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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2018

A N A C T

RELATING TO DOMESTIC RELATIONS -- UNIFORM PARENTAGE ACT

Introduced By: Senators Nesselbush, Lynch Prata, Lombardi, McCaffrey, and Jabour

Date Introduced: February 01, 2018

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Chapter 15-8 of the General Laws entitled "Uniform Law on Paternity" is
2 hereby repealed in its entirety.

3 ~~CHAPTER 15-8~~

4 ~~Uniform Law on Paternity~~

5 ~~15-8-1. Obligations of the father.~~

6 ~~The father of a child which is or may be born out of lawful wedlock is liable to the same~~
7 ~~extent as the father of a child born in lawful wedlock, whether or not the child is born alive, for~~
8 ~~the reasonable expense of the mother's pregnancy and confinement, and the education, necessary~~
9 ~~support and maintenance, and medical and funeral expenses of the child and for reasonable~~
10 ~~counsel fees for the prosecution of paternity proceedings. A child born out of lawful wedlock also~~
11 ~~includes a child born to a married woman by a man other than her lawful husband.~~

12 ~~15-8-2. Enforcement.~~

13 ~~Paternity may be determined upon the complaint of the father, mother, the child, or the~~
14 ~~public authority chargeable by law with the support of the child. If paternity has been determined~~
15 ~~or has been acknowledged according to the laws of Rhode Island, the liabilities of the father may~~
16 ~~be enforced in the same or other proceedings by the mother, the child, or the public authority~~
17 ~~which has furnished or may furnish the reasonable expenses of pregnancy, confinement,~~
18 ~~education, necessary support, or funeral expenses, and by other persons, including private~~
19 ~~agencies, to the extent that they have furnished the reasonable expenses of pregnancy,~~

1 ~~confinement, education, necessary maintenance and support, or funeral expenses.~~

2 **15-8-3. Presumption of paternity.**

3 (a) ~~A man is presumed to be the natural father of a child if:~~

4 (1) ~~He and the child's natural mother are or have been married to each other and the child~~
5 ~~is born during the marriage, or within three hundred (300) days after the marriage is terminated~~
6 ~~by death, annulment, declaration of invalidity, or divorce, or after a decree of separation is~~
7 ~~entered by a court;~~

8 (2) ~~Before the child's birth, he and the child's natural mother have attempted to marry~~
9 ~~each other by a marriage solemnized in apparent compliance with law, although the attempted~~
10 ~~marriage is or could be declared invalid, and:~~

11 (i) ~~If the attempted marriage could be declared invalid only by a court, the child is born~~
12 ~~during the attempted marriage, or within three hundred (300) days after its termination by death,~~
13 ~~annulment, declaration of invalidity, or divorce; or~~

14 (ii) ~~If the attempted marriage is invalid without a court order, the child is born within~~
15 ~~three hundred (300) days after the termination of cohabitation;~~

16 (3) ~~After the child's birth, he and the child's natural mother have married, or attempted to~~
17 ~~marry, each other by a marriage solemnized in apparent compliance with law, although the~~
18 ~~attempted marriage could be declared invalid, and:~~

19 (i) ~~He has acknowledged his paternity of the child in writing filed with the clerk of the~~
20 ~~family court;~~

21 (ii) ~~With his consent, he is named as the child's father on the child's birth certificate; or~~

22 (iii) ~~He is obligated to support the child under a written voluntary promise or by court~~
23 ~~order;~~

24 (4) ~~He acknowledges his paternity of the child in a writing filed with the clerk of the~~
25 ~~family court, who shall promptly inform the mother of the filing of the acknowledgement, and~~
26 ~~she does not dispute the acknowledgement, within a reasonable time after being informed, in a~~
27 ~~writing filed with the clerk of the family court. If another man is presumed under this section to~~
28 ~~be the child's father, acknowledgement may be effected only with the written consent of the~~
29 ~~presumed father or after the presumption has been rebutted. The written acknowledgement of~~
30 ~~paternity shall be admissible as evidence of paternity;~~

31 (5) ~~He has submitted to blood testing and the results establish a conclusive presumption~~
32 ~~in accordance with § 15-8-11(e); or~~

33 (6) ~~A sworn acknowledgment of paternity of a child born out of wedlock is signed by~~
34 ~~both parents on forms prescribed in accordance with § 23-3-9, either at the department of human~~

1 ~~services or division of taxation within the department of administration, and is forwarded to the~~
2 ~~state registrar of vital records for the purpose of amending the birth certificate. Before signing the~~
3 ~~sworn acknowledgment of paternity, the parents shall be given written notice of their respective~~
4 ~~rights and responsibilities. The sworn acknowledgment of paternity becomes a conclusive~~
5 ~~presumption if there is no court challenge to this acknowledgement within sixty (60) days of the~~
6 ~~signing of this acknowledgment. The only defenses which may be raised to the signing of this~~
7 ~~acknowledgment after the sixty (60) day period are fraud, duress or mistake of fact.~~

8 ~~(b) Except for a conclusive presumption under subdivisions (a)(5) and (a)(6) of this~~
9 ~~section, a presumption under this section may be rebutted in an appropriate action only by clear~~
10 ~~and convincing evidence. If two (2) or more presumptions arise which conflict with each other,~~
11 ~~the presumption, which on its facts, is founded on the weightier considerations of policy and logic~~
12 ~~controls. The presumption is rebutted by a court decree establishing paternity of the child by~~
13 ~~another man.~~

14 **15-8-4. Limitation on recovery from the father.**

15 ~~The father's liabilities for past education and necessary support and maintenance are~~
16 ~~limited to a period of six (6) years next preceding the commencement of an action under the~~
17 ~~provisions of this chapter.~~

18 **15-8-5. Limitations of recovery from father's estate.**

19 ~~(a) The obligation of the estate of the father for liabilities under §§ 15-8-1—15-8-26 are~~
20 ~~limited to those amounts accrued prior to his death. In order to hold the estate of the father liable~~
21 ~~under §§ 15-8-1—15-8-26, an action under the provisions of this chapter must have been~~
22 ~~commenced during the lifetime of the father.~~

23 ~~(b) This section shall in no way limit the provisions of § 33-1-8, permitting the inheriting~~
24 ~~or transmitting inheritance by a child born out of wedlock.~~

25 **15-8-6. Statute of limitations.**

26 ~~An action to determine the existence of the father and child relationship is not barred~~
27 ~~until four (4) years after the child reaches the age of majority.~~

28 **15-8-7. Jurisdiction and remedies.**

29 ~~(a) The family court has jurisdiction of an action commenced under §§ 15-8-1—15-8-26,~~
30 ~~and all remedies for the enforcement of orders for the expense of pregnancy and confinement for~~
31 ~~the mother, and for education, necessary support and maintenance, or funeral expenses for~~
32 ~~legitimate children shall apply. The court has continuing jurisdiction to modify or revoke an order~~
33 ~~and to increase or decrease amounts fixed by order for future education and necessary support~~
34 ~~and maintenance. All remedies under the Uniform Interstate Family Support Act, §§ 15-23.1-101~~

1 ~~—15-23.1-903, are available for enforcement of duties of support and maintenance under §§ 15-~~
2 ~~8-1—15-8-26.~~

3 (b) ~~A person who has had sexual intercourse in this state submits to the jurisdiction of the~~
4 ~~courts of this state as to any action with respect to a child who may have been conceived by that~~
5 ~~act of intercourse. In addition, the court may exercise jurisdiction over a nonresident individual~~
6 ~~pursuant to § 15-23.1-201. Jurisdiction shall be acquired by service made in accordance with § 9-~~
7 ~~5-33.~~

8 **15-8-8. Clear and convincing evidence.**

9 ~~In any action to establish paternity under this chapter, other than an action brought~~
10 ~~pursuant to § 15-8-2 or § 15-8-3, the standard that must be met by the plaintiff shall be that of~~
11 ~~clear and convincing evidence.~~

12 **15-8-8.1. Trial by court.**

13 ~~Trial shall be by the court.~~

14 **15-8-9. Venue.**

15 ~~The action may be brought in the county in which the child or the alleged father resides~~
16 ~~or is found, or, if the father is deceased, in which proceedings for probate of his estate have been~~
17 ~~or could be commenced.~~

18 **15-8-10. Time of trial.**

19 ~~If the issue of paternity is raised in an action commenced during the pregnancy of the~~
20 ~~mother, the trial shall not, without the consent of the alleged father, be held until after the birth or~~
21 ~~miscarriage.~~

22 **15-8-11. Parentage tests.**

23 (a) ~~In a proceeding under this chapter before trial, the court, upon application made by or~~
24 ~~on behalf of any party to the action, and supported by sworn affidavit, or on its own motion, shall~~
25 ~~order that the mother, child, alleged father, and any other party to the action submit to blood or~~
26 ~~tissue typing tests which may include, but are not limited to, tests of red cell antigens, red cell~~
27 ~~isoenzymes, human leukocyte antigens, serum proteins, DNA and other genetic testing, to~~
28 ~~determine whether the alleged father is likely to be, or is not, the father of the child. The sworn~~
29 ~~affidavit must include a statement alleging paternity and setting forth facts establishing a~~
30 ~~reasonable possibility of sexual contact during the probable period of conception or a statement~~
31 ~~denying paternity and setting forth facts establishing a reasonable possibility of the nonexistence~~
32 ~~of sexual contact during the probable period of conception. In a proceeding to establish paternity~~
33 ~~and/or support brought pursuant to the Rhode Island state plan for child and spousal support~~
34 ~~enforcement, in conformance with title IV, part D of the federal Social Security Act, 42 U.S.C. §~~

1 ~~651 et seq., if the alleged father denies paternity in response to a paternity complaint and provides~~
2 ~~a sworn affidavit as provided in this section, the division of taxation within the department of~~
3 ~~administration shall have the authority to administratively order the parties to attend a blood or~~
4 ~~tissue typing test and schedule blood or tissue typing test for the parties, of the type described in~~
5 ~~this section, without the necessity of making application to the court, and the parties shall attend~~
6 ~~and submit to a blood or tissue typing test under penalty of default in accordance with § 15-8-~~
7 ~~18.1.~~

8 ~~(b) A blood or tissue typing test shall be made by a person the court determines is~~
9 ~~qualified as an examiner of blood or tissue types.~~

10 ~~(c) The court shall fix or approve the compensation of any expert at a reasonable amount,~~
11 ~~and may direct the compensation to be paid by the state, or by any other party to the case, or by~~
12 ~~both, in the proportions and at the times the court prescribes, and that, after payment by a party,~~
13 ~~all or part or none of the payment shall be taxed as costs in the action. Before the making of a~~
14 ~~blood or tissue typing test, the court may order any part or all of the compensation paid in~~
15 ~~advance.~~

16 ~~(d) The result of a blood or tissue typing test and, if a determination of exclusion of~~
17 ~~paternity cannot be made, a calculation of the probability of paternity made by a person the court~~
18 ~~determines is qualified as an examiner of blood or tissue types based on the result of a blood or~~
19 ~~tissue typing test shall be admissible in evidence in the trial of the case. A written report of the~~
20 ~~test results, including a calculation of the probability of paternity or a determination of exclusion~~
21 ~~of paternity, prepared by the duly qualified expert conducting the test, or by a duly qualified~~
22 ~~expert under whose supervision or direction the test and analysis have been performed, certified~~
23 ~~by an affidavit duly subscribed and sworn to by him or her before a notary public, may be~~
24 ~~introduced into evidence without the need for foundation testimony or other proof of authenticity~~
25 ~~or accuracy and without the necessity of calling the expert as a witness, unless an objection~~
26 ~~challenging the test procedures or results has been filed within ten (10) days before any hearing at~~
27 ~~which the results may be introduced into evidence and a cash bond posted with the registry of the~~
28 ~~family court in an amount sufficient to cover the costs of the duly qualified expert to appear and~~
29 ~~testify.~~

30 ~~(e) If the results of the blood or tissue typing tests duly admitted into evidence establish a~~
31 ~~ninety-seven percent (97%) or greater probability of inclusion that a party is the biological father~~
32 ~~of the child, then that probability shall constitute a conclusive presumption of paternity.~~

33 ~~(f) Any reference to "blood test" in this chapter means blood or tissue typing test.~~

34 ~~**15-8-12. -- 15-8-14. Repealed.**~~

1 **15-8-15. Evidence relating to paternity.**

2 Evidence relating to paternity may include:

3 ~~(1) Evidence of sexual intercourse between the mother and alleged father at any possible~~
4 ~~time of conception;~~

5 ~~(2) A written report of blood or tissue typing test results including a calculation of the~~
6 ~~probability of paternity as specified under § 15-8-11;~~

7 ~~(3) Medical or anthropological evidence relating to the alleged father's paternity of the~~
8 ~~child based on tests performed by experts. If a man has been identified as a possible father of the~~
9 ~~child, the court may, and upon motion of a party shall, require the child, the mother, and the man~~
10 ~~to submit to appropriate tests;~~

11 ~~(4) All other evidence relevant to the issue of paternity of the child; and~~

12 ~~(5) Copies of bills for parentage testing, and for prenatal and postnatal health care of the~~
13 ~~mother and child may be introduced into evidence without the need for foundation testimony or~~
14 ~~other proof of authenticity or accuracy and without the necessity of calling the expert as a~~
15 ~~witness, unless an objection challenging the test procedures or results has been filed within ten~~
16 ~~(10) days before any hearing at which the results may be introduced into evidence and a cash~~
17 ~~bond posted with the registry of the family court in an amount sufficient to cover the costs of the~~
18 ~~duly qualified expert or witness to appear and testify.~~

19 **15-8-16. Civil action.**

20 ~~(a) An action under this chapter is a civil action governed by the rules of civil procedure.~~
21 ~~The mother of the child and the alleged father are competent to testify and may be compelled to~~
22 ~~testify.~~

23 ~~(b) Upon refusal of any witness, including a party, to testify under oath or produce~~
24 ~~evidence, the court may order him or her to testify under oath and produce evidence concerning~~
25 ~~all relevant facts. If the refusal is upon the ground that this, his or her testimony or evidence,~~
26 ~~might tend to incriminate him or her, the court may grant him or her immunity from all criminal~~
27 ~~liability on account of the testimony or evidence that he or she is required to produce. An order~~
28 ~~granting immunity bars prosecution of the witness for any offenses shown in whole or in part by~~
29 ~~testimony or evidence that he or she is required to produce, except for perjury committed in his or~~
30 ~~her testimony. The refusal of a witness, who has been granted immunity, to obey an order to~~
31 ~~testify or produce evidence is a civil contempt of court.~~

32 ~~(c) Testimony of a physician concerning the medical circumstances of the pregnancy and~~
33 ~~the condition and characteristics of the child upon birth is not privileged.~~

34 ~~(d) Testimony relating to sexual access to the mother by an unidentified man at any time~~

1 ~~or by an identified man at a time other than the probable time of conception of the child is~~
2 ~~inadmissible in evidence, unless offered by the mother.~~

3 ~~(e) In an action against an alleged father, evidence offered by him with respect to a man~~
4 ~~who is not subject to the jurisdiction of the court concerning his sexual intercourse with the~~
5 ~~mother at or about the probable time of conception of the child is admissible in evidence only if~~
6 ~~he has undergone and made available to the court blood or tissue typing tests, the results of which~~
7 ~~do not exclude the possibility of his paternity of the child. A man who is identified and is subject~~
8 ~~to the jurisdiction of the court shall be made a defendant in the action.~~

9 **15-8-17. Hearings and records -- Confidentiality.**

10 ~~Notwithstanding any other law concerning public hearings and records, any hearing or~~
11 ~~trial held under this chapter shall be held in closed court without admittance of any person other~~
12 ~~than those necessary to the action of the proceeding. All papers and records, other than the final~~
13 ~~judgment pertaining to the action or proceeding, whether part of the permanent record of the court~~
14 ~~or elsewhere, are subject to inspection only upon consent of the court and all interested persons,~~
15 ~~or in exceptional cases only upon an order of the court for good cause shown.~~

16 **15-8-18. Judgments.**

17 ~~(a) The judgment or order of the court determining the existence or nonexistence of the~~
18 ~~parent and child relationship is determinative for all purposes.~~

19 ~~(b) If the judgment or order of the court is at variance with the child's birth certificate, the~~
20 ~~court shall order that a new birth certificate be issued in accordance with § 15-8-23.~~

21 ~~(c) The judgment or order may contain any other provision directed against the~~
22 ~~appropriate party to the proceeding, concerning the duty of support, the custody and guardianship~~
23 ~~of the child, visitation privileges with the child, or any other matter in the best interest of the~~
24 ~~child. The judgment or order may direct the father to pay the reasonable expenses of the mother's~~
25 ~~pregnancy and confinement.~~

26 ~~(d) Support judgments or orders may be for periodic payments which may vary in~~
27 ~~amount. In determining the amount to be paid by a parent for support of the child and the period~~
28 ~~during which the duty of support is owed, the court shall consider all relevant facts, including:~~

29 ~~(1) The needs of the child;~~

30 ~~(2) The standard of living and circumstances of the parents;~~

31 ~~(3) The relative financial means of the parents;~~

32 ~~(4) The earning ability of the parents;~~

33 ~~(5) The need and capacity of the child for education, including higher education;~~

34 ~~(6) The age of the child;~~

1 ~~(7) The financial resources and the earning ability of the child;~~

2 ~~(8) The responsibility of the parents for the support of others; and~~

3 ~~(9) The value of services contributed by the custodial parent.~~

4 **15-8-18.1. Entry of default and default judgment.**

5 ~~(a) In addition to any other basis for entry of default and default judgment provided in the~~
6 ~~rules of procedure for domestic relations, the family court shall enter the defendant's default and a~~
7 ~~judgment by default in a paternity action under this chapter upon the following conditions:~~

8 ~~(1) Failure to respond to the paternity complaint within twenty (20) days, upon proof~~
9 ~~presented that the defendant has been duly served the complaint;~~

10 ~~(2) Failure to appear at a scheduled hearing or trial after being duly notified of the~~
11 ~~hearing or trial, upon proof presented that the defendant has been duly served with notice of the~~
12 ~~scheduled hearing or trial; or~~

13 ~~(3) Failure to appear or refusal to attend blood testing upon proof presented that the~~
14 ~~defendant has been duly notified of the date, time, and place of the testing.~~

15 ~~(b) The court may set aside an entry of default and, if judgment by default has been~~
16 ~~entered, may likewise set it aside, in accordance with the rules of procedure for domestic~~
17 ~~relations.~~

18 **15-8-19. Judgments -- Enforcement.**

19 ~~(a) If existence of the father and child relationship is declared, or paternity or a duty of~~
20 ~~support has been acknowledged or adjudicated under this chapter or under prior law, the~~
21 ~~obligation of the father may be enforced in the same or other proceedings by the mother, the~~
22 ~~child, the public authority that has furnished or may furnish the reasonable expenses of~~
23 ~~pregnancy, confinement, education, support, or funeral, or by other persons, including a private~~
24 ~~agency, to the extent that they furnished or are furnishing those expenses.~~

25 ~~(b) Willful failure to obey the judgment or order of the court is a civil contempt of the~~
26 ~~court. All remedies for the enforcement of judgments apply.~~

27 **15-8-20. Bond.**

28 ~~(a) In a proceeding to establish paternity, when the alleged father has submitted to blood~~
29 ~~testing and the blood test results establish a ninety seven percent (97%) or greater probability of~~
30 ~~inclusion that he is the biological father of the child, and upon motion, the court shall, after an~~
31 ~~opportunity for a hearing, issue a temporary order for child support payable into the registry of~~
32 ~~the court and to be held pending entry of judgment.~~

33 ~~(b) In the event of a final adjudication requiring no payment or payments in an amount~~
34 ~~less than those payments which have been made pursuant to a temporary order under this section,~~

1 ~~the alleged father shall be entitled to a refund of all or a portion of the amounts paid.~~

2 ~~(c) The court at any time may require, in addition to the temporary order described in this~~
3 ~~section, the alleged or adjudicated father to give bond or other security for the payment of any~~
4 ~~judgment which exists or may exist in the future.~~

5 ~~**15-8-21. Settlement agreements.**~~

6 ~~An agreement of settlement with the alleged father is binding only when approved by the~~
7 ~~court.~~

8 ~~**15-8-22. False declaration of identity.**~~

9 ~~The making of a false complaint as to the identity of the father, or the aiding or abetting~~
10 ~~in the making of a false complaint, shall be punishable with a penalty as for perjury.~~

11 ~~**15-8-23. Birth records.**~~

12 ~~(a) Upon order of the family court, the registrar of vital records shall prepare a new birth~~
13 ~~certificate consistent with the findings of the court and shall substitute the new certificate for the~~
14 ~~original certificate of birth.~~

15 ~~(b) The fact that the father and child relationship was declared after the child's birth shall~~
16 ~~not be ascertainable from the new certificate, but the actual place and date of birth shall be shown~~
17 ~~on it.~~

18 ~~**15-8-24. Appeals.**~~

19 ~~(a) An appeal in all cases may be taken by the defendant, the mother or her personal~~
20 ~~representative, or the public welfare official from any final order or judgment of the family court,~~
21 ~~upon an action commenced under this chapter, directly to the supreme court within thirty (30)~~
22 ~~days after the entry of the order of judgment.~~

23 ~~(b) No appeal shall operate as a stay of execution unless the defendant shall give the~~
24 ~~security provided for under § 15-8-20, and further security to pay the costs of the appeal.~~

25 ~~**15-8-25. Costs.**~~

26 ~~If the court makes an order declaring paternity and for the support and maintenance and~~
27 ~~education of the child, court costs, including the costs of legal services of the attorney~~
28 ~~representing the petitioner, expert witness fees, and all other costs shall be taxed against the~~
29 ~~defendant.~~

30 ~~**15-8-26. Action to declare mother and child relationship.**~~

31 ~~Any interested party may bring an action to determine the existence or nonexistence of a~~
32 ~~mother and child relationship. The provisions of this chapter applicable to the father and child~~
33 ~~relationship shall apply as far as practicable.~~

34 ~~**15-8-27. Voluntary acknowledgement -- Family court practice.**~~

1 ~~(a) In any action commenced before the family court, the father may acknowledge his~~
2 ~~paternity of the child with the clerk of the family court. Each acknowledgement must be signed~~
3 ~~by the person filing it and contain:~~

4 ~~(1) The name, social security number, date of birth, and address of the person filing the~~
5 ~~acknowledgement;~~

6 ~~(2) The name and last known address of the mother of the child;~~

7 ~~(3) The date of birth of the child, or, if the child is unborn, the month and year in which~~
8 ~~the child is expected to be born; and~~

9 ~~(4) The name and address of the presumed father, if any.~~

10 ~~(b) The judge shall hold an informal hearing on the acknowledgement and shall enter an~~
11 ~~order establishing the paternity of the child and an order of support for the child; provided, that~~
12 ~~there are no objections from the natural mother or presumed father filed with the family court~~
13 ~~prior to the date of the informal hearing; and provided, further, that a copy of the~~
14 ~~acknowledgement and a notice of the informal hearing are duly served upon the mother and any~~
15 ~~presumed father in accordance with the rules of procedure for domestic relations.~~

16 ~~(c) The voluntary acknowledgement of paternity shall be recognized by the family court~~
17 ~~as a basis for establishing a child support order for the child without requiring any further~~
18 ~~proceedings to establish paternity.~~

19 **15-8-28. Duty of parents to notify department.**

20 ~~(a) During the pendency of the paternity proceedings and throughout the duration of the~~
21 ~~child support order, the parents must notify the department of any change in address, phone~~
22 ~~number or place of employment within ten (10) days of the change.~~

23 ~~(b) All notices and pleadings shall be mailed and/or served as appropriate to the most~~
24 ~~recent address of record.~~

25 SECTION 2. Title 15 of the General Laws entitled "DOMESTIC RELATIONS" is
26 hereby amended by adding thereto the following chapter:

27 CHAPTER 8.1

28 UNIFORM PARENTAGE ACT 2018

29 **15-8.1-1 GENERAL PROVISIONS**

30 **15-8.1-1.101. Short title.**

31 This act shall be known and may be cited as the "Uniform Parentage Act 2018."

32 **15-8.1-1.102. Definitions.**

33 (a) As used in this chapter:

34 (1) "Acknowledged parent" means an individual who has established a parent-child

1 relationship pursuant to the provisions of §§ 15-8.1-2.101 through 15-8.1-2.104 and §§ 15-8.1-
2 3.101 through 15-8.1-3.114.

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

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

9 (i) A presumed parent;

10 (ii) An individual whose parental rights have been terminated or declared not to exist; or

11 (iii) A donor.

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

14 (i) Intrauterine or intracervical insemination;

15 (ii) Donation of gametes;

16 (iii) Donation of embryos;

17 (iv) In-vitro fertilization and transfer of embryos; and

18 (v) Intracytoplasmic sperm injection.

19 (5) "Birth" means and includes stillbirth.

20 (6) "Child" means an individual of any age whose parentage may be determined under
21 this chapter.

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

25 (8) "Determination of parentage" means establishment of a parent-child relationship by a
26 judicial or administrative proceeding or signing of a valid acknowledgment of parentage pursuant
27 to the provisions of §§ 15-8.1-3.101 through 15-8.1-3.114.

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

30 (i) A woman who gives birth to a child conceived by assisted reproduction, except as
31 otherwise provided in §§ 15-8.1-8.100 through 15-8.1-8.306; or

32 (ii) A parent pursuant to the provisions of §§ 15-8.1-7.101 through 15-8.1-7.108 or an
33 intended parent under §§ 15-8.1-8.100 through 15-8.1-8.306.

34 (10) "Gamete" means sperm, egg, or any part of a sperm or egg.

1 (11) "Genetic testing" means an analysis of genetic markers to identify or exclude a
2 genetic relationship.

3 (12) "Individual" means a natural person of any age.

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

6 (14) "Man" means a male individual of any age.

7 (15) "Office" means the office of vital records in the state department of health;

8 (16) "Parent" means an individual who has established a parent-child relationship
9 pursuant to the provisions of § 15-8.1-2.101.

10 (17) "Parentage" or "parent-child relationship" means the legal relationship between a
11 child and a parent of the child.

12 (18) "Presumed parent" means an individual who pursuant to the provisions of § 15-8.1-
13 2.104 is presumed to be a parent of a child, unless the presumption is overcome in a judicial
14 proceeding, a valid denial of parentage is made pursuant to the provisions of §§ 15-8.1-3.101
15 through 15-8.1-3.114, or a court adjudicates the individual to be a parent.

16 (19) "Record" means information that is inscribed on a tangible medium or that is stored
17 in an electronic or other medium and is retrievable in perceivable form.

18 (20) "Sign" means, with present intent to authenticate or adopt a record:

19 (i) To execute or adopt a tangible symbol; or

20 (ii) To attach to or logically associate with the record an electronic symbol, sound, or
21 process.

22 (21) "Signatory" means an individual who signs a record.

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

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

28 (24) "Witnessed" means that at least one individual who is authorized to sign has signed a
29 record to verify that the individual personally observed a signatory sign the record.

30 (25) "Woman" means a female individual of any age.

31 (b) As used in the chapter, references to an article refers to an article in this chapter 8.1 of
32 title 15, unless the statute clearly indicates otherwise.

33 **15-8.1-1.103. Scope.**

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

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

3 (c) This chapter does not authorize or prohibit an agreement between one or more
4 intended parents and a woman who is not an intended parent in which the woman agrees to
5 become pregnant through assisted reproduction and which provides that each intended parent is a
6 parent of a child conceived through assisted reproduction.

7 **15-8.1-1.104. Authorized court.**

8 The family court may adjudicate parentage under this chapter.

9 **15-8.1-1.105. Applicable law.**

10 The court shall apply the law of this state to adjudicate parentage. The applicable law
11 does not depend on:

12 (1) The place of birth of the child; or

13 (2) The past or present residence of the child.

14 **15-8.1-1.106. Data privacy.**

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

20 **15-8.1-1.107. Establishment of maternity and paternity.**

21 To the extent practicable, a provision of this chapter applicable to a father-child
22 relationship applies to a mother-child relationship and a provision of this chapter applicable to a
23 mother-child relationship applies to a father-child relationship.

24 **15-8.1-2 PARENT-CHILD RELATIONSHIP**

25 **15-8.1-2.101. Establishment of parent-child relationship.**

26 A parent-child relationship is established between an individual and a child if:

27 (1) The individual gives birth to the child, except as otherwise provided in § 15-8.1-8.100
28 to and including § 15-8.1-8.306;

29 (2) There is a presumption under § 15-8.1-2.104 of the individual's parentage of the child,
30 unless the presumption is overcome in a judicial proceeding or a valid denial of parentage is made
31 under §§ 15-8.1-3.101 through 15-8.1-3.114;

32 (3) The individual is adjudicated a parent of the child under §§ 15-8.1-6.100 through 15-
33 8.1-6.309;

34 (4) The individual adopts the child;

1 (5) The individual acknowledges parentage of the child under §§ 15-8.1-3.101 through
2 15-8.1-3.114, unless the acknowledgment is rescinded pursuant to the provisions of § 15-8.1-
3 3.108 or successfully challenged under 15-8.1-3.101 through 15-8.1-3.114 or §§ 15-8.1-6.100
4 through 15-8.1-6.309; or

5 (6) The individual's parentage of the child is established under §§ 15-8.1-7.101 through
6 15-8.1-7.108; or

7 (7) The individual's parentage of the child is established under §§ 15-8.1-8.100 through
8 15-8.1-8.306.

9 **15-8.1-2.102. No discrimination based on marital status of parent.**

10 A parent-child relationship extends equally to every child and parent, regardless of the
11 marital status of the parent.

12 **15-8.1-2.103. Consequences of establishing parentage.**

13 Unless parental rights are terminated, a parent-child relationship established under this
14 chapter applies for all purposes, except as otherwise provided by the law of this state other than
15 this chapter.

16 **15-8.1-2.104. Presumption of parentage.**

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

18 (1) Except as otherwise provided under §§ 15-8.1-8.100 through 15-8.1-8.306 or the law
19 of this state other than this chapter:

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

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

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

29 (A) The assertion is in a record filed with the office of vital records within the department
30 of health; or

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

33 (2) The individual resided in the same household with the child for the first two (2) years
34 of the life of the child, including any period of temporary absence, and openly held out the child

1 as the individual's child.

2 (b) A presumption of parentage under this section may be overcome, and competing
3 claims to parentage may be resolved, only by an adjudication under §§ 15-8.1-6.100 through 15-
4 8.1-6.309 or a valid denial of parentage under §§ 15-8.1-3.101 through 15-8.1-3.114.

5 **15-8.1-3 VOLUNTARY ACKNOWLEDGMENT OF PARENTAGE**

6 **15-8.1-3.101. Acknowledgment of parentage.**

7 A woman who gave birth to a child and an alleged genetic father of the child, intended
8 parent under §§ 15-8.1-7.101 through 15-8.1-7.108, or presumed parent may sign an
9 acknowledgment of parentage to establish the parentage of the child.

10 **15-8.1-3.102. Execution of acknowledgment of parentage.**

11 (a) An acknowledgment of parentage under § 15-8.1-3.101 must:

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

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

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

18 (ii) Does not have another acknowledged parent, adjudicated parent, or individual who is
19 a parent of the child under §§ 15-8.1-7.101 through 15-8.1-7.108 or §§ 15-8.1-8.100 through 15-
20 8.1-8.306 other than the woman who gave birth to the child; and

21 (3) State that the signatories understand that the acknowledgment is the equivalent of an
22 adjudication of parentage of the child and that a challenge to the acknowledgment is permitted
23 only under limited circumstances and is barred two (2) years after the effective date of the
24 acknowledgment.

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

26 (1) An individual other than the individual seeking to establish parentage is a presumed
27 parent, unless a denial of parentage by the presumed parent in a signed record is filed with the
28 office of vital records; or

29 (2) An individual, other than the woman who gave birth to the child or the individual
30 seeking to establish parentage, is an acknowledged or adjudicated parent or a parent under §§ 15-
31 8.1-7.101 through 15-8.1-7.108 or §§ 15-8.1-8.100 through 15-8.1-8.306.

32 **15-8.1-3.103. Denial of parentage.**

33 A presumed parent or alleged genetic parent may sign a denial of parentage in a record.
34 The denial of parentage is valid only if:

- 1 (1) An acknowledgment of parentage by another individual is filed under § 15-8.1-3.105;
2 (2) The signature of the presumed parent or alleged genetic parent is attested by a notarial
3 officer or witnessed; and
4 (3) The presumed parent or alleged genetic parent has not previously:
5 (i) Completed a valid acknowledgment of parentage, unless the previous
6 acknowledgment was rescinded under § 15-8.1-3.108 or challenged successfully under § 15-8.1-
7 3.109; or
8 (ii) Been adjudicated to be a parent of the child.

9 **15-8.1-3.104. Rules for acknowledgment or denial of parentage.**

10 (a) An acknowledgment of parentage and a denial of parentage may be contained in a
11 single document or may be in counterparts and may be filed with the office of vital records
12 separately or simultaneously. If filing of the acknowledgment and denial both are required under
13 this chapter, neither is effective until both are filed.

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

16 (c) Subject to subsection (a) of this section, an acknowledgment of parentage or denial of
17 parentage takes effect on the birth of the child or filing of the document with the office of vital
18 records, whichever occurs later.

19 (d) An acknowledgment of parentage or denial of parentage signed by a minor is valid if
20 the acknowledgment complies with this chapter.

21 **15-8.1-3.105. Effect of acknowledgment or denial of parentage.**

22 (a) Except as otherwise provided in §§ 15-8.1-3.108 and 15-8.1-3.109, an
23 acknowledgment of parentage that complies with this chapter and is filed with the office of vital
24 records is equivalent to an adjudication of parentage of the child and confers on the
25 acknowledged parent all rights and duties of a parent.

26 (b) Except as otherwise provided in §§ 15-8.1-3.108 and 15-8.1-3.109, a denial of
27 parentage by a presumed parent or alleged genetic parent which complies with this chapter and is
28 filed with the office of vital records with an acknowledgment of parentage that complies with this
29 chapter is equivalent to an adjudication of the nonparentage of the presumed parent or alleged
30 genetic parent and discharges the presumed parent or alleged genetic parent from all rights and
31 duties of a parent.

32 **15-8.1-3.106. No filing fee.**

33 The office of vital records may not charge a fee for filing an acknowledgment of
34 parentage or denial of parentage.

1 **15-8.1-3.107. Ratification barred.**

2 A court conducting a judicial proceeding or an administrative agency conducting an
3 administrative proceeding is not required or permitted to ratify an unchallenged acknowledgment
4 of parentage.

5 **15-8.1-3.108. Procedure for rescission.**

6 (a) A signatory may rescind an acknowledgment of parentage or denial of parentage by
7 filing with the office of vital records a rescission in a signed record which is attested by a notarial
8 officer or witnessed, before the earlier of:

9 (1) Sixty (60) days after the effective date under § 15-8.1-3.104 of the acknowledgment
10 or denial; or

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

13 (b) If an acknowledgment of parentage is rescinded under subsection (a) of this section,
14 an associated denial of parentage is invalid, and the office of vital records shall notify the woman
15 who gave birth to the child and the individual who signed a denial of parentage of the child that
16 the acknowledgment has been rescinded. Failure to give the notice required by this subsection
17 does not affect the validity of the rescission.

18 **15-8.1-3.109. Challenge after expiration of period for rescission.**

19 (a) After the period for rescission under § 15-8.1-3.108 expires, but not later than two (2)
20 years after the effective date under § 15-8.1-3.104 of an acknowledgment of parentage or denial
21 of parentage, a signatory of the acknowledgment or denial may commence a proceeding to
22 challenge the acknowledgment or denial, including a challenge brought under § 15-8.1-6.209,
23 only on the basis of fraud, duress, or material mistake of fact.

24 (b) A challenge to an acknowledgment of parentage or denial of parentage by an
25 individual who was not a signatory to the acknowledgment or denial is governed by § 15-8.1-
26 6.205.

27 **15-8.1-3.110. Procedure for challenge by signatory.**

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

30 (b) By signing an acknowledgment of parentage or denial of parentage, a signatory
31 submits to personal jurisdiction in this state in a proceeding to challenge the acknowledgment or
32 denial, effective on the filing of the acknowledgment or denial with the office of vital records.

33 (c) The court may not suspend the legal responsibilities arising from an acknowledgment
34 of parentage, including the duty to pay child support, during the pendency of a proceeding to

1 challenge the acknowledgment or a related denial of parentage, unless the party challenging the
2 acknowledgment or denial shows good cause.

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

5 (e) If the court determines that a party has satisfied the burden of proof under subsection
6 (d) of this section, the court shall order the office of vital records to amend the birth record of the
7 child to reflect the legal parentage of the child.

8 (f) A proceeding to challenge an acknowledgment of parentage or denial of parentage
9 must be conducted under §§ 15-8.1-6.100 through 15-8.1-6.309.

10 **15-8.1-3.111. Full faith and credit.**

11 The court shall give full faith and credit to an acknowledgment of parentage or denial of
12 parentage effective in another state if the acknowledgment or denial was in a signed record and
13 otherwise complies with the law of the other state.

14 **15-8.1-3.112. Forms for acknowledgment and denial of parentage.**

15 (a) The office of vital records shall prescribe forms for an acknowledgment of parentage
16 and denial of parentage.

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

19 **15-8.1-3.113. Release of information.**

20 The office of vital records may release information relating to an acknowledgment of
21 parentage or denial of parentage to a signatory of the acknowledgment or denial, a court, federal
22 agency, and child-support agency of this or another state.

23 **15-8.1-3.114. Adoption of rules.**

24 The office of vital records may adopt rules under chapter 35 of title 42 to implement this
25 chapter.

26 **15-8.1-4 REGISTRY OF PATERNITY**

27 **15-8.1-4.100 GENERAL PROVISIONS**

28 **15-8.1-4.101. Establishment of registry.**

29 A registry of paternity is established in the office of vital records within the department
30 of health.

31 **15-8.1-4.102. Registration for notification.**

32 (a) Except as otherwise provided in subsection (b) of this section or § 15-8.1-4.105, a
33 man who desires to be notified of a proceeding for adoption of, or termination of parental rights
34 regarding, his genetic child must register in the registry of paternity established by § 15-8.1-4.101

1 before the birth of the child or not later than thirty (30) days after the birth.

2 (b) A man is not required to register under subsection (a) of this section if:

3 (1) A parent-child relationship between the man and the child has been established under
4 this chapter or the law of this state other than this chapter; or

5 (2) The man commences a proceeding to adjudicate his parentage before a court has
6 terminated his parental rights.

7 (c) A man who registers under subsection (a) of this section shall notify the registry
8 promptly in a record of any change in the information registered. The office of vital records shall
9 incorporate new information received into its records but need not seek to obtain current
10 information for incorporation in the registry.

11 **15-8.1-4.103. Notice of proceeding.**

12 An individual who seeks to adopt a child or terminate parental rights to the child shall
13 give notice of the proceeding to a man who has registered timely under § 15-8.1-4.102(a)
14 regarding the child. Notice must be given in a manner prescribed for service of process in a civil
15 proceeding in this state.

16 **15-8.1-4.104. Termination of parental rights -- Child under one year of age.**

17 An individual who seeks to terminate parental rights to or adopt a child is not required to
18 give notice of the proceeding to a man who may be the genetic father of the child if:

19 (1) The child is under one year of age at the time of the termination of parental rights;

20 (2) The man did not register timely under § 15-8.1-4.102(a); and

21 (3) The man is not exempt from registration under § 15-8.1-4.102(b).

22 **15-8.1-4.105. Termination of parental rights -- Child at least one year of age.**

23 If a child is at least one year of age, an individual seeking to adopt or terminate parental
24 rights to the child shall give notice of the proceeding to each alleged genetic father of the child,
25 whether or not he has registered under § 15-8.1-4.102(a) unless his parental rights have already
26 been terminated. Notice must be given in a manner prescribed for service of process in a civil
27 proceeding in this state.

28 **15-8.1-4.200 OPERATION OF REGISTRY**

29 **15-8.1-4.201. Required form.**

30 (a) The office of vital records shall prescribe a form for registering under § 15-8.1-
31 4.102(a). The form must state that:

32 (1) The man who registers signs the form under penalty of perjury;

33 (2) Timely registration entitles the man who registers to notice of a proceeding for
34 adoption of the child or termination of the parental rights of the man;

1 (3) Timely registration does not commence a proceeding to establish parentage;

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

4 (5) Services to assist in establishing parentage are available to the man who registers
5 through the office of child support services within the department of human services;

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

8 (7) Information on registries of paternity of other states is available from the office of
9 vital records; and

10 (8) Procedures exist to rescind the registration.

11 (b) A man who registers under § 15-8.1-4.102(a) shall sign the form described in
12 subsection (a) of this section under penalty of perjury.

13 **15-8.1-4.202. Furnishing information -- Confidentiality.**

14 (a) The office of vital records is not required to seek to locate the woman who gave birth
15 to the child who is the subject of a registration under § 15-8.1-4.102(a), but the office shall give
16 notice of the registration to the woman if the office has her address.

17 (b) Information contained in the registry of paternity established by § 15-8.1-4.101 is
18 confidential and may be released on request only to:

19 (1) A court or individual designated by the court;

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

21 (3) An agency authorized by the laws of this state other than this chapter, the laws of
22 another state, or federal laws to receive the information;

23 (4) A licensed child-placing agency;

24 (5) A child-support agency;

25 (6) A party or the party's attorney of record in a proceeding under this chapter or in a
26 proceeding to adopt or terminate parental rights to the child who is the subject of the registration;
27 and

28 (7) A registry of paternity in another state.

29 **15-8.1-4.203. Penalty for releasing information.**

30 An individual who intentionally releases information from the registry of paternity
31 established by §15-8.1-4.101 to an individual or agency not authorized under §15-8.1-4.202(b) to
32 receive the information shall be fined not more than five hundred dollars (\$500) or imprisoned for
33 not more than ninety (90) days.

34 **15-8.1-4.204. Rescission of registration.**

1 A man who registers under § 15-8.1-4.102(a) may rescind his registration at any time by
2 filing with the registry of paternity established by § 15-8.1-4.101 a rescission in a signed record
3 that is attested by a notarial officer or witnessed.

4 **15-8.1-4.205. Untimely registration.**

5 If a man registers under § 15-8.1-4.102(a) more than thirty (30) days after the birth of the
6 child, the office of vital records shall notify the man who registers that, based on a review of the
7 registration, the registration was not filed timely.

8 **15-8.1-4.206. Fees for registry.**

9 (a) The office of vital records may not charge a fee for filing a registration under § 15-
10 8.1-402(a) or rescission of registration under § 15-8.1-4.209.

11 (b) Except as otherwise provided in subsection (c) of this section, the office may charge a
12 reasonable fee to search the registry of paternity established by § 15-8.1-4.101 and for furnishing
13 a certificate of search under § 15-8.1-4.303.

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

16 **15-8.1-4.300 SEARCH OF REGISTRY**

17 **15-8.1-4.301. Child born through assisted reproduction -- Search of registry**
18 **inapplicable.**

19 The provisions of this §§ 15-8.1-4.300 through 15-8.1-4.304 do not apply to a child born
20 through assisted reproduction.

21 **15-8.1-4.302. Search of appropriate registry.**

22 If a parent-child relationship has not been established under this chapter between a child
23 who is under one year of age and an individual other than the woman who gave birth to the child:

24 (1) An individual seeking to adopt or terminate parental rights to the child shall obtain a
25 certificate of search under § 15-8.1-4.303 to determine if a registration has been filed in the
26 registry of paternity established by § 15-8.1-4.101 regarding the child; and

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

30 **15-8.1-4.303. Certificate of search of registry.**

31 (a) The office of vital records shall furnish a certificate of search of the registry of
32 paternity established by § 15-8.1-4.101 on request to an individual, court, or agency identified in
33 §15-8.1-407(b) or an individual required under § 15-8.1-4.303(1) to obtain a certificate.

34 (b) A certificate furnished under subsection (a) of this section:

- 1 (1) Must be signed on behalf of the office of vital records and state that:
2 (i) A search has been made of the registry; and
3 (ii) A registration under § 15-8.1-4.102(a) containing the information required to identify
4 the man who registers;
5 (A) Has been found; or
6 (B) Has not been found; and
7 (2) If subsection (b)(1)(ii)(A) of this section applies, must have a copy of the registration
8 attached.
9 (c) An individual seeking to adopt or terminate parental rights to a child must file with
10 the court the certificate of search furnished under subsection (a) of this section and § 15-8.1-
11 4.303(2), if applicable, before a proceeding to adopt or terminate parental rights to the child may
12 be concluded.

13 **15-8.1-4.304. Admissibility of registered information.**

14 A certificate of search of a registry of paternity in this or another state is admissible in a
15 proceeding for adoption of or termination of parental rights to a child and, if relevant, in other
16 legal proceedings.

17 **15-8.1-5 GENETIC TESTING**

18 **15-8.1-5.101. Additional definitions.**

19 As used in this chapter:

20 (1) "Combined relationship index" means the product of all tested relationship indices.

21 (2) "Ethnic or racial group" means, for the purpose of genetic testing, a recognized group
22 that an individual identifies as the individual's ancestry or part of the ancestry or that is identified
23 by other information.

24 (3) "Hypothesized genetic relationship" means an asserted genetic relationship between
25 an individual and a child.

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

32 (5) "Relationship index" means a likelihood ratio that compares the probability of a
33 genetic marker given a hypothesized genetic relationship and the probability of the genetic
34 marker given a genetic relationship between the child and a random individual of the ethnic or

1 racial group used in the hypothesized genetic relationship.

2 **15-8.1-5.102. Scope of chapter -- limitation on use of genetic testing.**

3 (a) This chapter governs genetic testing of an individual in a proceeding to adjudicate
4 parentage, whether the individual:

5 (1) Voluntarily submits to testing; or

6 (2) Is tested under an order of the court or a child-support agency.

7 (b) Genetic testing may not be used:

8 (1) To challenge the parentage of an individual who is a parent under §§ 15-8.1-7.101
9 through 15-8.1-7.108 or §§ 15-8.1-8.100 through 15-8.1-8.306; or

10 (2) To establish the parentage of an individual who is a donor.

11 **15-8.1-5.103. Authority to order or deny genetic testing.**

12 (a) Except as otherwise provided in this §§ 15-8.1-5.101 through 15-8.1-5.112 or §§ 15-
13 8.1-6.100 through 15-8.1-6.306, in a proceeding under this chapter to determine parentage, the
14 court shall order the child and any other individual to submit to genetic testing if a request for
15 testing is supported by the sworn statement of a party:

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

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

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

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

22 (d) If two (2) or more individuals are subject to court-ordered genetic testing, the court
23 may order that testing be completed concurrently or sequentially.

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

28 (f) In a proceeding to adjudicate the parentage of a child having a presumed parent or an
29 individual who claims to be a parent under § 15-8.1-6.204, or to challenge an acknowledgment of
30 parentage, the court may deny a motion for genetic testing of the child and any other individual
31 after considering the factors in §§ 15-8.1-6.208(a) and (b).

32 (g) If an individual requesting genetic testing is barred under §§ 15-8.1-6.100 through 15-
33 8.1-6.309 from establishing the individual's parentage, the court shall deny the request for genetic
34 testing.

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

2 **15-8.1-5.104. Requirements for genetic testing.**

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

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

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

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

12 (c) Based on the ethnic or racial group of an individual undergoing genetic testing, a
13 testing laboratory shall determine the databases from which to select frequencies for use in
14 calculating a relationship index. If an individual or the department of human services objects to
15 the laboratory's choice, the following rules apply:

16 (1) Not later than thirty (30) days after receipt of the report of the test, the objecting
17 individual or department of human services may request the court to require the laboratory to
18 recalculate the relationship index using an ethnic or racial group different from that used by the
19 laboratory.

20 (2) The individual or the department of human services objecting to the laboratory's
21 choice under this subsection shall:

22 (i) If the requested frequencies are not available to the laboratory for the ethnic or racial
23 group requested, provide the requested frequencies compiled in a manner recognized by
24 accrediting bodies; or

25 (ii) Engage another laboratory to perform the calculations.

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

29 (d) If, after recalculation of the relationship index under subsection (c) of this section
30 using a different ethnic or racial group, genetic testing under § 15-8.1-5.106 does not identify an
31 individual as a genetic parent of a child, the court may require an individual who has been tested
32 to submit to additional genetic testing to identify a genetic parent.

33 **15-8.1-5.105. Report of genetic testing.**

34 (a) A report of genetic testing must be in a record and signed under penalty of perjury by

1 a designee of the testing laboratory. A report complying with the requirements of this chapter is
2 self-authenticating.

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

6 (1) The name and photograph of each individual whose specimen has been taken;

7 (2) The name of the individual who collected each specimen;

8 (3) The place and date each specimen was collected;

9 (4) The name of the individual who received each specimen in the testing laboratory; and

10 (5) The date each specimen was received.

11 **15-8.1-5.106. Genetic testing results -- Challenge to results.**

12 (a) Subject to a challenge under subsection (b) of this section, an individual is identified
13 under this chapter as a genetic parent of a child if genetic testing complies with this chapter and
14 the results of the testing disclose:

15 (1) The individual has at least a ninety-nine percent (99%) probability of parentage, using
16 a prior probability of one-half of one percent (0.50%), as calculated by using the combined
17 relationship index obtained in the testing; and

18 (2) A combined relationship index of at least one hundred (100) to one.

19 (b) An individual identified under subsection (a) of this section as a genetic parent of the
20 child may challenge the genetic testing results only by other genetic testing satisfying the
21 requirements of this chapter which:

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

23 (2) Identifies another individual as a possible genetic parent of the child other than:

24 (i) The woman who gave birth to the child; or

25 (ii) The individual identified under subsection (a) of this section.

26 (c) Except as otherwise provided in § 15-8.1-5.111, if more than one individual other
27 than the woman who gave birth is identified by genetic testing as a possible genetic parent of the
28 child, the court shall order each individual to submit to further genetic testing to identify a genetic
29 parent.

30 **15-8.1-5.107. Cost of genetic testing.**

31 (a) Subject to assessment of fees under §§ 15-8.1-6.100 through 15-8.1-6.309, payment
32 of the cost of initial genetic testing must be made in advance:

33 (1) By the department of human services in a proceeding in which the department of
34 human services is providing services;

1 (2) By the individual who made the request for genetic testing;

2 (3) As agreed by the parties; or

3 (4) As ordered by the court.

4 (b) If the cost of genetic testing is paid by the department of human services, the
5 department may seek reimbursement from the genetic parent whose parent-child relationship is
6 established.

7 **15-8.1-5.108. Additional genetic testing.**

8 The court or child-support agency shall order additional genetic testing on request of an
9 individual who contests the result of the initial testing under § 15-8.1-5.106. If initial genetic
10 testing under § 15-8.1-5.106 identified an individual as a genetic parent of the child, the court or
11 agency may not order additional testing unless the contesting individual pays for the testing in
12 advance.

13 **15-8.1-5.109. Genetic testing when specimen not available.**

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

18 (1) A parent of the alleged genetic parent;

19 (2) A sibling of the alleged genetic parent;

20 (3) Another child of the alleged genetic parent and the woman who gave birth to the other
21 child; and

22 (4) Another relative of the alleged genetic parent necessary to complete genetic testing.

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

25 **15-8.1-5.110. Deceased individual.**

26 If an individual seeking genetic testing demonstrates good cause, the court may order
27 genetic testing of a deceased individual.

28 **15-8.1-5.111. Identical siblings.**

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

32 (b) If more than one sibling is identified under § 15-8.1-5.106 as a genetic parent of the
33 child, the court may rely on nongenetic evidence to adjudicate which sibling is a genetic parent of
34 the child.

1 **15-8.1-5.112. Confidentiality of genetic testing.**

2 (a) Release of a report of genetic testing for parentage is controlled by the law of this
3 state other than this chapter.

4 (b) An individual who intentionally releases an identifiable specimen of another
5 individual collected for genetic testing under this chapter for a purpose not relevant to a
6 proceeding regarding parentage, without a court order or written permission of the individual who
7 furnished the specimen shall be fined not more than five hundred dollars (\$500) or imprisoned
8 not more than ninety (90) days.

9 **15-8.1-6 PROCEEDING TO ADJUDICATE PARENTAGE**

10 **15-8.1-6.100 NATURE OF PROCEEDING**

11 **15-8.1-6.101. Proceeding authorized.**

12 (a) A proceeding may be commenced to adjudicate the parentage of a child. Except as
13 otherwise provided in this chapter, the proceeding is governed by the family court rules of
14 domestic relations procedure.

15 (b) A proceeding to adjudicate the parentage of a child born under a surrogacy agreement
16 is governed by §§ 15-8.1-8.100 through 15-8.1-8.306.

17 **15-8.1-6.102. Standing to maintain proceeding.**

18 Except as otherwise provided in §§ 15-8.1-3.101 through 15-8.1-3.114 and § 15-8.1-
19 6.203 through and including § 15-8.1-6.202, a proceeding to adjudicate parentage may be
20 maintained by:

21 (1) The child;

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

24 (3) An individual who is a parent under this chapter;

25 (4) An individual whose parentage of the child is to be adjudicated;

26 (5) A child-support agency or other governmental agency authorized by the law of this
27 state other than this chapter including the department of human services office of child support
28 services;

29 (6) An adoption agency authorized by the law of this state other than this chapter or
30 licensed child-placement agency; or

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

34 **15-8.1-6.103. Notice of proceeding.**

1 (a) The plaintiff shall give notice of a proceeding to adjudicate parentage to the following
2 individuals:

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

5 (2) An individual who is a parent of the child under this chapter;

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

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

8 (b) An individual entitled to notice under subsection (a) of this section has a right to
9 intervene in the proceeding.

10 (c) Lack of notice required by subsection (a) of this section does not render a judgment
11 void. Lack of notice does not preclude an individual entitled to notice under subsection (a) of this
12 section from bringing a proceeding under § 15-8.1-6.206(b).

13 **15-8.1-6.104. Personal jurisdiction.**

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

16 (b) A court of this state with jurisdiction to adjudicate parentage may exercise personal
17 jurisdiction over a nonresident individual, or the guardian or conservator of the individual, if the
18 conditions prescribed in § 15-23.1-201 ("uniform interstate family support act") are satisfied.

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

21 **15-8.1-6.105. Venue.**

22 Venue for a proceeding to adjudicate parentage is in the county of this state in which:

23 (1) The child resides or is located;

24 (2) If the child does not reside in this state, the defendant resides or is located; or

25 (3) A proceeding has been commenced for administration of the estate of an individual
26 who is or may be a parent under this chapter.

27 **15-8.1-6.200 SPECIAL RULES FOR PROCEEDING TO ADJUDICATE**
28 **PARENTAGE**

29 **15-8.1-6.201. Admissibility of results of genetic testing.**

30 (a) Except as otherwise provided in § 15-8.1-5.102(b), the court shall admit a report of
31 genetic testing ordered by the court under § 15-8.1-5.103 as evidence of the truth of the facts
32 asserted in the report.

33 (b) A party may object to the admission of a report described in subsection (a) of this
34 section, not later than fourteen (14) calendar days after the party receives the report. The party

1 shall cite specific grounds for exclusion.

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

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

7 (1) Voluntarily or under an order of the court or a child-support agency, including the
8 office of child support services in the department of human services; or

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

10 **15-8.1-6.202. Adjudicating parentage of child with alleged genetic parent.**

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

13 (1) Before the child becomes an adult; or

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

15 (b) Except as otherwise provided in § 15-8.1-6.209, this subsection applies in a
16 proceeding described in subsection (a) of this section if the woman who gave birth to the child is
17 the only other individual with a claim to parentage of the child. The court shall adjudicate an
18 alleged genetic parent to be a parent of the child if the alleged genetic parent:

19 (1) Is identified under § 15-8.1-5.106 as a genetic parent of the child and the
20 identification is not successfully challenged under that section;

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

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

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

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

31 (c) Except as otherwise provided in § 15-8.1-6.209 and subject to other limitations in §§
32 15-8.1-6.200 through 15-8.1-6.209, if in a proceeding involving an alleged genetic parent, at least
33 one other individual in addition to the woman who gave birth to the child has a claim to parentage
34 of the child, the court shall adjudicate parentage under § 15-8.1-6.208.

1 **15-8.1-6.203. Adjudicating parentage of child with presumed parent.**

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

4 (1) Before the child becomes an adult; or

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

6 (b) A presumption of parentage under § 15-8.1-2.104 cannot be overcome after the child
7 attains two (2) years of age unless the court determines:

8 (1) The presumed parent is not a genetic parent, never resided with the child, and never
9 held out the child as the presumed parent's child; or

10 (2) The child has more than one presumed parent.

11 (c) Except as otherwise provided in § 15-8.1-6.209, the following rules apply in a
12 proceeding to adjudicate a presumed parent's parentage of a child if the woman who gave birth to
13 the child is the only other individual with a claim to parentage of the child:

14 (1) If no party to the proceeding challenges the presumed parent's parentage of the child,
15 the court shall adjudicate the presumed parent to be a parent of the child.

16 (2) If the presumed parent is identified under § 15-8.1-5.106 as a genetic parent of the
17 child and that identification is not successfully challenged under § 15-8.1-5.106, the court shall
18 adjudicate the presumed parent to be a parent of the child.

19 (3) If the presumed parent is not identified under § 15-8.1-5.106 as a genetic parent of the
20 child and the presumed parent or the woman who gave birth to the child challenges the presumed
21 parent's parentage of the child, the court shall adjudicate the parentage of the child in the best
22 interest of the child based on the factors under §§ 15-8.1-6.208(a) and (b).

23 (d) Except as otherwise provided in § 15-8.1-6.209 and subject to other limitations in §§
24 15-8.1-6.200 through 15-8.1-6.209, if in a proceeding to adjudicate a presumed parent's parentage
25 of a child, another individual in addition to the woman who gave birth to the child asserts a claim
26 to parentage of the child, the court shall adjudicate parentage under § 15-8.1-6.208.

27 **15-8.1-6.204. Adjudicating claim of de facto parentage of child.**

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

30 (1) Is alive when the proceeding is commenced; and

31 (2) Claims to be a de facto parent of the child.

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

34 (1) Before the child attains eighteen (18) years of age; and

1 (2) While the child is alive.

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

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

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

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

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

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

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

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

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

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

27 (6) Another parent of the child fostered or supported the bonded and dependent
28 relationship required under subsection (d)(5) of this section; and

29 (7) Continuing the relationship between the individual and the child is in the best interest
30 of the child.

31 (e) Subject to other limitations in §§ 15-8.1-6.200 through 15-8.1-6.209, if in a
32 proceeding to adjudicate parentage of an individual who claims to be a de facto parent of the
33 child, there is more than one other individual who is a parent or has a claim to parentage of the
34 child and the court determines that the requirements of subsection (d) of this section are satisfied,

1 the court shall adjudicate parentage under § 15-8.1-6.208.

2 **15-8.1-6.205. Adjudicating parentage of child with acknowledged parent.**

3 (a) If a child has an acknowledged parent, a proceeding to challenge the acknowledgment
4 of parentage or a denial of parentage, brought by a signatory to the acknowledgment or denial, is
5 governed by §§ 15-8.1-3.109 and 15-8.1-3.110.

6 (b) If a child has an acknowledged parent, the following rules apply in a proceeding to
7 challenge the acknowledgment of parentage or a denial of parentage brought by an individual,
8 other than the child, who has standing under § 15-8.1-6.102 and was not a signatory to the
9 acknowledgment or denial:

10 (1) The individual must commence the proceeding not later than two (2) years after the
11 effective date of the acknowledgment.

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

14 (3) If the court permits the proceeding, the court shall adjudicate parentage under § 15-
15 8.1-613.

16 **15-8.1-6.206. Adjudicating parentage of child with adjudicated parent.**

17 (a) If a child has an adjudicated parent, a proceeding to challenge the adjudication,
18 brought by an individual who was a party to the adjudication or received notice under § 15-8.1-
19 6.103, is governed by the rules governing a collateral attack on a judgment.

20 (b) If a child has an adjudicated parent, the following rules apply to a proceeding to
21 challenge the adjudication of parentage brought by an individual, other than the child, who has
22 standing under § 15-8.1-6.102 and was not a party to the adjudication and did not receive notice
23 under § 15-8.1-6.103:

24 (1) The individual must commence the proceeding not later than two (2) years after the
25 effective date of the adjudication.

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

28 (3) If the court permits the proceeding, the court shall adjudicate parentage under § 15-
29 8.1-6.207.

30 **15-8.1-6.207. Adjudicating parentage of child of assisted reproduction.**

31 (a) An individual who is a parent under §§ 15-8.1-7.101 through 15-8.1-7.108 or the
32 woman who gave birth to the child may bring a proceeding to adjudicate parentage. If the court
33 determines the individual is a parent under §§ 15-8.1-7.101 through 15-8.1-7.108, the court shall
34 adjudicate the individual to be a parent of the child.

1 (b) In a proceeding to adjudicate an individual's parentage of a child, if another individual
2 other than the woman who gave birth to the child is a parent under §§ 15-8.1-7.101 through 15-
3 8.1-7.108, the court shall adjudicate the individual's parentage of the child under § 15-8.1-6.208.

4 **15-8.1-6.208. Adjudicating competing claims of parentage.**

5 (a) Except as otherwise provided in § 15-8.1-6.209, in a proceeding to adjudicate
6 competing claims of, or challenges under §§ 15-8.1-6.203(c), 15-8.1-6.205, or 15-8.1-6.206 to,
7 parentage of a child by two (2) or more individuals, the court shall adjudicate parentage in the
8 best interest of the child, based on:

9 (1) The age of the child;

10 (2) The length of time during which each individual assumed the role of parent of the
11 child;

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

13 (4) The harm to the child if the relationship between the child and each individual is not
14 recognized;

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

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

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

20 (1) The facts surrounding the discovery that the individual might not be a genetic parent
21 of the child; and

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

24 (c) The court may adjudicate a child to have more than two (2) parents under this chapter
25 if the court finds that failure to recognize more than two (2) parents would be detrimental to the
26 child. A finding of detriment to the child does not require a finding of unfitness of any parent or
27 individual seeking an adjudication of parentage. In determining detriment to the child, the court
28 shall consider all relevant factors, including the harm if the child is removed from a stable
29 placement with an individual who has fulfilled the child's physical needs and psychological needs
30 for care and affection and has assumed the role for a substantial period.

31 **15-8.1-6.209. Precluding establishment of parentage by perpetrator of sexual**
32 **assault.**

33 (a) In this section, "sexual assault" means first-degree sexual assault as defined in § 11-
34 37-2.

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

4 (c) This section does not apply if:

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

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

9 (d) Unless §§ 15-8.1-3.109 or 15-8.1-6.202 applies, a woman must file a pleading making
10 an allegation under subsection (b) of this section not later than two (2) years after the birth of the
11 child. The woman may file the pleading only in a proceeding to establish parentage under this
12 chapter.

13 (e) An allegation under subsection (b) of this section may be proved by:

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

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

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

21 (1) Adjudicate that the man described in subsection (b) of this section is not a parent of
22 the child;

23 (2) Require the office of vital records to amend the birth certificate if requested by the
24 woman and the court determines that the amendment is in the best interest of the child; and

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

28 **15-8.1-6.300 HEARING AND ADJUDICATION**

29 **15-8.1-6.301. Temporary order.**

30 (a) In a proceeding under **article 2**, the court may issue a temporary order for child
31 support if the order is consistent with law of this state other than this chapter and the individual
32 ordered to pay support is:

33 (1) A presumed parent of the child;

34 (2) Petitioning to be adjudicated a parent;

1 [\(3\) Identified as a genetic parent through genetic testing under § 15-8.1-5.106;](#)

2 [\(4\) An alleged genetic parent who has declined to submit to genetic testing;](#)

3 [\(5\) Shown by clear-and-convincing evidence to be a parent of the child; or](#)

4 [\(6\) A parent under this chapter.](#)

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

7 **15-8.1-6.302. Combining proceedings.**

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

13 [\(b\) A defendant may not combine a proceeding described in subsection \(a\) of this section](#)
14 [with a proceeding to adjudicate parentage brought under chapter 23.1 of title 15 \("uniform](#)
15 [interstate family support act"\).](#)

16 **15-8.1-6.303. Proceeding before birth.**

17 [Except as otherwise provided in §§ 15-8.1-8.100 through 15-8.1-8.306, a proceeding to](#)
18 [adjudicate parentage may be commenced before the birth of the child and an order or judgment](#)
19 [may be entered before birth, but enforcement of the order or judgment must be stayed until the](#)
20 [birth of the child.](#)

21 **15-8.1-6.304. Child as party-Representation.**

22 [\(a\) A minor child is a permissive party but not a necessary party to a proceeding under](#)
23 [this §§ 15-8.1-6.100 through 15-8.1-6.309.](#)

24 [\(b\) The court shall appoint an attorney, guardian ad litem, or similar person to represent a](#)
25 [child in a proceeding under this §§ 15-8.1-6.100 through 15-8.1-6.309, if the court finds that the](#)
26 [interests of the child are not adequately represented.](#)

27 **15-8.1-6.305. Court to adjudicate parentage.**

28 [The court shall adjudicate parentage of a child without a jury.](#)

29 **15-8.1-6.306. Hearing-Inspection of records.**

30 [\(a\) On request of a party and for good cause, the court may close a proceeding under this](#)
31 [§§ 15-8.1-6.100 through 15-8.1-6.309 to the public.](#)

32 [\(b\) A final order in a proceeding under this §§ 15-8.1-6.100 through 15-8.1-6.309 is](#)
33 [available for public inspection. Other papers and records are available for public inspection only](#)
34 [with the consent of the parties or by court order.](#)

1 **15-8.1-6.307. Dismissal for want of prosecution.**

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

5 **15-8.1-6.308 Order adjudicating parentage.**

6 (a) An order adjudicating parentage must identify the child in a manner provided by law
7 of this state other than this chapter.

8 (b) Except as otherwise provided in subsection (c) of this section, the court may assess
9 filing fees, reasonable attorneys' fees, fees for genetic testing, other costs, and necessary travel
10 and other reasonable expenses incurred in a proceeding under this §§ 15-8.1-6.100 through 15-
11 8.1-6.309. Attorneys' fees awarded under this subsection may be paid directly to the attorney, and
12 the attorney may enforce the order in the attorney's own name.

13 (c) The court may not assess fees, costs, or expenses in a proceeding under this §§ 15-
14 8.1-6.100 through 15-8.1-6.309 against a child-support agency of this state or another state,
15 except as provided by the law of this state other than this chapter.

16 (d) In a proceeding under this §§ 15-8.1-6.100 through 15-8.1-6.309, a copy of a bill for
17 genetic testing or prenatal or postnatal health care for the woman who gave birth to the child and
18 the child, provided to the adverse party not later than ten (10) days before a hearing, is admissible
19 to establish:

20 (1) The amount of the charge billed; and

21 (2) That the charge is reasonable and necessary.

22 (e) On request of a party and for good cause, the court in a proceeding under this §§ 15-
23 8.1-6.100 through 15-8.1-6.309 may order the name of the child changed. If the court order
24 changing the name varies from the name on the birth certificate of the child, the court shall order
25 the office of vital records to issue an amended birth certificate.

26 **15-8.1-6.309. Binding effect of determination of parentage.**

27 (a) Except as otherwise provided in subsection (b) of this section:

28 (1) A signatory to an acknowledgment of parentage or denial of parentage is bound by
29 the acknowledgment and denial as provided in §§ 15-8.1-3.101 through 15-8.1-3.114; and

30 (2) A party to an adjudication of parentage by a court acting under circumstances that
31 satisfy the jurisdiction requirements of § 15-23.1-201 ("uniform interstate family support act")
32 and any individual who received notice of the proceeding are bound by the adjudication.

33 (b) A child is not bound by a determination of parentage under this chapter unless:

34 (1) The determination was based on an unrescinded acknowledgment of parentage and

1 the acknowledgment is consistent with the results of genetic testing:

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

4 (3) The determination of parentage was made under §§ 15-8.1-7.101 through 15-8.1-
5 7.108 or §§ 15-8.1-8.100 through 15-8.1-8.306; or

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

8 (c) In a proceeding for divorce, dissolution, annulment, declaration of invalidity, legal
9 separation, or separate maintenance, the court is deemed to have made an adjudication of
10 parentage of a child if the court acts under circumstances that satisfy the jurisdiction requirements
11 of § 15-23.1-201 ("uniform interstate family support act") and the final order:

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

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

16 (d) Except as otherwise provided in subsection (b) of this section or § 15-8.1-6.206, a
17 determination of parentage may be asserted as a defense in a subsequent proceeding seeking to
18 adjudicate parentage of an individual who was not a party to the earlier proceeding.

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

22 **15-8.1-7 ASSISTED REPRODUCTION**

23 **15-8.1-7.101. Scope of article.**

24 This chapter does not apply to the birth of a child conceived by sexual intercourse or
25 assisted reproduction under a surrogacy agreement under §§ 15-8.1-8.100 through 15-8.1-8.306.

26 **15-8.1-7.102. Parental status of donor.**

27 A donor is not a parent of a child conceived by assisted reproduction.

28 **15-8.1-7.103. Parentage of child of assisted reproduction.**

29 An individual who consents under § 15-8.1-7.104 to assisted reproduction by a woman
30 with the intent to be a parent of a child conceived by the assisted reproduction is a parent of the
31 child.

32 **15-8.1-7.104. Consent to assisted reproduction.**

33 (a) Except as otherwise provided in subsection (b) of this section, the consent described
34 in § 15-8.1-7.103 must be in a record signed by a woman giving birth to a child conceived by

1 assisted reproduction and an individual who intends to be a parent of the child.

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

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

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

16 **15-8.1-7.105. Limitation on spouse's dispute of parentage.**

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

20 (1) Not later than two (2) years after the birth of the child, the individual commences a
21 proceeding to adjudicate the individual's parentage of the child; and

22 (2) The court finds the individual did not consent to the assisted reproduction, before, on,
23 or after birth of the child, or withdrew consent under § 15-8.1-7.107.

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

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

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

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

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

32 **15-8.1-7.106. Effect of certain legal proceedings regarding marriage.**

33 If a marriage of a woman who gives birth to a child conceived by assisted reproduction is
34 terminated through divorce or dissolution, subject to legal separation or separate maintenance,

1 declared invalid, or annulled before transfer of gametes or embryos to the woman, a former
2 spouse of the woman is not a parent of the child unless the former spouse consented in a record
3 that the former spouse would be a parent of the child if assisted reproduction were to occur after a
4 divorce, dissolution, annulment, declaration of invalidity, legal separation, or separate
5 maintenance, and the former spouse did not withdraw consent under § 15-8.1-7.107.

6 **15-8.1-7.107. Withdrawal of consent.**

7 (a) An individual who consents under § 15-8.1-7.104 to assisted reproduction may
8 withdraw consent any time before a transfer that results in a pregnancy, by giving notice in a
9 record of the withdrawal of consent to the woman who agreed to give birth to a child conceived
10 by assisted reproduction and to any clinic or health care provider facilitating the assisted
11 reproduction. Failure to give notice to the clinic or health care provider does not affect a
12 determination of parentage under this chapter.

13 (b) An individual who withdraws consent under subsection (a) of this section is not a
14 parent of the child under this chapter.

15 **15-8.1-7.108. Parental status of deceased individual.**

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

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

23 (1) Either:

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

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

28 (2) Either:

29 (i) The embryo is in utero not later than thirty-six (36) months after the individual's death;
30 or

31 (ii) The child is born not later than forty-five (45) months after the individual's death.

32 **15-8.1-8 SURROGACY AGREEMENT**

33 **15-8.1-8.100 GENERAL REQUIREMENTS**

34 **15-8.1-8.101. Definitions.**

1 As used in this chapter:

2 (1) "Genetic surrogate" means a woman who is not an intended parent and who agrees to
3 become pregnant through assisted reproduction using her own gamete, under a genetic surrogacy
4 agreement as provided in this chapter.

5 (2) "Gestational surrogate" means a woman who is not an intended parent and who agrees
6 to become pregnant through assisted reproduction using gametes that are not her own, under a
7 gestational surrogacy agreement as provided in this chapter.

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

13 **15-8.1-8.102. Eligibility to enter gestational or genetic surrogacy agreement.**

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

15 (1) Have attained twenty-one (21) years of age;

16 (2) Previously have given birth to at least one child;

17 (3) Complete a medical evaluation related to the surrogacy arrangement by a licensed
18 medical doctor;

19 (4) Complete a mental health consultation by a licensed mental health professional; and

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

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

25 (1) Have attained twenty-one (21) years of age;

26 (2) Complete a medical evaluation related to the surrogacy arrangement by a licensed
27 medical doctor;

28 (3) Complete a mental health consultation by a licensed mental health professional; and

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

32 **15-8.1-8.103. Requirements of gestational or genetic surrogacy agreement -- Process.**

33 A surrogacy agreement must be executed in compliance with the following rules:

34 (1) At least one party must be a resident of this state or, if no party is a resident of this

1 state, at least one medical evaluation or procedure or mental health consultation under the
2 agreement must occur in this state.

3 (2) A surrogate and each intended parent must meet the requirements of § 15-8.1-8.102.

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

6 (4) The agreement must be in a record signed by each party listed in subsection (3) of this
7 section.

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

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

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

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

18 (9) The agreement must be executed before a medical procedure occurs related to the
19 surrogacy agreement, other than the medical evaluation and mental health consultation required
20 by §15-8.1-8.102.

21 **15-8.1-8.104. Requirements of gestational or genetic surrogacy agreement-Content.**

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

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

24 (2) Except as otherwise provided in §§ 15-8.1-8.204, 15-8.1-8.302, and 15-8.1-8.303, the
25 surrogate and the surrogate's spouse or former spouse, if any, have no claim to parentage of a
26 child conceived by assisted reproduction under the agreement.

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

29 (4) Except as otherwise provided in §§ 15-8.1-8.204, 15-8.1-8.302, and 15-8.1-8.303, the
30 intended parent or, if there are two (2) intended parents, each one jointly and severally,
31 immediately on birth will be the exclusive parent or parents of the child, regardless of number of
32 children born or gender or mental or physical condition of each child.

33 (5) Except as otherwise provided in §§ 15-8.1-8.204, 15-8.1-8.302, and 15-8.1-8.303, the
34 intended parent or, if there are two (2) intended parents, each parent jointly and severally,

1 immediately on birth will assume responsibility for the financial support of the child, regardless
2 of number of children born or gender or mental or physical condition of each child.

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

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

15 (8) The agreement must include information about each party's right under this chapter to
16 terminate the surrogacy agreement.

17 (b) A surrogacy agreement may provide for:

18 (1) Payment of consideration and reasonable expenses; and

19 (2) Reimbursement of specific expenses if the agreement is terminated under this chapter.

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

22 **15-8.1-8.105. Surrogacy agreement-Effect of subsequent change of marital status.**

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

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

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

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

32 (1) The marriage of an intended parent after the agreement is signed by all parties does
33 not affect the validity of a surrogacy agreement, the consent of the spouse of the intended parent
34 is not required, and the spouse of the intended parent is not, based on the agreement, a parent of a

1 child conceived by assisted reproduction under the agreement; and

2 (2) The divorce, dissolution, annulment, declaration of invalidity, legal separation, or
3 separate maintenance of an intended parent after the agreement is signed by all parties does not
4 affect the validity of the agreement and, except as otherwise provided in § 15-8.1-8.302 the
5 intended parents are the parents of the child.

6 **15-8.1-8.106. Inspection of documents.**

7 Unless the court orders otherwise, a petition and any other document related to a
8 surrogacy agreement filed with the court under §§ 15-8.1-8.100 through 15-8.1-8.107 are not
9 open to inspection by any individual other than the parties to the proceeding, a child conceived by
10 assisted reproduction under the agreement, their attorneys, and the department of human services.
11 A court may not authorize an individual to inspect a document related to the agreement, unless
12 required by exigent circumstances. The individual seeking to inspect the document may be
13 required to pay the expense of preparing a copy of the document to be inspected.

14 **15-8.1-8.107. Exclusive, continuing jurisdiction.**

15 During the period after the execution of a surrogacy agreement until ninety (90) days
16 after the birth of a child conceived by assisted reproduction under the agreement, a court of this
17 state conducting a proceeding under this chapter has exclusive, continuing jurisdiction over all
18 matters arising out of the agreement. This section does not give the court jurisdiction over a child-
19 custody or child-support proceeding if jurisdiction is not otherwise authorized by law of this state
20 other than this chapter.

21 **15-8.1-8.200 SPECIAL RULES FOR GESTATIONAL SURROGACY**
22 **AGREEMENT**

23 **15-8.1-8.201. Termination of gestational surrogacy agreement.**

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

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

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

1 **15-8.1-8.202. Parentage under gestational surrogacy agreement.**

2 (a) Except as otherwise provided in subsection (c) of this section or §§ 15-8.1-8.203(b) or
3 15-8.1-8.205, on birth of a child conceived by assisted reproduction under a gestational surrogacy
4 agreement, each intended parent is, by operation of law, a parent of the child.

5 (b) Except as otherwise provided in subsection (c) of this section or § 15-8.1-8.205,
6 neither a gestational surrogate nor the surrogate's spouse or former spouse, if any, is a parent of
7 the child.

8 (c) If a child is alleged to be a genetic child of the woman who agreed to be a gestational
9 surrogate, the court shall order genetic testing of the child. If the child is a genetic child of the
10 woman who agreed to be a gestational surrogate, parentage must be determined based on §§ 15-
11 8.1-1.101 through 15-8.1-6.309.

12 (d) Except as otherwise provided in subsection (c) of this section or §§ 15-8.1-8.203(b) or
13 15-8.1-8.205, if, due to a clinical or laboratory error, a child conceived by assisted reproduction
14 under a gestational surrogacy agreement is not genetically related to an intended parent or a donor
15 who donated to the intended parent or parents, each intended parent, and not the gestational
16 surrogate and the surrogate's spouse or former spouse, if any, is a parent of the child, subject to
17 any other claim of parentage.

18 **15-8.1-8.203. Gestational surrogacy agreement: parentage of deceased intended**
19 **parent.**

20 (a) Section 15-8.1-8.202 applies to an intended parent even if the intended parent died
21 during the period between the transfer of a gamete or embryo and the birth of the child.

22 (b) Except as otherwise provided in § 15-8.1-8.205, an intended parent is not a parent of a
23 child conceived by assisted reproduction under a gestational surrogacy agreement if the intended
24 parent dies before the transfer of a gamete or embryo unless:

25 (1) The agreement provides otherwise; and

26 (2) The transfer of a gamete or embryo occurs not later than thirty-six (36) months after
27 the death of the intended parent or birth of the child occurs not later than forty-five (45) months
28 after the death of the intended parent.

29 **15-8.1-8.204. Gestational surrogacy agreement: order of parentage.**

30 (a) Except as otherwise provided in §§ 15-8.1-8.202(c) or 15-8.1-8.205, before, on, or
31 after the birth of a child conceived by assisted reproduction under a gestational surrogacy
32 agreement, a party to the agreement may commence a proceeding in the family court for an order
33 or judgment:

34 (1) Declaring that each intended parent is a parent of the child and ordering that parental

1 rights and duties vest immediately on the birth of the child exclusively in each intended parent;

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

4 (3) Designating the content of the birth record in accordance § 23-3-10 and directing the
5 office of vital records to designate each intended parent as a parent of the child;

6 (4) To protect the privacy of the child and the parties, declaring that the court record is
7 not open to inspection except as authorized under § 15-8.1-8.106;

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

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

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

13 (c) Neither this state nor the office of vital records is a necessary party to a proceeding
14 under subsection (a) of this section.

15 **15-8.1-8.205. Effect of gestational surrogacy agreement.**

16 (a) A gestational surrogacy agreement that complies with §§ 15-8.1-8.102, 15-8.1-8.103,
17 and 15-8.1-8.104 is enforceable.

18 (b) If a child was conceived by assisted reproduction under a gestational surrogacy
19 agreement that does not comply with §§ 15-8.1-8.102, 15-8.1-8.103, and 15-8.1-8.104, the court
20 shall determine the rights and duties of the parties to the agreement consistent with the intent of
21 the parties at the time of execution of the agreement. Each party to the agreement and any
22 individual who at the time of the execution of the agreement was a spouse of a party to the
23 agreement has standing to maintain a proceeding to adjudicate an issue related to the enforcement
24 of the agreement.

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

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

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

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

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

4 **15-8.1-8.300 SPECIAL RULES FOR GENETIC SURROGACY AGREEMENT**

5 **15-8.1-8.301. Requirements to validate genetic surrogacy agreement.**

6 (a) Except as otherwise provided in § 15-8.1-8.304, to be enforceable, a genetic
7 surrogacy agreement must be validated by the family court. A proceeding to validate the
8 agreement must be commenced before assisted reproduction related to the surrogacy agreement.

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

11 (1) Sections 15-8.1-8.102, 15-8.1-8.103, and 15-8.1-8.104 are satisfied; and

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

13 (c) An individual who terminates under § 15-8.1-8.302 a genetic surrogacy agreement
14 shall file notice of the termination with the court. On receipt of the notice, the court shall vacate
15 any order issued under subsection (b) of this section. An individual who does not notify the court
16 of the termination of the agreement is subject to sanctions.

17 **15-8.1-8.302. Termination of genetic surrogacy agreement.**

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

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

24 (2) A genetic surrogate who is a party to the agreement may withdraw consent to the
25 agreement any time before seventy-two (72) hours after the birth of a child conceived by assisted
26 reproduction under the agreement. To withdraw consent, the genetic surrogate must execute a
27 notice of termination in a record stating the surrogate's intent to terminate the agreement. The
28 notice of termination must be attested by a notarial officer or witnessed and be delivered to each
29 intended parent any time before seventy-two (72) hours after the birth of the child.

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

1 as a surrogate.

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

5 **15-8.1-8.303. Parentage under validated genetic surrogacy agreement.**

6 (a) Unless a genetic surrogate exercises the right under § 15-8.1-8.302 to terminate a
7 genetic surrogacy agreement, each intended parent is a parent of a child conceived by assisted
8 reproduction under an agreement validated under § 15-8.1-8.301.

9 (b) Unless a genetic surrogate exercises the right under § 15-8.1-8.302 to terminate the
10 genetic surrogacy agreement, on proof of a court order issued under § 15-8.1-8.301 validating the
11 agreement, the court shall make an order:

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

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

17 (3) Designating the contents of the birth certificate in accordance with § 23-3-10 and
18 directing the office of vital records to designate each intended parent as a parent of the child;

19 (4) To protect the privacy of the child and the parties, declaring that the court record is
20 not open to inspection, except as authorized under § 15-8.1-8.106;

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

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

23 (c) If a genetic surrogate terminates under § 15-8.1-8.302(a)(2) a genetic surrogacy
24 agreement, parentage of the child conceived by assisted reproduction under the agreement must
25 be determined under §§ 15-8.1-1.101 through 15-8.1-6.309.

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

32 (e) Unless a genetic surrogate exercises the right under § 15-8.1-8.302 to terminate the
33 genetic surrogacy agreement, if an intended parent fails to file notice required under § 15-8.1-
34 8.302(a), the genetic surrogate or office of vital records may file with the court, not later than

1 sixty (60) days after the birth of a child conceived by assisted reproduction under the agreement,
2 notice that the child has been born to the genetic surrogate. Unless the genetic surrogate has
3 properly exercised the right under § 15-8.1-8.302 to withdraw consent to the agreement, on proof
4 of a court order issued under § 15-8.1-8.301 validating the agreement, the court shall order that
5 each intended parent is a parent of the child.

6 **15-8.1-8.304. Effect of non-validated genetic surrogacy agreement.**

7 (a) A genetic surrogacy agreement, whether or not in a record, that is not validated under
8 § 15-8.1-8.301 is enforceable only to the extent provided in this section and § 15-8.1-8.306.

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

12 (c) If a child conceived by assisted reproduction under a genetic surrogacy agreement that
13 is not validated under § 15-8.1-8.301 is born and the genetic surrogate, consistent with § 15-8.1-
14 8.302(a)(2), withdraws her consent to the agreement before seventy-two (72) hours after the birth
15 of the child, the court shall adjudicate the parentage of the child under §§ 15-8.1-1.101 through
16 15-8.1-6.309.

17 (d) If a child conceived by assisted reproduction under a genetic surrogacy agreement
18 that is not validated under § 15-8.1-8.301 is born and a genetic surrogate does not withdraw her
19 consent to the agreement, consistent with § 15-8.1-8.302(a)(2), before seventy-two (72) hours
20 after the birth of the child, the genetic surrogate is not automatically a parent and the court shall
21 adjudicate parentage of the child based on the best interest of the child, taking into account the
22 factors in § 15-8.1-6.208(a) and the intent of the parties at the time of the execution of the
23 agreement.

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

26 **15-8.1-8.305. Genetic surrogacy agreement: parentage of deceased intended parent.**

27 (a) Except as otherwise provided in §§ 15-8.1-8.303 or 15-8.1-8.304, on birth of a child
28 conceived by assisted reproduction under a genetic surrogacy agreement, each intended parent is,
29 by operation of law, a parent of the child, notwithstanding the death of an intended parent during
30 the period between the transfer of a gamete or embryo and the birth of the child.

31 (b) Except as otherwise provided in §§ 15-8.1-8.303 or 15-8.1-8.304, an intended parent
32 is not a parent of a child conceived by assisted reproduction under a genetic surrogacy agreement
33 if the intended parent dies before the transfer of a gamete or embryo unless:

34 (1) The agreement provides otherwise; and

1 (2) The transfer of the gamete or embryo occurs not later than thirty-six (36) months after
2 the death of the intended parent, or birth of the child occurs not later than forty-five (45) months
3 after the death of the intended parent.

4 **15-8.1-8.306. Breach of genetic surrogacy agreement.**

5 (a) Subject to § 15-8.1-8.302(b), if a genetic surrogacy agreement is breached by a
6 genetic surrogate or one or more intended parents, the non-breaching party is entitled to the
7 remedies available at law or in equity.

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

11 (c) Except as otherwise provided in subsection (b) of this section, specific performance is
12 a remedy available for:

13 (1) Breach of a validated genetic surrogacy agreement by a genetic surrogate of a
14 requirement which prevents an intended parent from exercising the full rights of parentage
15 seventy-two (72) hours after the birth of the child; or

16 (2) Breach by an intended parent which prevents the intended parent's acceptance of
17 duties of parentage seventy-two (72) hours after the birth of the child.

18 **15-8.1-9 INFORMATION ABOUT DONOR**

19 **15-8.1-9.101. Additional definitions.**

20 As used in this chapter:

21 (1) "Identifying information" means:

22 (i) The full name of a donor;

23 (ii) The date of birth of the donor; and

24 (iii) The permanent and, if different, current address of the donor at the time of the
25 donation.

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

27 (i) Present illness of a donor;

28 (ii) Past illness of the donor; and

29 (iii) Social, genetic, and family history pertaining to the health of the donor.

30 **15-8.1-9.102. Applicability.**

31 This chapter applies only to gametes collected on or after the effective date of this act.

32 **15-8.1-9.103. Collection of information.**

33 A gamete bank or fertility clinic licensed in this state shall collect from a donor the
34 donor's identifying information and medical history at the time of the donation. If the gamete

1 bank or fertility clinic sends the gametes of a donor to another gamete bank or fertility clinic, the
2 sending gamete bank or fertility clinic shall forward any identifying information and medical
3 history of the donor, including the donor's signed declaration under § 15-8.1-9.104 regarding
4 identity disclosure, to the receiving gamete bank or fertility clinic. A receiving gamete bank or
5 fertility clinic licensed in this state shall collect and retain the information about the donor and
6 each sending gamete bank or fertility clinic.

7 **15-8.1-9.104. Declaration regarding identity disclosure.**

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

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

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

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

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

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

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

23 **15-8.1-9.105. Disclosure of identifying information and medical history.**

24 (a) On request of a child conceived by assisted reproduction who attains eighteen (18)
25 years of age, a gamete bank or fertility clinic licensed in this state which collected, stored, or
26 released for use the gametes used in the assisted reproduction shall make a good-faith effort to
27 provide the child with identifying information of the donor who provided the gametes, unless the
28 donor signed and did not withdraw a declaration under § 15-8.1-9.104(b)(2). If the donor signed
29 and did not withdraw the declaration, the gamete bank or fertility clinic shall make a good-faith
30 effort to notify the donor, who may elect under § 15-8.1-9.104(c) to withdraw the donor's
31 declaration.

32 (b) Regardless of whether a donor signed a declaration under § 15-8.1-9.104(b)(2), on
33 request by a child conceived by assisted reproduction who attains eighteen (18) years of age, or, if
34 the child is a minor, by a parent or guardian of the child, a gamete bank or fertility clinic licensed

1 in this state shall make a good-faith effort to provide the child or, if the child is a minor, the
2 parent or guardian of the child, access to nonidentifying medical history of the donor.

3 **15-8.1-9.106. Recordkeeping.**

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

9 **15-8.1-10 MISCELLANEOUS PROVISIONS**

10 **15-8.1-10.101. Uniformity of application and construction.**

11 In applying and construing this chapter, consideration must be given to the need to
12 promote uniformity of the law with respect to its subject matter among states that enact the
13 uniform act.

14 **15-8.1-10.102. Relation to electronic signatures in global and national commerce act.**

15 This chapter modifies, limits, or supersedes the Electronic Signatures in Global and
16 National Commerce Act, 15 U.S.C. § 7001 et seq., but does not modify limit, or supersede §
17 101(c) of that act, 15 U.S.C. § 7001(c), or authorize electronic delivery of any of the notices
18 described in Section 103(b) of that act, 15 U.S.C. § 7003(b).

19 **15-8.1-10.103. Transitional provision.**

20 This chapter applies to a pending proceeding to adjudicate parentage commenced before
21 the effective date of this chapter for an issue on which a judgment has not been entered.

22 **15-8.1-10.104. Severability.**

23 If any provision of this chapter or its application to any person or circumstance is held
24 invalid, the invalidity does not affect other provisions or applications of this chapter which can be
25 given effect without the invalid provision or application, and to this end the provisions of this
26 chapter are severable.

27 SECTION 3. This act shall take effect January 1, 2019.

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LC004450
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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO DOMESTIC RELATIONS -- UNIFORM PARENTAGE ACT

1 This act would adopt the Uniform Parentage Act dealing with the parent-child
2 relationship, establishing a registry of paternity, genetic testing, proceedings to adjudicate
3 parentage, assisted reproduction, and surrogacy agreements.

4 This act would take effect upon passage.

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