency authorized by law of this state other than this [act], law of another state, or federal law to receive the information;

(4) a licensed child-placing agency;

(5) a child-support agency;

(6) a party or the party's attorney of record in a proceeding under this [act] or in a proceeding to adopt or terminate parental rights to the child who is the subject of the registration; and

(7) a registry of paternity in another state.

SECTION 408. PENALTY FOR RELEASING INFORMATION. An individual who intentionally releases information from the registry of paternity established by Section 401 to an individual or agency not authorized under Section 407(b) to receive the information commits a [appropriate level misdemeanor].

SECTION 409. RESCISSION OF REGISTRATION. A man who registers under Section 402(a) may rescind his registration at any time by filing with the registry of paternity established by Section 401 a rescission in a signed record that is attested by a notarial officer or witnessed.

SECTION 410. UNTIMELY REGISTRATION. If a man registers under Section 402(a) more than 30 days after the birth of the child, the [state agency maintaining the registry] shall notify the man who registers that, based on a review of the registration, the registration was not filed timely.

SECTION 411. FEES FOR REGISTRY.

(a) The [state agency maintaining the registry] may not charge a fee for filing a registration under Section 402(a) or rescission of registration under Section 409.

(b) [Except as otherwise provided in subsection (c), the][The] [state agency maintaining the registry] may charge a reasonable fee to search the registry of paternity established by Section 401 and for furnishing a certificate of search under Section 414.

[(c) A child-support agency [is][and other appropriate agencies, if any, are] not required to pay a fee authorized by subsection (b).]

Legislative Note: A state should include subsection (c) if the state does not require certain agencies to pay a fee authorized by subsection (b).

[PART] 3

SEARCH OF REGISTRY

SECTION 412. CHILD BORN THROUGH ASSISTED REPRODUCTION: SEARCH OF REGISTRY INAPPLICABLE. This [part] does not apply to a child born through assisted reproduction.

SECTION 413. SEARCH OF APPROPRIATE REGISTRY. If a parent-child relationship has not been established under this [act] between a child who is under one year of age and an individual other than the woman who gave birth to the child:

(1) an individual seeking to adopt or terminate parental rights to the child shall obtain a certificate of search under Section 414 to determine if a registration has been filed in the registry of paternity established by Section 401 regarding the child; and

(2) if the individual has reason to believe that conception or birth of the child may have occurred in another state, the individual shall obtain a certificate of search from the registry of paternity, if any, in that state.

SECTION 414. CERTIFICATE OF SEARCH OF REGISTRY.

(a) The [state agency maintaining the registry] shall furnish a certificate of search of the registry of paternity established by Section 401 on request to an individual, court, or agency identified in Section 407(b) or an individual required under Section 413(1) to obtain a certificate.

(b) A certificate furnished under subsection (a):

(1) must be signed on behalf of the [state agency maintaining the registry] and

state that:

(A) a search has been made of the registry; and

(B) a registration under Section 402(a) containing the information required

to identify the man who registers:

(i) has been found; or

(ii) has not been found; and

(2) if paragraph (1)(B)(i) applies, must have a copy of the registration attached.

(c) An individual seeking to adopt or terminate parental rights to a child must file with the court the certificate of search furnished under subsection (a) and Section 413(2), if applicable, before a proceeding to adopt or terminate parental rights to the child may be concluded.

SECTION 415. ADMISSIBILITY OF REGISTERED INFORMATION. A certificate of search of a registry of paternity in this or another state is admissible in a proceeding for adoption of or termination of parental rights to a child and, if relevant, in other legal proceedings.

[ARTICLE] 5

GENETIC TESTING

SECTION 501. DEFINITIONS. In this [article]:

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

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

(3) “Hypothesized genetic relationship” means an asserted genetic relationship between

an individual and a child.

(4) “Probability of parentage” means, for the ethnic or racial group to which an individual alleged to be a parent belongs, the probability that a hypothesized genetic relationship is supported, compared to the probability that a genetic relationship is supported between the child and a random individual of the ethnic or racial group used in the hypothesized genetic relationship, expressed as a percentage incorporating the combined relationship index and a prior probability.

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

SECTION 502. SCOPE OF [ARTICLE]; LIMITATION ON USE OF GENETIC TESTING.

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

- (1) voluntarily submits to testing; or
- (2) is tested under an order of the court or a child-support agency.

(b) Genetic testing may not be used:

- (1) to challenge the parentage of an individual who is a parent under [Article] 7[or 8]; or
- (2) to establish the parentage of an individual who is a donor.

Legislative Note: A state should include the bracketed reference to Article 8 if the state includes Article 8 in this act.

SECTION 503. AUTHORITY TO ORDER OR DENY GENETIC TESTING.

(a) Except as otherwise provided in this [article] or [Article] 6, in a proceeding under this [act] to determine parentage, the court shall order the child and any other individual to submit to genetic testing if a request for testing is supported by the sworn statement of a party:

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

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

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

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

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

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

(f) In a proceeding to adjudicate the parentage of a child having a presumed parent or an individual who claims to be a parent under Section 609, or to challenge an acknowledgment of parentage, the court may deny a motion for genetic testing of the child and any other individual after considering the factors in Section 613(a) and (b).

(g) If an individual requesting genetic testing is barred under [Article] 6 from establishing the individual's parentage, the court shall deny the request for genetic testing.

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

SECTION 504. REQUIREMENTS FOR GENETIC TESTING.

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

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

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

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

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

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

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

(A) if the requested frequencies are not available to the laboratory for the ethnic or racial group requested, provide the requested frequencies compiled in a manner recognized by accrediting bodies; or

(B) engage another laboratory to perform the calculations.

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

(d) If, after recalculation of the relationship index under subsection (c) using a different ethnic or racial group, genetic testing under Section 506 does not identify an individual as a genetic parent of a child, the court may require an individual who has been tested to submit to additional genetic testing to identify a genetic parent.

SECTION 505. REPORT OF GENETIC TESTING.

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

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

- (1) the name and photograph of each individual whose specimen has been taken;
- (2) the name of the individual who collected each specimen;
- (3) the place and date each specimen was collected;
- (4) the name of the individual who received each specimen in the testing

laboratory; and

- (5) the date each specimen was received.

SECTION 506. GENETIC TESTING RESULTS; CHALLENGE TO RESULTS.

(a) Subject to a challenge under subsection (b), an individual is identified under this [act]

as a genetic parent of a child if genetic testing complies with this [article] and the results of the testing disclose:

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

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

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

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

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

than:

(A) the woman who gave birth to the child; or

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

(c) Except as otherwise provided in Section 511, if more than one individual other than the woman who gave birth is identified by genetic testing as a possible genetic parent of the child, the court shall order each individual to submit to further genetic testing to identify a genetic parent.

SECTION 507. COST OF GENETIC TESTING.

(a) Subject to assessment of fees under [Article] 6, payment of the cost of initial genetic testing must be made in advance:

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

- (2) by the individual who made the request for genetic testing;
- (3) as agreed by the parties; or
- (4) as ordered by the court.

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

SECTION 508. ADDITIONAL GENETIC TESTING. The court or child-support agency shall order additional genetic testing on request of an individual who contests the result of the initial testing under Section 506. If initial genetic testing under Section 506 identified an individual as a genetic parent of the child, the court or agency may not order additional testing unless the contesting individual pays for the testing in advance.

SECTION 509. GENETIC TESTING WHEN SPECIMEN NOT AVAILABLE.

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

- (1) a parent of the alleged genetic parent;
- (2) a sibling of the alleged genetic parent;
- (3) another child of the alleged genetic parent and the woman who gave birth to the other child; and
- (4) another relative of the alleged genetic parent necessary to complete genetic testing.

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

SECTION 510. DECEASED INDIVIDUAL. If an individual seeking genetic testing demonstrates good cause, the court may order genetic testing of a deceased individual.

SECTION 511. IDENTICAL SIBLINGS.

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

(b) If more than one sibling is identified under Section 506 as a genetic parent of the child, the court may rely on nongenetic evidence to adjudicate which sibling is a genetic parent of the child.

SECTION 512. CONFIDENTIALITY OF GENETIC TESTING.

(a) Release of a report of genetic testing for parentage is controlled by law of this state other than this [act].

(b) An individual who intentionally releases an identifiable specimen of another individual collected for genetic testing under this [article] for a purpose not relevant to a proceeding regarding parentage, without a court order or written permission of the individual who furnished the specimen, commits a [appropriate level misdemeanor].

[ARTICLE] 6

PROCEEDING TO ADJUDICATE PARENTAGE

[PART] 1

NATURE OF PROCEEDING

SECTION 601. PROCEEDING AUTHORIZED.

[(a)] A proceeding may be commenced to adjudicate the parentage of a child. Except as otherwise provided in this [act], the proceeding is governed by [cite to this state's rules of civil procedure].

[(b)] A proceeding to adjudicate the parentage of a child born under a surrogacy agreement is governed by [Article] 8.]

Legislative Note: A state should include subsection (b) if the state includes Article 8 in the act.

SECTION 602. STANDING TO MAINTAIN PROCEEDING. Except as otherwise provided in [Article] 3 and Sections 608 through 611, a proceeding to adjudicate parentage may be maintained by:

- (1) the child;
- (2) the woman who gave birth to the child, unless a court has adjudicated that she is not a parent;
- (3) an individual who is a parent under this [act];
- (4) an individual whose parentage of the child is to be adjudicated;
- (5) a child-support agency[or other governmental agency authorized by law of this state other than this [act]]; or
- (6) an adoption agency authorized by law of this state other than this [act] or licensed child-placement agency; or

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

SECTION 603. NOTICE OF PROCEEDING.

(a) The [petitioner] shall give notice of a proceeding to adjudicate parentage to the following individuals:

(1) the woman who gave birth to the child, unless a court has adjudicated that she is not a parent;

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

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

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

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

(c) Lack of notice required by subsection (a) does not render a judgment void. Lack of notice does not preclude an individual entitled to notice under subsection (a) from bringing a proceeding under Section 611(b).

SECTION 604. PERSONAL JURISDICTION.

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

(b) A court of this state with jurisdiction to adjudicate parentage may exercise personal jurisdiction over a nonresident individual, or the [guardian or conservator] of the individual, if the conditions prescribed in [cite to this state's Section 201 of the Uniform Interstate Family Support Act] are satisfied.

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

SECTION 605. VENUE. Venue for a proceeding to adjudicate parentage is in the [county] of this state in which:

- (1) the child resides or is located;
- (2) if the child does not reside in this state, the [respondent] resides or is located; or
- (3) a proceeding has been commenced for administration of the estate of an individual who is or may be a parent under this [act].

[PART] 2

SPECIAL RULES FOR PROCEEDING TO ADJUDICATE PARENTAGE

SECTION 606. ADMISSIBILITY OF RESULTS OF GENETIC TESTING.

(a) Except as otherwise provided in Section 502(b), the court shall admit a report of genetic testing ordered by the court under Section 503 as evidence of the truth of the facts asserted in the report.

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

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

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

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

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

SECTION 607. ADJUDICATING PARENTAGE OF CHILD WITH ALLEGED GENETIC PARENT.

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

(1) before the child becomes an adult; or

(2) after the child becomes an adult, but only if the child initiates the proceeding.

(b) Except as otherwise provided in Section 614, this subsection applies in a proceeding described in subsection (a) if the woman who gave birth to the child is the only other individual with a claim to parentage of the child. The court shall adjudicate an alleged genetic parent to be a parent of the child if the alleged genetic parent:

(1) is identified under Section 506 as a genetic parent of the child and the identification is not successfully challenged under Section 506;

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

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

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

(5) is neither identified nor excluded as a genetic parent by genetic testing and, based on other evidence, the court determines the alleged genetic parent to be a parent of the

child.

(c) Except as otherwise provided in Section 614 and subject to other limitations in this [part], if in a proceeding involving an alleged genetic parent, at least one other individual in addition to the woman who gave birth to the child has a claim to parentage of the child, the court shall adjudicate parentage under Section 613.

SECTION 608. ADJUDICATING PARENTAGE OF CHILD WITH PRESUMED PARENT.

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

- (1) before the child becomes an adult; or
- (2) after the child becomes an adult, but only if the child initiates the proceeding.

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

- (1) the presumed parent is not a genetic parent, never resided with the child, and never held out the child as the presumed parent's child; or
- (2) the child has more than one presumed parent.

(c) Except as otherwise provided in Section 614, the following rules apply in a proceeding to adjudicate a presumed parent's parentage of a child if the woman who gave birth to the child is the only other individual with a claim to parentage of the child:

- (1) If no party to the proceeding challenges the presumed parent's parentage of the child, the court shall adjudicate the presumed parent to be a parent of the child.
- (2) If the presumed parent is identified under Section 506 as a genetic parent of the child and that identification is not successfully challenged under Section 506, the court shall

adjudicate the presumed parent to be a parent of the child.

(3) If the presumed parent is not identified under Section 506 as a genetic parent of the child and the presumed parent or the woman who gave birth to the child challenges the presumed parent's parentage of the child, the court shall adjudicate the parentage of the child in the best interest of the child based on the factors under Section 613(a) and (b).

(d) Except as otherwise provided in Section 614 and subject to other limitations in this [part], if in a proceeding to adjudicate a presumed parent's parentage of a child, another individual in addition to the woman who gave birth to the child asserts a claim to parentage of the child, the court shall adjudicate parentage under Section 613.

SECTION 609. ADJUDICATING CLAIM OF DE FACTO PARENTAGE OF CHILD.

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

- (1) is alive when the proceeding is commenced; and
- (2) claims to be a de facto parent of the child.

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

- (1) before the child attains 18 years of age; and
- (2) while the child is alive.

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

(1) The individual must file an initial verified pleading alleging specific facts that support the claim to parentage of the child asserted under this section. The verified pleading must

be served on all parents and legal guardians of the child and any other party to the proceeding.

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

(3) Unless the court finds a hearing is necessary to determine disputed facts material to the issue of standing, the court shall determine, based on the pleadings under paragraphs (1) and (2), whether the individual has alleged facts sufficient to satisfy by a preponderance of the evidence the requirements of paragraphs (1) through (7) of subsection (d). If the court holds a hearing under this subsection, the hearing must be held on an expedited basis.

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

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

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

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

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

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

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

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

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

**SECTION 610. ADJUDICATING PARENTAGE OF CHILD WITH
ACKNOWLEDGED PARENT.**

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

(b) If a child has an acknowledged parent, the following rules apply in a proceeding to challenge the acknowledgment of parentage or a denial of parentage brought by an individual, other than the child, who has standing under Section 602 and was not a signatory to the acknowledgment or denial:

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

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

(3) If the court permits the proceeding, the court shall adjudicate parentage under Section 613.

**SECTION 611. ADJUDICATING PARENTAGE OF CHILD WITH
ADJUDICATED PARENT.**

(a) If a child has an adjudicated parent, a proceeding to challenge the adjudication, brought by an individual who was a party to the adjudication or received notice under Section 603, is governed by the rules governing a collateral attack on a judgment.

(b) If a child has an adjudicated parent, the following rules apply to a proceeding to challenge the adjudication of parentage brought by an individual, other than the child, who has standing under Section 602 and was not a party to the adjudication and did not receive notice under Section 603:

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

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

(3) If the court permits the proceeding, the court shall adjudicate parentage under Section 613.

**SECTION 612. ADJUDICATING PARENTAGE OF CHILD OF ASSISTED
REPRODUCTION.**

(a) An individual who is a parent under [Article] 7 or the woman who gave birth to the child may bring a proceeding to adjudicate parentage. If the court determines the individual is a parent under [Article] 7, the court shall adjudicate the individual to be a parent of the child.

(b) In a proceeding to adjudicate an individual's parentage of a child, if another individual other than the woman who gave birth to the child is a parent under [Article] 7, the court shall adjudicate the individual's parentage of the child under Section 613.

SECTION 613. ADJUDICATING COMPETING CLAIMS OF PARENTAGE.

(a) Except as otherwise provided in Section 614, in a proceeding to adjudicate competing claims of, or challenges under Section 608(c), 610, or 611 to, parentage of a child by two or more individuals, the court shall adjudicate parentage in the best interest of the child, based on:

- (1) the age of the child;
- (2) the length of time during which each individual assumed the role of parent of the child;
- (3) the nature of the relationship between the child and each individual;
- (4) the harm to the child if the relationship between the child and each individual is not recognized;
- (5) the basis for each individual's claim to parentage of the child; and
- (6) other equitable factors arising from the disruption of the relationship between the child and each individual or the likelihood of other harm to the child.

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

- (1) the facts surrounding the discovery the individual might not be a genetic parent of the child; and
- (2) the length of time between the time that the individual was placed on notice that the individual might not be a genetic parent and the commencement of the proceeding.

Alternative A

(c) The court may not adjudicate a child to have more than two parents under this [act].

Alternative B

(c) The court may adjudicate a child to have more than two parents under this [act] if the

court finds that failure to recognize more than two parents would be detrimental to the child. A finding of detriment to the child does not require a finding of unfitness of any parent or individual seeking an adjudication of parentage. In determining detriment to the child, the court shall consider all relevant factors, including the harm if the child is removed from a stable placement with an individual who has fulfilled the child's physical needs and psychological needs for care and affection and has assumed the role for a substantial period.

End of Alternatives

Legislative Note: A state should enact Alternative A if the state does not wish a child to have more than two parents. A state should enact Alternative B if the state wishes to authorize a court in certain circumstances to establish more than two parents for a child.

SECTION 614. PRECLUDING ESTABLISHMENT OF PARENTAGE BY PERPETRATOR OF SEXUAL ASSAULT.

(a) In this section, "sexual assault" means [cite to this state's criminal rape statutes].

(b) In a proceeding in which a woman alleges that a man committed a sexual assault that resulted in the woman giving birth to a child, the woman may seek to preclude the man from establishing that he is a parent of the child.

(c) This section does not apply if:

(1) the man described in subsection (b) has previously been adjudicated to be a parent of the child; or

(2) after the birth of the child, the man established a bonded and dependent relationship with the child which is parental in nature.

(d) Unless Section 309 or 607 applies, a woman must file a pleading making an allegation under subsection (b) not later than two years after the birth of the child. The woman may file the pleading only in a proceeding to establish parentage under this [act].

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

(1) evidence that the man was convicted of a sexual assault, or a comparable crime in another jurisdiction, against the woman and the child was born not later than 300 days after the sexual assault; or

(2) clear-and-convincing evidence that the man committed sexual assault against the woman and the child was born not later than 300 days after the sexual assault.

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

(1) adjudicate that the man described in subsection (b) is not a parent of the child;

(2) require the [state agency maintaining birth records] to amend the birth certificate if requested by the woman and the court determines that the amendment is in the best interest of the child; and

(3) require the man pay to child support, birth-related costs, or both, unless the woman requests otherwise and the court determines that granting the request is in the best interest of the child.

[PART] 3

HEARING AND ADJUDICATION

SECTION 615. TEMPORARY ORDER.

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

(1) a presumed parent of the child;

(2) petitioning to be adjudicated a parent;

- (3) identified as a genetic parent through genetic testing under Section 506;
- (4) an alleged genetic parent who has declined to submit to genetic testing;
- (5) shown by clear-and-convincing evidence to be a parent of the child; or
- (6) a parent under this [act].

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

SECTION 616. COMBINING PROCEEDINGS.

(a) Except as otherwise provided in subsection (b), the court may combine a proceeding to adjudicate parentage under this [act] with a proceeding for adoption, termination of parental rights, child custody or visitation, child support, [divorce, dissolution, annulment, declaration of invalidity, or legal separation or separate maintenance,] administration of an estate, or other appropriate proceeding.

(b) A [respondent] may not combine a proceeding described in subsection (a) with a proceeding to adjudicate parentage brought under [the Uniform Interstate Family Support Act].

Legislative Note: A state should use its own terms for the proceedings identified in the bracketed language in subsection (a).

SECTION 617. PROCEEDING BEFORE BIRTH. [Except as otherwise provided in [Article] 8, a][A] proceeding to adjudicate parentage may be commenced before the birth of the child and an order or judgment may be entered before birth, but enforcement of the order or judgment must be stayed until the birth of the child.

Legislative Note: A state should include the bracketed phrase on Article 8 if the state wishes to recognize in statute surrogacy agreements and includes Article 8 in this act.

SECTION 618. CHILD AS PARTY; REPRESENTATION.

(a) A minor child is a permissive party but not a necessary party to a proceeding under

this [article].

(b) The court shall appoint [an attorney, guardian ad litem, or similar person] to represent a child in a proceeding under this [article], if the court finds that the interests of the child are not adequately represented.

Legislative Note: A state should replace the bracketed language in subsection (b) for terms of persons authorized to represent a child in a proceeding under this article with terms for persons performing similar representation under law of the state other than this act.

SECTION 619. COURT TO ADJUDICATE PARENTAGE. The court shall adjudicate parentage of a child without a jury.

SECTION 620. HEARING[; INSPECTION OF RECORDS].

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

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

Legislative Note: A state should review the state's open records laws to determine if subsection (b) needs to be included or amended.

SECTION 621. DISMISSAL FOR WANT OF PROSECUTION. The court may dismiss a proceeding under this [act] for want of prosecution only without prejudice. An order of dismissal for want of prosecution purportedly with prejudice is void and has only the effect of a dismissal without prejudice.

SECTION 622. ORDER ADJUDICATING PARENTAGE.

(a) An order adjudicating parentage must identify the child in a manner provided by law of this state other than this [act].

(b) Except as otherwise provided in subsection (c), the court may assess filing fees, reasonable attorney's fees, fees for genetic testing, other costs, and necessary travel and other reasonable expenses incurred in a proceeding under this [article]. Attorney's fees awarded under this subsection may be paid directly to the attorney, and the attorney may enforce the order in the attorney's own name.

(c) The court may not assess fees, costs, or expenses in a proceeding under this [article] against a child-support agency of this state or another state, except as provided by law of this state other than this [act].

(d) In a proceeding under this [article], a copy of a bill for genetic testing or prenatal or postnatal health care for the woman who gave birth to the child and the child, provided to the adverse party not later than 10 days before a hearing, is admissible to establish:

- (1) the amount of the charge billed; and
- (2) that the charge is reasonable and necessary.

(e) On request of a party and for good cause, the court in a proceeding under this [article] may order the name of the child changed. If the court order changing the name varies from the name on the birth certificate of the child, the court shall order the [state agency maintaining birth records] to issue an amended birth certificate.

SECTION 623. BINDING EFFECT OF DETERMINATION OF PARENTAGE.

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

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

(2) a party to an adjudication of parentage by a court acting under circumstances that satisfy the jurisdiction requirements of [cite to this state's Section 201 of the Uniform

Interstate Family Support Act] and any individual who received notice of the proceeding are bound by the adjudication.

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

(1) the determination was based on an unrescinded acknowledgment of parentage and the acknowledgment is consistent with the results of genetic testing;

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

(3) the determination of parentage was made under [Article] 7[or 8]; or

(4) the child was a party or was represented by [an attorney, guardian ad litem, or similar person] in the proceeding.

(c) In a proceeding for [divorce, dissolution, annulment, declaration of invalidity, legal separation, or separate maintenance], the court is deemed to have made an adjudication of parentage of a child if the court acts under circumstances that satisfy the jurisdiction requirements of [cite to this state's Section 201 of the Uniform Interstate Family Support Act] and the final order:

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

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

(d) Except as otherwise provided in subsection (b) or Section 611, a determination of parentage may be asserted as a defense in a subsequent proceeding seeking to adjudicate parentage of an individual who was not a party to the earlier proceeding.

(e) A party to an adjudication of parentage may challenge the adjudication only under law

of this state other than this [act] relating to appeal, vacation of judgment, or other judicial review.

Legislative Note: *A state should include the bracketed reference to Article 8 if the state wishes to recognize in statute surrogacy agreements and includes Article 8 in this act.*

A state should replace the bracketed language in subsection (b)(4) for terms of persons authorized to represent a child in a proceeding under this article with terms for persons performing similar representation under law of the state other than this act.

A state should use its own terms for the proceedings identified in the bracketed language in subsection (c).

[ARTICLE] 7

ASSISTED REPRODUCTION

SECTION 701. SCOPE OF [ARTICLE]. This [article] does not apply to the birth of a child conceived by sexual intercourse[or assisted reproduction under a surrogacy agreement under [Article] 8].

Legislative Note: *A state should include the bracketed phrase concerning a surrogacy agreement if the state wishes to recognize in statute surrogacy agreements and includes Article 8 in this act.*

SECTION 702. PARENTAL STATUS OF DONOR. A donor is not a parent of a child conceived by assisted reproduction.

SECTION 703. PARENTAGE OF CHILD OF ASSISTED REPRODUCTION. An individual who consents under Section 704 to assisted reproduction by a woman with the intent to be a parent of a child conceived by the assisted reproduction is a parent of the child.

SECTION 704. CONSENT TO ASSISTED REPRODUCTION.

(a) Except as otherwise provided in subsection (b), the consent described in Section 703 must be in a record signed by a woman giving birth to a child conceived by assisted reproduction and an individual who intends to be a parent of the child.

(b) Failure to consent in a record as required by subsection (a), before, on, or after birth of the child, does not preclude the court from finding consent to parentage if:

(1) the woman or the individual proves by clear-and-convincing evidence the existence of an express agreement entered into before conception that the individual and the woman intended they both would be parents of the child; or

(2) the woman and the individual for the first two years of the child's life, including any period of temporary absence, resided together in the same household with the child and both openly held out the child as the individual's child, unless the individual dies or becomes incapacitated before the child attains two years of age or the child dies before the child attains two years of age, in which case the court may find consent under this subsection to parentage if a party proves by clear-and-convincing evidence that the woman and the individual intended to reside together in the same household with the child and both intended the individual would openly hold out the child as the individual's child, but the individual was prevented from carrying out that intent by death or incapacity.

SECTION 705. LIMITATION ON SPOUSE'S DISPUTE OF PARENTAGE.

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

(1) not later than two years after the birth of the child, the individual commences a proceeding to adjudicate the individual's parentage of the child; and

(2) the court finds the individual did not consent to the assisted reproduction, before, on, or after birth of the child, or withdrew consent under Section 707.

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

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

reproduction;

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

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

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

SECTION 706. EFFECT OF CERTAIN LEGAL PROCEEDINGS REGARDING MARRIAGE. If a marriage of a woman who gives birth to a child conceived by assisted reproduction is [terminated through divorce or dissolution, subject to legal separation or separate maintenance, declared invalid, or annulled] before transfer of gametes or embryos to the woman, a former spouse of the woman is not a parent of the child unless the former spouse consented in a record that the former spouse would be a parent of the child if assisted reproduction were to occur after a [divorce, dissolution, annulment, declaration of invalidity, legal separation, or separate maintenance], and the former spouse did not withdraw consent under Section 707.

Legislative Note: A state should use its own terms for the proceedings identified in the bracketed language.

SECTION 707. WITHDRAWAL OF CONSENT.

(a) An individual who consents under Section 704 to assisted reproduction may withdraw consent any time before a transfer that results in a pregnancy, by giving notice in a record of the withdrawal of consent to the woman who agreed to give birth to a child conceived by assisted reproduction and to any clinic or health-care provider facilitating the assisted reproduction. Failure to give notice to the clinic or health-care provider does not affect a determination of parentage under this [act].

(b) An individual who withdraws consent under subsection (a) is not a parent of the child

under this [article].

SECTION 708. PARENTAL STATUS OF DECEASED INDIVIDUAL.

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

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

(1) either:

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

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

(2) either:

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

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

[[ARTICLE] 8

SURROGACY AGREEMENT

Legislative Note: A state should include Article 8 if the state wishes to recognize in statute surrogacy agreements.

[PART] 1

GENERAL REQUIREMENTS

SECTION 801. DEFINITIONS. In this [article]:

(1) “Genetic surrogate” means a woman who is not an intended parent and who agrees to become pregnant through assisted reproduction using her own gamete, under a genetic surrogacy agreement as provided in this [article].

(2) “Gestational surrogate” means a woman who is not an intended parent and who agrees to become pregnant through assisted reproduction using gametes that are not her own, under a gestational surrogacy agreement as provided in this [article].

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

SECTION 802. ELIGIBILITY TO ENTER GESTATIONAL OR GENETIC SURROGACY AGREEMENT.

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

- (1) have attained 21 years of age;
- (2) previously have given birth to at least one child;
- (3) complete a medical evaluation related to the surrogacy arrangement by a

licensed medical doctor;

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

(5) have independent legal representation of her choice throughout the surrogacy arrangement regarding the terms of the surrogacy agreement and the potential legal consequences of the agreement.

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

(1) have attained 21 years of age;

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

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

(4) have independent legal representation of the intended parent's choice throughout the surrogacy arrangement regarding the terms of the surrogacy agreement and the potential legal consequences of the agreement.

SECTION 803. REQUIREMENTS OF GESTATIONAL OR GENETIC SURROGACY AGREEMENT: PROCESS. A surrogacy agreement must be executed in compliance with the following rules:

(1) At least one party must be a resident of this state or, if no party is a resident of this state, at least one medical evaluation or procedure or mental-health consultation under the agreement must occur in this state.

(2) A surrogate and each intended parent must meet the requirements of Section 802.

(3) Each intended parent, the surrogate, and the surrogate's spouse, if any, must be parties to the agreement.

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

(5) The surrogate and each intended parent must acknowledge in a record receipt of a copy of the agreement.

(6) The signature of each party to the agreement must be attested by a notarial officer or witnessed.

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

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

(9) The agreement must be executed before a medical procedure occurs related to the surrogacy agreement, other than the medical evaluation and mental health consultation required by Section 802.

**SECTION 804. REQUIREMENTS OF GESTATIONAL OR GENETIC
SURROGACY AGREEMENT: CONTENT.**

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

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

(2) Except as otherwise provided in Sections 811, 814, and 815, the surrogate and the surrogate's spouse or former spouse, if any, have no claim to parentage of a child conceived

by assisted reproduction under the agreement.

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

(4) Except as otherwise provided in Sections 811, 814, and 815, the intended parent or, if there are two intended parents, each one jointly and severally, immediately on birth will be the exclusive parent or parents of the child, regardless of number of children born or gender or mental or physical condition of each child.

(5) Except as otherwise provided in Sections 811, 814, and 815, the intended parent or, if there are two intended parents, each parent jointly and severally, immediately on birth will assume responsibility for the financial support of the child, regardless of number of children born or gender or mental or physical condition of each child.

(6) The agreement must include information disclosing how each intended parent will cover the surrogacy-related expenses of the surrogate and the medical expenses of the child. If health-care coverage is used to cover the medical expenses, the disclosure must include a summary of the health-care policy provisions related to coverage for surrogate pregnancy, including any possible liability of the surrogate, third-party-liability liens, other insurance coverage, and any notice requirement that could affect coverage or liability of the surrogate. Unless the agreement expressly provides otherwise, the review and disclosure do not constitute legal advice. If the extent of coverage is uncertain, a statement of that fact is sufficient to comply with this paragraph.

(7) The agreement must permit the surrogate to make all health and welfare decisions regarding herself and her pregnancy. This [act] does not enlarge or diminish the surrogate's right to terminate her pregnancy.

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

(b) A surrogacy agreement may provide for:

(1) payment of consideration and reasonable expenses; and

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

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

SECTION 805. SURROGACY AGREEMENT: EFFECT OF SUBSEQUENT CHANGE OF MARITAL STATUS.

(a) Unless a surrogacy agreement expressly provides otherwise:

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

(2) the [divorce, dissolution, annulment, declaration of invalidity, legal separation, or separate maintenance] of the surrogate after the agreement is signed by all parties does not affect the validity of the agreement.

(b) Unless a surrogacy agreement expressly provides otherwise:

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

(2) the [divorce, dissolution, annulment, declaration of invalidity, legal separation, or separate maintenance] of an intended parent after the agreement is signed by all parties does not affect the validity of the agreement and, except as otherwise provided in Section 814, the intended parents are the parents of the child.

Legislative Note: A state should use its own terms for the proceedings identified in the bracketed language in subsections (a)(2) and (b)(2).

[SECTION 806. INSPECTION OF DOCUMENTS. Unless the court orders otherwise, a petition and any other document related to a surrogacy agreement filed with the court under this [part] are not open to inspection by any individual other than the parties to the proceeding, a child conceived by assisted reproduction under the agreement, their attorneys, and [the relevant state agency]. A court may not authorize an individual to inspect a document related to the agreement, unless required by exigent circumstances. The individual seeking to inspect the document may be required to pay the expense of preparing a copy of the document to be inspected.]

Legislative Note: A state should review the state's open records law to determine if this section needs to be included or amended.

SECTION 807. EXCLUSIVE, CONTINUING JURISDICTION. During the period after the execution of a surrogacy agreement until 90 days after the birth of a child conceived by assisted reproduction under the agreement, a court of this state conducting a proceeding under this [act] has exclusive, continuing jurisdiction over all matters arising out of the agreement. This section does not give the court jurisdiction over a child-custody or child-support proceeding if jurisdiction is not otherwise authorized by law of this state other than this [act].

[PART] 2

SPECIAL RULES FOR GESTATIONAL SURROGACY AGREEMENT

SECTION 808. TERMINATION OF GESTATIONAL SURROGACY AGREEMENT.

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

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

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

SECTION 809. PARENTAGE UNDER GESTATIONAL SURROGACY AGREEMENT.

(a) Except as otherwise provided in subsection (c) or Section 810(b) or 812, on birth of a child conceived by assisted reproduction under a gestational surrogacy agreement, each intended parent is, by operation of law, a parent of the child.

(b) Except as otherwise provided in subsection (c) or Section 812, neither a gestational surrogate nor the surrogate's spouse or former spouse, if any, is a parent of the child.

(c) If a child is alleged to be a genetic child of the woman who agreed to be a gestational

surrogate, the court shall order genetic testing of the child. If the child is a genetic child of the woman who agreed to be a gestational surrogate, parentage must be determined based on [Articles] 1 through 6.

(d) Except as otherwise provided in subsection (c) or Section 810(b) or 812, if, due to a clinical or laboratory error, a child conceived by assisted reproduction under a gestational surrogacy agreement is not genetically related to an intended parent or a donor who donated to the intended parent or parents, each intended parent, and not the gestational surrogate and the surrogate's spouse or former spouse, if any, is a parent of the child, subject to any other claim of parentage.

SECTION 810. GESTATIONAL SURROGACY AGREEMENT: PARENTAGE OF DECEASED INTENDED PARENT.

(a) Section 809 applies to an intended parent even if the intended parent died during the period between the transfer of a gamete or embryo and the birth of the child.

(b) Except as otherwise provided in Section 812, an intended parent is not a parent of a child conceived by assisted reproduction under a gestational surrogacy agreement if the intended parent dies before the transfer of a gamete or embryo unless:

(1) the agreement provides otherwise; and

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

SECTION 811. GESTATIONAL SURROGACY AGREEMENT: ORDER OF PARENTAGE.

(a) Except as otherwise provided in Sections 809(c) or 812, before, on, or after the birth

of a child conceived by assisted reproduction under a gestational surrogacy agreement, a party to the agreement may commence a proceeding in the [appropriate court] for an order or judgment:

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

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

(3) designating the content of the birth record in accordance with [cite applicable law of this state other than this [act]] and directing the [state agency maintaining birth records] to designate each intended parent as a parent of the child;

(4) to protect the privacy of the child and the parties, declaring that the court record is not open to inspection[except as authorized under Section 806];

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

and

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

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

(c) Neither this state nor the [state agency maintaining birth records] is a necessary party to a proceeding under subsection (a).

Legislative Note: A state should include the bracketed language in subsection (a)(4) if the state enacts Section 806.

SECTION 812. EFFECT OF GESTATIONAL SURROGACY AGREEMENT.

(a) A gestational surrogacy agreement that complies with Sections 802, 803, and 804 is enforceable.

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

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

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

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

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

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

[PART] 3

SPECIAL RULES FOR GENETIC SURROGACY AGREEMENT

SECTION 813. REQUIREMENTS TO VALIDATE GENETIC SURROGACY AGREEMENT.

(a) Except as otherwise provided in Section 816, to be enforceable, a genetic surrogacy agreement must be validated by the [designate court]. A proceeding to validate the agreement must be commenced before assisted reproduction related to the surrogacy agreement.

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

(1) Sections 802, 803, and 804 are satisfied; and

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

(c) An individual who terminates under Section 814 a genetic surrogacy agreement shall file notice of the termination with the court. On receipt of the notice, the court shall vacate any order issued under subsection (b). An individual who does not notify the court of the termination of the agreement is subject to sanctions.

SECTION 814. TERMINATION OF GENETIC SURROGACY AGREEMENT.

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

(1) An intended parent who is a party to the agreement may terminate the agreement at any time before a gamete or embryo transfer by giving notice of termination in a record to all other parties. If a gamete or embryo transfer does not result in a pregnancy, a party may terminate the agreement at any time before a subsequent gamete or embryo transfer. The notice of termination must be attested by a notarial officer or witnessed.

(2) A genetic surrogate who is a party to the agreement may withdraw consent to

the agreement any time before 72 hours after the birth of a child conceived by assisted reproduction under the agreement. To withdraw consent, the genetic surrogate must execute a notice of termination in a record stating the surrogate's intent to terminate the agreement. The notice of termination must be attested by a notarial officer or witnessed and be delivered to each intended parent any time before 72 hours after the birth of the child.

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

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

SECTION 815. PARENTAGE UNDER VALIDATED GENETIC SURROGACY AGREEMENT.

(a) Unless a genetic surrogate exercises the right under Section 814 to terminate a genetic surrogacy agreement, each intended parent is a parent of a child conceived by assisted reproduction under an agreement validated under Section 813.

(b) Unless a genetic surrogate exercises the right under Section 814 to terminate the genetic surrogacy agreement, on proof of a court order issued under Section 813 validating the agreement, the court shall make an order:

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

each intended parent;

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

(3) designating the contents of the birth certificate in accordance with [cite to applicable law of the state other than this [act]] and directing the [state_agency maintaining birth records] to designate each intended parent as a parent of the child;

(4) to protect the privacy of the child and the parties, declaring that the court record is not open to inspection[except as authorized under Section 806];

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

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

(c) If a genetic surrogate terminates under Section 814(a)(2) a genetic surrogacy agreement, parentage of the child conceived by assisted reproduction under the agreement must be determined under [Articles] 1 through 6.

(d) If a child born to a genetic surrogate is alleged not to have been conceived by assisted reproduction, the court shall order genetic testing to determine the genetic parentage of the child. If the child was not conceived by assisted reproduction, parentage must be determined under [Articles] 1 through 6. Unless the genetic surrogacy agreement provides otherwise, if the child was not conceived by assisted reproduction the surrogate is not entitled to any non-expense related compensation paid for serving as a surrogate.

(e) Unless a genetic surrogate exercises the right under Section 814 to terminate the genetic surrogacy agreement, if an intended parent fails to file notice required under Section 814(a), the genetic surrogate or [the appropriate state agency] may file with the court, not later

than 60 days after the birth of a child conceived by assisted reproduction under the agreement, notice that the child has been born to the genetic surrogate. Unless the genetic surrogate has properly exercised the right under Section 814 to withdraw consent to the agreement, on proof of a court order issued under Section 813 validating the agreement, the court shall order that each intended parent is a parent of the child.

Legislative Note: A state should include the bracketed language in subsection (b)(4) if the state enacts Section 806.

SECTION 816. EFFECT OF NONVALIDATED GENETIC SURROGACY AGREEMENT.

(a) A genetic surrogacy agreement, whether or not in a record, that is not validated under Section 813 is enforceable only to the extent provided in this section and Section 818.

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

(c) If a child conceived by assisted reproduction under a genetic surrogacy agreement that is not validated under Section 813 is born and the genetic surrogate, consistent with Section 814(a)(2), withdraws her consent to the agreement before 72 hours after the birth of the child, the court shall adjudicate the parentage of the child under [Articles] 1 through 6.

(d) If a child conceived by assisted reproduction under a genetic surrogacy agreement that is not validated under Section 813 is born and a genetic surrogate does not withdraw her consent to the agreement, consistent with Section 814(a)(2), before 72 hours after the birth of the child, the genetic surrogate is not automatically a parent and the court shall adjudicate parentage of the child based on the best interest of the child, taking into account the factors in Section 613(a) and the intent of the parties at the time of the execution of the agreement.

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

SECTION 817. GENETIC SURROGACY AGREEMENT: PARENTAGE OF DECEASED INTENDED PARENT.

(a) Except as otherwise provided in Section 815 or 816, on birth of a child conceived by assisted reproduction under a genetic surrogacy agreement, each intended parent is, by operation of law, a parent of the child, notwithstanding the death of an intended parent during the period between the transfer of a gamete or embryo and the birth of the child.

(b) Except as otherwise provided in Section 815 or 816, an intended parent is not a parent of a child conceived by assisted reproduction under a genetic surrogacy agreement if the intended parent dies before the transfer of a gamete or embryo unless:

(1) the agreement provides otherwise; and

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

SECTION 818. BREACH OF GENETIC SURROGACY AGREEMENT.

(a) Subject to Section 814(b), if a genetic surrogacy agreement is breached by a genetic surrogate or one or more intended parents, the non-breaching party is entitled to the remedies available at law or in equity.

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

(c) Except as otherwise provided in subsection (b), specific performance is a remedy

available for:

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

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

[ARTICLE] 9

INFORMATION ABOUT DONOR

SECTION 901. DEFINITIONS. In this [article]:

(1) "Identifying information" means:

(A) the full name of a donor;

(B) the date of birth of the donor; and

(C) the permanent and, if different, current address of the donor at the time of the

donation.

(2) "Medical history" means information regarding any:

(A) present illness of a donor;

(B) past illness of the donor; and

(C) social, genetic, and family history pertaining to the health of the donor.

SECTION 902. APPLICABILITY. This [article] applies only to gametes collected on or after [the effective date of this [act]].

SECTION 903. COLLECTION OF INFORMATION. A gamete bank or fertility clinic licensed in this state shall collect from a donor the donor's identifying information and medical history at the time of the donation. If the gamete bank or fertility clinic sends the

gametes of a donor to another gamete bank or fertility clinic, the sending gamete bank or fertility clinic shall forward any identifying information and medical history of the donor, including the donor's signed declaration under Section 904 regarding identity disclosure, to the receiving gamete bank or fertility clinic. A receiving gamete bank or fertility clinic licensed in this state shall collect and retain the information about the donor and each sending gamete bank or fertility clinic.

SECTION 904. DECLARATION REGARDING IDENTITY DISCLOSURE.

(a) A gamete bank or fertility clinic licensed in this state which collects gametes from a donor shall:

(1) provide the donor with information in a record about the donor's choice regarding identity disclosure; and

(2) obtain a declaration from the donor regarding identity disclosure.

(b) A gamete bank or fertility clinic licensed in this state shall give a donor the choice to sign a declaration, attested by a notarial officer or witnessed, that either:

(1) states that the donor agrees to disclose the donor's identity to a child conceived by assisted reproduction with the donor's gametes on request once the child attains 18 years of age; or

(2) states that the donor does not agree presently to disclose the donor's identity to the child.

(c) A gamete bank or fertility clinic licensed in this state shall permit a donor who has signed a declaration under subsection (b)(2) to withdraw the declaration at any time by signing a declaration under subsection (b)(1).

SECTION 905. DISCLOSURE OF IDENTIFYING INFORMATION AND MEDICAL HISTORY.

(a) On request of a child conceived by assisted reproduction who attains 18 years of age, a gamete bank or fertility clinic licensed in this state which collected, stored, or released for use the gametes used in the assisted reproduction shall make a good-faith effort to provide the child with identifying information of the donor who provided the gametes, unless the donor signed and did not withdraw a declaration under Section 904(b)(2). If the donor signed and did not withdraw the declaration, the gamete bank or fertility clinic shall make a good-faith effort to notify the donor, who may elect under Section 904(c) to withdraw the donor's declaration.

(b) Regardless whether a donor signed a declaration under Section 904(b)(2), on request by a child conceived by assisted reproduction who attains 18 years of age, or, if the child is a minor, by a parent or guardian of the child, a gamete bank or fertility clinic licensed in this state shall make a good-faith effort to provide the child or, if the child is a minor, the parent or guardian of the child, access to nonidentifying medical history of the donor.

SECTION 906. RECORDKEEPING. A gamete bank or fertility clinic licensed in this state which collects, stores, or releases gametes for use in assisted reproduction shall collect and maintain identifying information and medical history about each gamete donor. The gamete bank or fertility clinic shall collect and maintain records of gamete screening and testing and comply with reporting requirements, in accordance with federal law and applicable law of this state other than this [act].

[ARTICLE] 10

MISCELLANEOUS PROVISIONS

SECTION 1001. UNIFORMITY OF APPLICATION AND CONSTRUCTION. In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

SECTION 1002. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT. This [act] modifies, limits, or supersedes the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001 et seq., but does not modify limit, or supersede Section 101(c) of that act, 15 U.S.C. Section 7001(c), or authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15 U.S.C. Section 7003(b).

SECTION 1003. TRANSITIONAL PROVISION. This [act] applies to a pending proceeding to adjudicate parentage commenced before [the effective date of this [act]] for an issue on which a judgment has not been entered.

[SECTION 1004. SEVERABILITY. If any provision of this [act] or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this [act] which can be given effect without the invalid provision or application, and to this end the provisions of this [act] are severable.]

Legislative Note: Include this section only if this state lacks a general severability statute or a decision by the highest court of this state stating a general rule of severability.

SECTION 1005. REPEALS; CONFORMING AMENDMENTS. The following are repealed:

- (1) [Uniform Act on Paternity (1960)];
- (2) [Uniform Parentage Act (1973)];

- (3) [Uniform Putative and Unknown Fathers Act (1988)];
- (4) [Uniform Status of Children of Assisted Conception Act (1988)];
- (5) [Uniform Parentage Act (2002)]; and
- (6) [other inconsistent statutes].

SECTION 1006. EFFECTIVE DATE. This [act] takes effect