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§ -101 **Short title.** This chapter may be cited as the Uniform Parentage Act.

§ -102 **Definitions.** As used in this chapter:

"Acknowledged parent" means an individual who has established a parent-child relationship under part IV.

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

"Alleged genetic parent" means an individual who is alleged to be, or alleges that the individual is, a genetic parent or possible genetic parent of a child whose parentage has not been adjudicated. "Alleged genetic parent" does not include a presumed parent; an individual whose parental rights have been terminated or declared not to exist; or a donor.

"Assisted reproduction" means a method of causing pregnancy other than sexual intercourse. "Assisted reproduction" includes intrauterine or intracervical insemination, donation of gametes, donation of embryos, in vitro fertilization and transfer of embryos, and intracytoplasmic sperm injection.

"Birth" includes but is not limited to stillbirth.



1 "Birthing center" means any facility, other than a hospital
2 or facility associated with a hospital, that provides maternity
3 services.

4 "Birthing hospital" means any hospital with licensed
5 obstetric-care units or any hospital licensed to provide
6 obstetric services.

7 "Child" means an individual of any age whose parentage may
8 be determined under this chapter.

9 "Child support enforcement agency" means the state agency
10 created pursuant to chapter 576D.

11 "Combined relationship index" means the product of all
12 tested relationship indices.

13 "Determination of parentage" means establishment of a
14 parent-child relationship by a judicial or administrative
15 proceeding or signing of a valid acknowledgment of parentage
16 under part IV.

17 "Donor" means an individual who provides gametes or embryos
18 intended for use in assisted reproduction, whether or not for
19 consideration. "Donor" does not include a parent under part
20 VIII, an intended parent under part IX, or an individual who



1 gives birth to a child conceived by assisted reproduction,
2 except as otherwise provided in part IX.

3 "Embryo" means the fertilized product of a sperm and egg,
4 including the zygote stage of early embryo development after
5 fertilization.

6 "Ethnic or racial group" means for the purpose of genetic
7 testing, a recognized group that an individual identifies as the
8 individual's ancestry or part of the individual's ancestry or
9 that is identified by other information.

10 "Fertility clinic" means a medical facility that
11 specializes in diagnosing and treating infertility and the use
12 of assisted reproductive technology.

13 "Functional parent" means an individual who meets the
14 criteria set out in section -603(d).

15 "Gamete" means sperm, egg, or any part of a sperm or egg.

16 "Genetic parent" means an individual whose relationship to
17 a child has been determined by genetic testing or based on a
18 statement by the physician who oversaw the in vitro process by
19 which the embryo was created and transferred.

20 "Genetic testing" means an analysis of genetic markers to
21 identify or exclude a genetic relationship.



1 "Hypothesized genetic relationship" means an asserted
2 genetic relationship between an individual and a child.

3 "Individual" means a natural person of any age.

4 "Intended parent" means an individual, married or
5 unmarried, who manifests an intent to be legally bound as a
6 parent of a child conceived by assisted reproduction or by
7 entering into a surrogacy agreement.

8 "Parent" means an individual who has established a
9 parent-child relationship under section -301.

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

12 "Presumed parent" means an individual who under
13 section -303 is presumed to be a parent of a child, unless
14 the presumption is overcome in a judicial proceeding, a valid
15 denial of parentage is made under part VI, or a court
16 adjudicates the individual to be a parent.

17 "Probability of parentage" means, for the ethnic or racial
18 group to which an individual alleged to be a parent belongs, the
19 probability that a hypothesized genetic relationship is
20 supported, compared to the probability that a genetic
21 relationship is supported between the child and a random



1 individual of the ethnic or racial group used in the
2 hypothesized genetic relationship, expressed as a percentage
3 incorporating the combined relationship index and a prior
4 probability.

5 "Record" means information that is written or printed, or
6 that is stored in an electronic or other medium and is
7 retrievable in a perceivable form.

8 "Relationship index" means a likelihood ratio that compares
9 the probability of a genetic marker given a hypothesized genetic
10 relationship and the probability of the genetic marker given a
11 genetic relationship between the child and a random individual
12 of the ethnic or racial group used in the hypothesized genetic
13 relationship.

14 "Sign" means, with present intent to authenticate or adopt
15 a record, to execute or adopt a tangible symbol, or to attach or
16 logically associate with the record an electronic symbol, sound,
17 or process.

18 "Signatory" means an individual who signs a record.

19 "Transfer" means a procedure for assisted reproduction by
20 which an embryo or sperm is placed within the reproductive tract
21 of the individual who will give birth to the child.



1 "Witnessed" means that at least one individual who is
2 authorized to sign has signed a record to verify that the
3 individual personally observed a signatory sign the record.

4 § -103 **Uniformity of application and construction.** This
5 chapter shall be applied and construed to effectuate its general
6 purpose to make uniform the law with respect to the subject of
7 this chapter among states enacting it.

8 **PART II. JURISDICTION**

9 § -201 **Jurisdiction; venue.** (a) Without limiting the
10 jurisdiction of any other court, the family court shall have
11 jurisdiction over an action brought under this chapter, chapter
12 576B, or chapter 583A. The action may be joined with an action
13 for divorce, annulment, separate maintenance, or support.

14 (b) An individual who has sexual intercourse, undergoes or
15 consents to assisted reproductive technology, or consents to an
16 assisted reproductive or surrogacy technology agreement in this
17 State thereby submits to the jurisdiction of the courts of this
18 State as to an action brought under this chapter with respect to
19 a child who may have been conceived by that act of intercourse
20 or assisted reproductive technology, regardless of where the
21 child is born. A court of this State with jurisdiction to



1 adjudicate parentage may exercise personal jurisdiction over a
2 nonresident individual, or a guardian or conservator of the
3 individual, if the conditions prescribed in section 576B-201 are
4 satisfied. In addition to any other method provided by statute,
5 personal jurisdiction over a resident and nonresident individual
6 may be acquired by personal service within or outside this State
7 or by service by certified or registered mail, postage prepaid,
8 with return receipt requested.

9 (c) In addition to any other method of service provided by
10 statute or court rule, if the respondent is not found within the
11 circuit, service may be effectuated by certified or registered
12 mail, with request for a return receipt and direction to deliver
13 to addressee only. The return receipt signed by the respondent
14 shall be prima facie evidence that the respondent accepted
15 delivery of the complaint and summons on the date set forth on
16 the receipt. For service effectuated by certified or registered
17 mail, an electronic copy or facsimile of the signature of the
18 served individual or certified mailers provided by the United
19 States Postal Service shall constitute valid proof of service on
20 the individual. Actual receipt by the respondent of the
21 complaint and summons sent by certified or registered mail shall



1 be the equivalent to personal service on the respondent by an
2 authorized process server as of the date of the receipt.

3 (d) If it appears that the respondent has refused to
4 accept service by certified or registered mail or is concealing
5 the respondent's self or evading service, or the petitioner does
6 not know the address or residence of the respondent and has not
7 been able to ascertain the same after reasonable and due inquiry
8 and search, the court may authorize notice of the parentage
9 action and the time and date of hearing by publication or by any
10 other manner that is reasonably calculated to give the party
11 actual notice of proceedings and an opportunity to be heard,
12 including the following:

13 (1) When publication is authorized, the summons shall be
14 published once a week for four consecutive weeks in a
15 publication of general circulation in the circuit.

16 The publication of general circulation shall be
17 designated by the court in the order for publication
18 of the summons. Notice by publication shall have the
19 same force and effect as the individual having been
20 personally served with the summons; provided that the
21 date of the last publication shall be set no less than



1 twenty-one days before the return date stated in the
2 summons. Proof of service shall be satisfied by an
3 affidavit or declaration by the authorized
4 representative for the publication that the notice was
5 given in the manner prescribed by the court;

6 (2) When posting to an online publication website is
7 authorized, proof of service shall be satisfied by an
8 affidavit or declaration by the authorized
9 representative for the publication that the notice was
10 given in the manner prescribed by the court;

11 (3) When service by electronic mail or posting to a social
12 networking account is authorized, proof of service
13 shall be satisfied by an affidavit or declaration by
14 the process server that the notice was given in the
15 manner prescribed by the court; and

16 (4) When service is made by posting to a public bulletin
17 board, proof of service shall be satisfied by an
18 affidavit or declaration by the process server that
19 the notice was given in the manner prescribed by the
20 court.

21 (e) The action may be brought in the county in which:



1 (1) The child, or any parent, alleged genetic parent,
2 functional parent, or presumed parent resides or is
3 found;

4 (2) The child was born;

5 (3) Proceedings for probate of the parent's estate have
6 been or could be commenced, if a parent is deceased;
7 or

8 (4) Assisted reproductive technology was performed, or as
9 specified in an assisted reproduction or surrogacy
10 agreement, if any.

11 § -202 **Parentage determinations from other states and**
12 **territories.** Parentage determinations from other states and
13 territories, whether established through voluntary
14 acknowledgment or through administrative or judicial processes,
15 shall be treated the same as a parentage adjudication in this
16 State. A determination addressing only parentage in another
17 state shall not preclude a court in this State from addressing
18 other related issues.

19 § -203 **Who may bring action; when action may be brought;**
20 **process, warrant, bond.** (a) A child or guardian ad litem of
21 the child, an individual who is the child's parent under this



1 chapter, an individual whose parentage of the child is to be
2 adjudicated, a personal representative of a deceased parent of
3 the child, a personal representative of a deceased individual
4 who otherwise would be entitled to maintain a proceeding, or the
5 child support enforcement agency may bring an action for the
6 purpose of declaring the existence or nonexistence of a
7 parent-child relationship in accordance with the following:

8 (1) If the child is the subject of an adoption proceeding,
9 an action may be brought:

10 (A) Within thirty days after the date of the child's
11 birth in any case when a parent relinquishes the
12 child for adoption during the thirty-day period;
13 or

14 (B) Any time before the date of execution by a parent
15 of a valid consent to the child's adoption, or
16 before placement of the child with adoptive
17 parents;

18 (2) If the child has not become the subject of an adoption
19 proceeding, within three years after the child reaches
20 the age of majority or any time after that for good
21 cause; provided that any period of time during which



1 the individual whose parentage is to be adjudicated is
2 absent from the State or is openly cohabitating with a
3 parent of the child or is contributing to the support
4 of the child, shall not be computed;

5 (3) This section shall not extend the time within which a
6 right of inheritance or a right to a succession may be
7 asserted beyond the time otherwise provided by law
8 relating to distribution and closing of decedents'
9 estates or to the determination of heirship; and

10 (4) A personal representative for purposes of this section
11 may be appointed by the court upon a filing of an ex
12 parte motion by one of the parties entitled to file a
13 parentage action. Probate requirements need not be
14 met. Appointment of a personal representative in this
15 section shall be limited to representation in
16 proceedings under this chapter.

17 (b) When an action is brought under this section, process
18 shall issue in the form of a summons and an order directed to
19 the individual whose parentage of the child is to be
20 adjudicated, requiring each party to appear and to show cause
21 why the action should not be brought. The court, in its

1 discretion, may waive a hearing on an uncontested parentage
2 complaint submitted by an individual who gave birth to a child,
3 an alleged genetic parent of the child, a presumed parent of the
4 child, or a functional parent of the child with proof provided
5 by affidavit.

6 If, at any stage of the proceedings, there appears probable
7 cause to believe that the individual whose parentage of the
8 child is to be adjudicated will fail to appear in response to
9 the summons or will flee the jurisdiction of the court, the
10 court may issue a warrant directed to the sheriff, deputy
11 sheriff, or any police officer within the circuit, requiring the
12 individual to be arrested and brought for pretrial proceedings
13 before the family court. Upon the pretrial proceedings, the
14 court may require the individual to enter into bond with good
15 sureties to the State in a sum to be fixed by the court for each
16 individual's appearance and the trial of the proceeding in the
17 family court. If the individual whose parentage of the child is
18 to be adjudicated fails to give the bond required, the court may
19 immediately commit that individual to the custody of the chief
20 of police of the county, there to remain until that individual
21 enters into the required bond or otherwise is discharged by due



1 process of law. If the individual whose parentage of the child
2 is to be adjudicated fails to appear in any proceeding under
3 this chapter, any bond for that individual's appearance in any
4 proceeding under this chapter shall be forfeited; provided that
5 the trial of, or other proceedings in, the action shall proceed
6 as though that individual were present, and the court shall make
7 orders as it deems proper upon the findings as though that
8 individual were in court.

9 In case of forfeiture of any appearance bond, the money
10 collected upon the forfeiture shall be applied in payment of the
11 judgment against the individual if they are adjudicated to be a
12 parent under this chapter.

13 (c) Regardless of its terms, an agreement, other than an
14 agreement approved by the court in accordance with
15 section -502(a)(2), between a parent and the individual whose
16 parentage of the child is to be adjudicated shall not bar an
17 action under this section.

18 (d) Except as otherwise provided in section -910, if an
19 action under this section is brought before the birth of the
20 child, all proceedings shall be stayed until after the birth



1 except service of process and the taking of depositions to
2 perpetuate testimony.

3 (e) Subject to the requirements of section -303(a),
4 with respect to a child who was not conceived through assisted
5 reproduction, where a married individual has not had sexual
6 contact with the married individual's spouse nor resided in the
7 same house with the spouse for at least three hundred days
8 before the birth of the child and the spouse cannot be contacted
9 after due diligence, the court may accept an affidavit by the
10 married individual, attesting to the married individual's
11 diligent efforts to contact the married individual's spouse and
12 providing clear and convincing evidence to rebut the presumption
13 of the parentage of the subject child, and upon the court's
14 satisfaction, notice of the spouse may be waived and the spouse
15 need not be made a party in the parentage proceedings. The
16 court, after receiving evidence, may also enter a finding of
17 non-parentage of the spouse.

18 (f) With respect to a child who was not conceived through
19 assisted reproduction, where a married individual has not had
20 sexual contact with the married individual's spouse nor resided
21 in the same house with the spouse for at least three hundred



1 days before the birth of the child, and the biological parent is
2 known, parentage in the married spouse may be disestablished by
3 submission of affidavits of both spouses and the biological
4 parent stating the name and birth date of the child and
5 acknowledgment that the spouse is not the parent and that the
6 biological parent should be adjudicated as the legal parent.

7 **§ -204 Representation of child; action if public**
8 **assistance moneys are paid; child support enforcement agency.**

9 The child may be made a party to the action and may be
10 represented by the child's general guardian or a guardian ad
11 litem appointed by the court. The child's parent shall not
12 represent the child as guardian or otherwise. Subject to
13 section -203, each individual presumed to be a parent under
14 section -303 and the child support enforcement agency, if
15 public moneys are or have been paid for the support of the
16 subject child, shall be made parties, or, if not subject to the
17 jurisdiction of the court, shall be given notice of the action
18 in a manner prescribed by the court and an opportunity to be
19 heard.

20 **PART III. PARENT-CHILD RELATIONSHIP**



1 § -301 Establishment of parent-child relationship. A
2 parent-child relationship is established between an individual
3 and a child if:

- 4 (1) The individual gives birth to the child, except as
5 otherwise provided in part IX;
- 6 (2) There is a presumption under section -303 of the
7 individual's parentage of the child, unless the
8 presumption is overcome in a judicial proceeding or a
9 valid denial of parentage is made under part VI;
- 10 (3) The individual is adjudicated as a parent of the child
11 under part V;
- 12 (4) The individual adopts the child;
- 13 (5) The individual acknowledges parentage of the child
14 under part IV, unless the acknowledgment is rescinded
15 under section -403(f) or successfully challenged
16 under part IV or V;
- 17 (6) The individual's parentage of the child is established
18 under part VIII; or
- 19 (7) The individual's parentage of the child is established
20 under part IX.



1 **§ -302 Relationship not dependent on marriage.** A
2 parent-child relationship extends equally to every child and
3 parent, regardless of the marital status of the parent.

4 **§ -303 Presumption of parentage.** (a) An individual is
5 presumed to be a parent of a child if:

6 (1) Except as otherwise provided under part IX or the law
7 of this State other than this chapter:

8 (A) The prospective presumed parent and the
9 individual who gave birth to the child are
10 married to each other and the child is born
11 during the marriage, regardless of whether the
12 marriage is or could be declared invalid and
13 regardless of the gender of the two individuals;

14 (B) The prospective presumed parent and the
15 individual who gave birth to the child were
16 married to each other and the child is born no
17 later than three hundred days after the marriage
18 is terminated by death, divorce, or annulment, or
19 after a decree of separation, regardless of
20 whether the marriage is or could be declared
21 invalid; or



1 (C) The prospective presumed parent and the
2 individual who gave birth to the child married
3 each other after the birth of the child,
4 regardless of whether the marriage is or could be
5 declared invalid, the prospective presumed parent
6 at any time asserted parentage of the child, and:
7 (i) The assertion is in an acknowledgment of
8 parentage as defined in part IV that is
9 filed with the department of health; or
10 (ii) The prospective presumed parent agreed to be
11 and is named as a parent of the child on the
12 birth certificate of the child;
13 (2) The individual resided in the same household with the
14 child before the child reached the age of majority and
15 openly held out the child as the individual's child;
16 or
17 (3) Pursuant to section -702, the prospective presumed
18 parent submits to court-ordered genetic testing and
19 the results, as stated in a report prepared by the
20 testing laboratory, do not exclude the possibility of
21 the prospective presumed parent's parentage of the



1 child; provided that the results of the testing
2 disclose:

3 (A) The individual has at least a ninety-nine per
4 cent probability of parentage, using a prior
5 probability of 0.50 as calculated by using the
6 combined relationship index obtained in the
7 testing; and

8 (B) A combined relationship index of at least one
9 hundred to one.

10 (b) A presumption of parentage under this section may be
11 overcome, and competing claims to parentage may be resolved,
12 only by an adjudication under part V or VI or a valid denial of
13 parentage under part VI.

14 **PART IV. VOLUNTARY ESTABLISHMENT OF PARENTAGE**

15 **§ -401 Acknowledgment of parentage.** An individual who
16 gave birth to a child and an alleged genetic parent of the
17 child, intended parent under part VIII, or presumed parent may
18 sign an acknowledgment of parentage to establish the parentage
19 of the child.

20 **§ -402 Execution of acknowledgment of parentage.** (a)
21 An acknowledgment of parentage under section -401 shall:



- 1 (1) Be in a record signed by the individual who gave birth
2 to the child and by the other individual seeking to
3 establish a parent-child relationship; provided that
4 the signatures shall be attested by a notarial officer
5 or witnessed;
- 6 (2) State that the child whose parentage is being
7 acknowledged does not have:
- 8 (A) A presumed parent other than the individual
9 seeking to establish the parent-child
10 relationship; and
- 11 (B) Another acknowledged parent or adjudicated
12 parent, or individual who is a parent of the
13 child under part VIII or IX other than the
14 individual who gave birth to the child; and
- 15 (3) State that the signatories understand that the
16 acknowledgment is the equivalent of an adjudication of
17 parentage of the child and that a challenge to the
18 acknowledgment is permitted only under limited
19 circumstances and is barred two years after the
20 effective date of the acknowledgment.



1 (b) An acknowledgment of parentage shall be void if, at
2 the time of signing:

3 (1) An individual, other than the individual seeking to
4 establish parentage, is a presumed parent; or

5 (2) An individual, other than the individual who gave
6 birth to the child or the individual seeking to
7 establish parentage, is an acknowledged parent or
8 adjudicated parent or a parent under part VIII or IX.

9 § -403 **Expedited process of parentage.** (a) To expedite
10 the establishment of parentage, each public or private birthing
11 hospital or birthing center, the child support enforcement
12 agency, midwives, and the department of health shall provide
13 parents the opportunity to voluntarily acknowledge the parentage
14 of a child during the period immediately before or following the
15 child's birth; provided that an individual who is a presumed
16 parent under section -303(a)(1)(C) or (2) may only submit
17 that individual's voluntary acknowledgment directly to the
18 department of health. The voluntary acknowledgment of parentage
19 shall be in writing and shall consist of a single form signed
20 under oath, by the individual who gave birth to the child, the
21 individual seeking to establish a parent-child relationship, and



1 a witness. The voluntary acknowledgment of parentage form shall
2 include the social security numbers, dates of birth, places of
3 birth, and ethnic backgrounds of each signatory. An electronic
4 version of the voluntary acknowledgment of parentage form may be
5 used.

6 (b) Before the signing of the voluntary acknowledgment of
7 parentage form, designated staff members of a facility at which
8 a voluntary acknowledgment may be submitted shall provide to
9 both the individual who gave birth to the child and the other
10 signatory, if either are present at the facility:

- 11 (1) Written materials regarding parentage establishment;
- 12 (2) Forms necessary to voluntarily acknowledge parentage;
- 13 (3) Oral, video, audio, or written descriptions of the
14 alternatives to, the legal consequences of, and the
15 rights and responsibilities of acknowledging
16 parentage, including, if one parent is a minor, any
17 right afforded due to minority status; and
- 18 (4) The opportunity to speak with staff, either by
19 telephone or in person, who are trained to clarify
20 information and answer questions about parentage
21 establishment.



1 (c) The completed voluntary acknowledgment forms shall
2 clearly identify the name and position of the staff member who
3 provides information to the parents regarding parentage
4 establishment. The provision by designated staff members of the
5 facility of the information required by this section shall not
6 constitute the unauthorized practice of law. Birthing hospital
7 and birthing center staff, midwives, child support enforcement
8 agency staff, and department of health staff shall not be
9 subject to civil, criminal, or administrative liability for a
10 negligent act or omission relative to the accuracy of the
11 information provided or for filing the declaration with the
12 appropriate state or local agencies. Each facility shall send
13 to the department of health the original acknowledgment of
14 parentage form, or an electronic version, containing the social
15 security numbers, dates of birth, places of birth, and ethnic
16 backgrounds of both signatories, with any other information
17 required by the department of health so that the birth
18 certificate issued includes the names of the signatories. The
19 birth certificate shall be promptly recorded by the department
20 of health.

21 (d) The child support enforcement agency shall:



- 1 (1) Provide to any individual or facility the necessary:
 - 2 (A) Materials and forms and a written description of
 - 3 the rights and responsibilities related to
 - 4 voluntary acknowledgment of parentage; and
 - 5 (B) Training, guidance, and written instructions
 - 6 regarding voluntary acknowledgment of parentage;
- 7 (2) Annually assess each facility's parentage
- 8 establishment program; and
- 9 (3) Determine if a voluntary acknowledgment has been filed
- 10 with the department of health whenever it receives an
- 11 application for parentage establishment services.
- 12 (e) Notwithstanding sections 338-17.7 and 338-18(b), the
- 13 department of health shall disclose to the child support
- 14 enforcement agency, upon request, all voluntary acknowledgment
- 15 of parentage forms on file with the department of health.
- 16 (f) The signed voluntary acknowledgment of parentage shall
- 17 constitute a legal finding of parentage, subject to the right of
- 18 any signatory to rescind the acknowledgment:
 - 19 (1) Within sixty days of signature; or
 - 20 (2) Before the date of an administrative or judicial
 - 21 proceeding relating to the child, including a



1 proceeding to establish a support order to which the
2 signatory is a party,
3 whichever is sooner.

4 (g) Following the sixty-day period pursuant to
5 subsection (f), a signed voluntary acknowledgment of parentage
6 may be challenged in court only on the basis of fraud, duress,
7 or material mistake of fact, with the burden of proof on the
8 challenger. The legal responsibilities of any signatory arising
9 from the acknowledgment, including child support obligations,
10 shall not be suspended during the challenge, except for good
11 cause shown.

12 (h) The courts and office of child support hearings of
13 this State shall give full faith and credit to affidavits for
14 the voluntary acknowledgment of parentage signed in any other
15 state and made in compliance with the law of that state, and
16 these affidavits shall constitute legal findings of parentage
17 subject to subsections (f) and (g).

18 (i) Judicial and administrative proceedings shall not be
19 required or permitted to ratify an unchallenged acknowledgment
20 of parentage. A voluntary acknowledgment of parentage signed by
21 the individuals and filed with the department of health shall be



1 the basis for establishing and enforcing a support obligation
2 through a judicial or administrative proceeding.

3 **PART V. PROCEEDING TO ADJUDICATE PARENTAGE**

4 § -501 **Pretrial hearings.** (a) As soon as practicable
5 after an action to declare the existence or nonexistence of a
6 parent-child relationship has been brought, an informal hearing
7 shall be held. The public shall be barred from the hearing. A
8 record of the proceeding or any portion thereof shall be kept if
9 any party requests, or the court orders. Rules of evidence need
10 not be observed.

11 (b) The court, in its discretion, may waive a hearing on
12 an uncontested parentage complaint submitted by an individual
13 who gave birth to a child, an alleged genetic parent of the
14 child, a presumed parent of the child, or a functional parent of
15 the child with proof provided by affidavit.

16 § -502 **Pretrial recommendations.** (a) On the basis of
17 the information produced at the pretrial hearing held pursuant
18 to section -501, the judge conducting the hearing shall
19 evaluate the probability of determining the existence or
20 nonexistence of the parent-child relationship in a trial and
21 whether a judicial declaration of the relationship would be in



1 the best interest of the child pursuant to section 571-46(b).
2 On the basis of the evaluation, an appropriate recommendation
3 for settlement shall be made to the parties, which may include
4 any of the following:

- 5 (1) That the action be dismissed with or without
6 prejudice;
- 7 (2) That the matter be compromised by an agreement among
8 the birth parent and the individual who is seeking to
9 have parentage adjudicated, and the child, in which
10 the individual seeking to be adjudicated to be a
11 parent is not adjudicated to be a parent but in which
12 a defined economic obligation is undertaken in favor
13 of the child and, if appropriate, in favor of the
14 parent, subject to approval by the judge conducting
15 the hearing. In reviewing the obligation undertaken
16 by the individual whose parentage is to be adjudicated
17 in a compromise agreement, the judge conducting the
18 hearing shall consider the best interest of the child,
19 in light of the factors enumerated in section
20 576D-7(a), discounted by the improbability, as it
21 appears to the judge, of establishing the parentage or



1 non-parentage of the individual whose parentage is to
2 be adjudicated in a trial of the action; or

3 (3) That the individual whose parentage is to be
4 adjudicated voluntarily acknowledges parentage of the
5 child.

6 (b) If the parties accept a recommendation made in
7 accordance with subsection (a), judgment shall be entered
8 accordingly.

9 (c) If a party refuses to accept the final recommendation
10 made under subsection (a) and genetic tests have not been taken,
11 the court may order the parties to submit to genetic tests, if
12 practicable. Thereafter the judge shall make an appropriate
13 final recommendation. If a party refuses to accept the final
14 recommendation, the action shall be set for trial.

15 (d) A guardian ad litem appointed for the child may accept
16 or refuse to accept a recommendation under this section.

17 (e) The pretrial hearing may be terminated and the action
18 set for trial if the judge conducting the hearing finds it
19 unlikely that all parties would accept a recommendation the
20 judge may make under subsection (a) or (c).



1 § -503 **Civil action.** (a) An action under this chapter
2 shall be a civil action governed by the Hawaii family court
3 rules or the Hawaii rules of civil procedure. The individual
4 who gave birth to the child and the individual whose parentage
5 is to be adjudicated shall be competent to testify and may be
6 compelled to testify; provided that no criminal prosecution,
7 other than a prosecution for perjury, shall afterwards be
8 commenced against the individual who gave birth to the child or
9 the individual whose parentage is to be adjudicated on account
10 of any transaction, matter, or thing concerning which they may
11 testify or produce evidence under this chapter, documentary or
12 otherwise. Part VII shall apply in any action brought under
13 this chapter.

14 (b) Testimony relating to sexual access to the individual
15 who gave birth to the child by an unidentified person at any
16 time or by an identified person at a time other than the
17 probable time of conception of the child shall be inadmissible
18 in evidence, unless offered by the individual who gave birth to
19 the child.

20 (c) Notwithstanding the limitation on the admission of
21 evidence stated in subsection (b), evidence offered with respect



1 to an individual who is not subject to the jurisdiction of the
2 court concerning sexual intercourse or assisted reproduction
3 with the individual who gave birth to the child at or about the
4 probable time of conception of the child shall be admissible in
5 evidence only if the individual offering the evidence has
6 undergone and made available to the court genetic tests,
7 including genetic tests the results of which do not exclude the
8 possibility of the individual's parentage of the child.

9 § -504 **Judgment or order.** (a) The judgment or order of
10 the court determining the existence or nonexistence of the
11 parent-child relationship shall be determinative for all
12 purposes.

13 (b) If the judgment or order of the court is at variance
14 with the child's birth certificate, the court shall order that a
15 new birth certificate be issued pursuant to section -510.

16 (c) The judgment or order may contain any other provision
17 directed against the appropriate party to the proceeding,
18 concerning the duty of support, the custody and guardianship of
19 the child, visitation privileges with the child, the furnishing
20 of bond or other security for the payment of the judgment, or
21 any other matter in the best interest of the child. Upon



1 neglect or refusal to give this security, or upon default of a
2 parent or a parent's surety in compliance with the terms of the
3 judgment, the court may order the forfeiture of the security and
4 the application of the proceeds thereof toward the payment of
5 any sums due under the terms of the judgment and may also
6 sequester a parent's personal estate, and the rents and profits
7 of a parent's real estate, and may appoint a receiver thereof,
8 and may cause a parent's personal estate, including any
9 salaries, wages, commissions, or other moneys owed to the parent
10 and the rents and profits of the parent's real estate, to be
11 applied toward the meeting of the terms of the judgment, to the
12 extent that the court, from time to time, deems just and
13 reasonable. The judgment or order may direct a parent to pay
14 the reasonable expenses of the pregnancy and childbirth,
15 including but not limited to medical insurance premiums, such as
16 for MedQuest, that cover the periods of pregnancy and
17 childbirth. The court may further order the noncustodial parent
18 to reimburse the custodial parent, the child, or any public
19 agency for reasonable expenses incurred before entry of
20 judgment, including support, maintenance, education, and funeral
21 expenses expended for the benefit of the child.



1 (d) Support judgments or orders ordinarily shall be for
2 periodic payments that may vary in amount. In the best interest
3 of the child, a lump sum payment or the purchase of an annuity
4 may be ordered in lieu of periodic payments of support. The
5 court may limit the obligor parent's liability for past support
6 of the child to the proportion of the expenses already incurred
7 that the court deems just.

8 (e) In determining the amount to be paid by a parent for
9 support of the child and the period during which the duty of
10 support is owed, a court enforcing the obligation of support
11 shall use the guidelines established under section 576D-7.
12 Provision may be made for the support, maintenance, and
13 education of an adult or minor child and an incompetent adult
14 child, regardless of whether the petition is made before or
15 after the child has attained the age of majority.

16 (f) Whenever a parent of a child is a minor, unmarried,
17 and not able to provide full support, the court may order one or
18 both parents of the minor to support the child until the minor
19 reaches the age of majority, is otherwise emancipated, or is
20 financially able to fully support the child, whichever occurs
21 first. For the purposes of this subsection:



1 (1) The judgment or order for support shall be made
2 against the parent or parents of the minor to the
3 extent that the minor is unable to support the child;

4 (2) The resources, standard of living, and earning ability
5 of the parent or parents of the minor shall be
6 considered under subsection (d) in determining the
7 amount of support; and

8 (3) The parent or parents of the minor shall be an obligor
9 under this chapter and chapter 571 and any action
10 against the obligor to collect support may be pursued
11 against the parent or parents of the minor.

12 § -505 **Costs.** The court may order reasonable fees of
13 counsel, experts, and the child's guardian ad litem, and other
14 costs of the action and pretrial proceedings, including genetic
15 tests, subject to section -703, to be paid by the parties in
16 proportions and at times determined by the court.

17 § -506 **Enforcement of judgment or order.** (a) If
18 existence of the parent-child relationship is declared, or
19 parentage or a duty of support has been acknowledged or
20 adjudicated under this chapter or under prior law, the
21 obligation of a parent may be enforced in the same or other



1 proceedings by the other parent, the child, the public authority
2 that has furnished or may furnish the reasonable expenses of
3 pregnancy, childbirth, education, support, or funeral, or by any
4 other individual, including a private agency, to the extent the
5 individual has furnished or is furnishing these expenses.

6 (b) The court may order support payments to be made to a
7 parent or an adult child, or through the child support
8 enforcement agency as its rules permit, or through an
9 individual, corporation, or agency designated to administer
10 support payments for the benefit of the child under the
11 supervision of the court.

12 (c) Wilful failure to obey the judgment or order of the
13 court shall be a civil contempt of the court. All remedies for
14 the enforcement of judgments shall apply to this chapter. When
15 a court of competent jurisdiction issues an order compelling a
16 parent to furnish support, including child support, medical
17 support, or other remedial care, for the parent's child, it
18 shall constitute prima facie evidence of a civil contempt of
19 court upon proof that:



1 (1) The order was made, filed, and served on the parent or
2 proof that the parent was present in court at the time
3 the order was pronounced; and

4 (2) The parent did not comply with the order.

5 An order of civil contempt of court based on prima facie
6 evidence under this subsection shall clearly state that the
7 failure to comply with the order of civil contempt of court may
8 subject the parent to a penalty that may include imprisonment
9 or, if imprisonment is immediately ordered, the conditions that
10 must be met for release from imprisonment. A party may also
11 prove civil contempt of court by means other than prima facie
12 evidence under this subsection.

13 § -507 **Modification of judgment or order.** (a) The
14 court shall have continuing jurisdiction to modify or revoke a
15 judgment or order:

16 (1) For future education and support; and

17 (2) With respect to matters listed in section -504(c)
18 and (d) and -506(b); provided that a court entering
19 a judgment or order for the payment of a lump sum or
20 the purchase of an annuity under section -504(d) may



1 specify that the judgment or order may not be modified
2 or revoked.

3 (b) In those cases where child support payments are to
4 continue due to the adult child's pursuance of education, the
5 child support enforcement agency, at least three months before
6 the adult child's nineteenth birthday, shall send notice by
7 regular mail to the adult child and the custodial parent that
8 prospective child support will be suspended unless proof is
9 provided by the custodial parent or adult child, to the child
10 support enforcement agency, before the child's nineteenth
11 birthday, that the child is presently enrolled as a full-time
12 student in school or has been accepted into and plans to attend
13 a post-high school university, college, or vocational school as
14 a full-time student for the next semester. If the custodial
15 parent or adult child fails to do so, prospective child support
16 payments may be automatically suspended by the child support
17 enforcement agency, hearings officer, or court. In addition, if
18 applicable, the child support enforcement agency, hearings
19 officer, or court may issue an order terminating existing
20 assignments against the responsible parent's income and income
21 assignment orders.



1 (c) The need to provide for the child's health care needs
2 through health insurance or other means shall be a basis for
3 petitioning for a modification of the support order.

4 § -508 **Hearings and records; confidentiality.** (a)
5 Notwithstanding any other law concerning public hearings and
6 records, unless the court orders otherwise, any hearing or trial
7 in a case filed on or before January 1, 2021, under chapter 584,
8 before its repeal, and any hearing or trial held to establish
9 parentage under part VIII or IX shall be held in closed court
10 without admittance of any individual other than those
11 individuals necessary to the action or proceeding. All papers
12 and records pertaining to the action or proceeding, whether part
13 of the permanent record of the court or of a file of the
14 department of health or elsewhere shall not be open to
15 inspection by any individual other than the parties to the
16 proceeding, the child who is the subject of the proceeding,
17 their attorneys, and the department of health, unless consent is
18 given by the court and all interested persons, or inspection is
19 authorized by an order of the court for good cause shown. The
20 individual seeking to inspect the document may be required to



1 pay the expense of preparing a copy of the document to be
2 inspected.

3 (b) Upon parentage being established, the confidentiality
4 requirement shall not extend to the judgment and all
5 subsequently filed documents that are used in good faith for
6 support and medical expenses, insurance, or enforcement
7 purposes; provided that the confidentiality requirement shall
8 continue to apply to any references to a non-adjudicated alleged
9 or presumed parent.

10 § -509 **Court filings; minutes of proceedings; posting**
11 **requirement.** The judiciary shall post on its website the titles
12 of all court filings and the minutes of court proceedings in
13 cases brought under this chapter except for actions filed
14 pursuant to part VIII or IX; provided that the judiciary shall
15 redact information that has been made confidential by any
16 statute, rule of court, or court order; provided further that,
17 on request of a party and for good cause, the court may close a
18 proceeding and records to the public; provided further that the
19 titles of all court filings for the case and the contents of a
20 final order shall be available for public inspection, with other



1 papers and records available for public inspection, only with
2 the consent of the parties or by court order.

3 § -510 **Birth records.** (a) Upon order of a court of
4 this State or upon request or order of a court of another state,
5 or following acknowledgment as provided in section -401, the
6 department of health shall prepare a new birth certificate
7 consistent with the findings of the court or in cases of
8 acknowledgment under section -401, consistent with the
9 acknowledgment, and shall substitute the new birth certificate
10 for the original birth certificate.

11 (b) The fact that a parent-child relationship was declared
12 or acknowledged after the child's birth shall not be
13 ascertainable from the new birth certificate, but the actual
14 place and date of birth shall be shown.

15 (c) Unless the court orders otherwise, the evidence upon
16 which the new birth certificate was made and the original birth
17 certificate shall not be open to inspection by any individual
18 other than the parties to the proceeding, the child who is the
19 subject of the birth certificate, their attorneys, and the
20 department of health. A court shall only authorize an
21 individual to inspect the evidence upon which the new birth



1 certificate was made for good cause shown. The individual
2 seeking to inspect the document may be required to pay the
3 expense of preparing a copy of the document to be inspected.

4 **§ -511 Parentage judgment, acknowledgment, support**
5 **order; social security number.** The social security number of
6 any individual who is subject to a parentage judgment or
7 acknowledgment, or a support order issued under this chapter,
8 shall be placed in the records relating to the matter in
9 compliance with any other court rule or law.

10 **§ -512 Filing of acknowledgments and adjudications with**
11 **department of health.** All voluntary acknowledgments and
12 adjudications of parentage by judicial process shall be filed
13 with the department of health for comparison with information in
14 the state case registry established pursuant to section
15 576D-6(a)(12). Filing of the adjudications of parentage shall
16 be the responsibility of the natural parent or individual or
17 agency as the court shall direct.

18 **PART VI. SPECIAL RULES FOR PROCEEDINGS**

19 **§ -601 Adjudicating parentage of child with alleged**
20 **genetic parent.** (a) A proceeding to determine whether an



1 alleged genetic parent who is not a presumed parent is a parent
2 of a child may be commenced:

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

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

6 (b) Except as otherwise provided by law, this subsection
7 shall apply in a proceeding described in subsection (a) if the
8 individual who gave birth to the child is the only other
9 individual with a claim to parentage of the child. The court
10 shall adjudicate an alleged genetic parent to be a parent of the
11 child if the alleged genetic parent:

12 (1) Is identified under section -705 as a genetic
13 parent of the child and the identification is not
14 successfully challenged under section -705;

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

19 (3) Declines to submit to genetic testing ordered by the
20 court or the child support enforcement agency, in
21 which case the court may adjudicate the alleged



1 genetic parent to be a parent of the child even if the
2 alleged genetic parent denies a genetic relationship
3 with the child;

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

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

11 (c) If in a proceeding involving an alleged genetic parent
12 at least one other individual in addition to the individual who
13 gave birth to the child has a claim to parentage of the child,
14 the court shall adjudicate parentage under section -607,
15 unless a valid denial of parentage is filed in accordance with
16 section -608.

17 § -602 Adjudicating parentage of child with presumed

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

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



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

3 (b) A presumption of parentage under section -303
4 cannot be overcome after the child attains two years of age
5 unless the court determines:

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

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

10 (c) Except as otherwise provided by law, the following
11 rules shall apply in a proceeding to adjudicate a presumed
12 parent's parentage of a child if the individual who gave birth
13 to the child is the only other individual with a claim to
14 parentage of the child:

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

19 (2) If the presumed parent is identified under
20 section -705 as a genetic parent of the child and
21 that identification is not successfully challenged



1 under section -705, the court shall adjudicate the
2 presumed parent to be a parent of the child; and

3 (3) If the presumed parent is not identified under
4 section -705 as a genetic parent of the child and
5 the presumed parent or the individual who gave birth
6 to the child challenges the presumed parent's
7 parentage of the child, the court shall adjudicate the
8 parentage of the child in the best interest of the
9 child based on the factors under sections -607(a)
10 and -607(b).

11 (d) If in a proceeding to adjudicate a presumed parent's
12 parentage of a child, another individual in addition to the
13 individual who gave birth to the child asserts a claim to
14 parentage of the child, the court shall adjudicate parentage
15 under section -607, unless a valid denial of parentage is
16 filed in accordance with section -608.

17 **§ -603 Adjudicating claim of functional parentage of a**

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

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

21 (2) Claims to be a functional parent of the child.



1 (b) An individual who claims to be a functional parent of
2 a child shall commence a proceeding to establish parentage of a
3 child under this section:

- 4 (1) Before the child attains eighteen years of age; and
- 5 (2) While the child is alive.

6 (c) The following rules shall govern standing of an
7 individual who claims to be a functional parent of a child to
8 maintain a proceeding under this section:

- 9 (1) The individual shall file an initial verified pleading
10 alleging specific facts that support the claim to
11 parentage of the child asserted under this section.
12 The verified pleading shall be served on all parents
13 and legal guardians of the child and any other party
14 to the proceeding;
- 15 (2) An adverse party, parent, or legal guardian may file a
16 pleading in response to the pleading filed under
17 paragraph (1). A responsive pleading shall be
18 verified and must be served on parties to the
19 proceeding; and
- 20 (3) Unless the court finds a hearing is necessary to
21 determine disputed facts material to the issue of



1 standing, the court shall determine, based on the
2 pleadings under paragraphs (1) and (2), whether the
3 individual has alleged facts sufficient to satisfy by
4 a preponderance of the evidence the requirements of
5 subsection (d). If the court holds a hearing under
6 this subsection, the hearing shall be held on an
7 expedited basis.

8 (d) In a proceeding to adjudicate parentage of an
9 individual who claims to be a functional parent of the child, if
10 there is only one other individual who is a parent or has a
11 claim to parentage of the child, the court shall adjudicate the
12 individual who claims to be a functional parent to be a parent
13 of the child if the individual demonstrates by clear and
14 convincing evidence that:

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

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



- 1 (3) The individual undertook full and permanent
2 responsibilities of a parent of the child without
3 expectation of financial compensation;
- 4 (4) The individual held out the child as the individual's
5 child;
- 6 (5) The individual established a bonded and dependent
7 relationship with the child that is parental in
8 nature;
- 9 (6) Another parent of the child fostered or supported the
10 bonded and dependent relationship required under
11 paragraph (5); and
- 12 (7) Continuing the relationship between the individual and
13 the child is in the best interest of the child.
- 14 (e) Subject to other limitations in this part, if in a
15 proceeding to adjudicate parentage of an individual who claims
16 to be a functional parent of the child, there is more than one
17 other individual who is a parent or has a claim to parentage of
18 the child and the court determines that the requirements of
19 subsection (d) are satisfied, the court shall adjudicate
20 parentage under section -607, unless a valid denial of
21 parentage is filed in accordance with section -608.



1 § -604 **Adjudicating parentage of child with acknowledged**
2 **parent.** (a) If a child has an acknowledged parent, a
3 proceeding to challenge the acknowledgment of parentage, brought
4 by a signatory to the acknowledgment, shall be governed by
5 section -403(g).

6 (b) If a child has an acknowledged parent, the following
7 rules shall apply in a proceeding to challenge the
8 acknowledgment of parentage brought by an individual, other than
9 the child, who has standing under section -203 and was not a
10 signatory to the acknowledgment:

- 11 (1) The individual shall commence the proceeding no later
12 than two years after the effective date of the
13 acknowledgment, unless good cause is shown;
- 14 (2) The court may permit the proceeding only if the court
15 finds permitting the proceeding is in the best
16 interest of the child pursuant to section 571-46(b);
17 and
- 18 (3) If the court permits the proceeding, the court shall
19 adjudicate parentage under section -607.

20 § -605 **Adjudicating parentage of child with adjudicated**
21 **parent.** (a) If a child has an adjudicated parent, a proceeding



1 to challenge the adjudication, brought by an individual who was
2 a party to the adjudication or received notice under
3 section -201, shall be governed by the rules governing a
4 collateral attack on a judgment.

5 (b) If a child has an adjudicated parent, the following
6 rules shall apply to a proceeding to challenge the adjudication
7 of parentage brought by an individual, other than the child, who
8 has standing under section -203 and was not a party to the
9 adjudication and did not receive notice under section -201:

10 (1) The individual shall commence the proceeding no later
11 than two years after the effective date of the
12 adjudication, unless good cause is shown;

13 (2) The court may permit the proceeding only if the court
14 finds permitting the proceeding is in the best
15 interest of the child pursuant to section 571-46(b);
16 and

17 (3) If the court permits the proceeding, the court shall
18 adjudicate parentage under section -607.

19 § -606 **Adjudicating parentage of a child of assisted**
20 **reproduction.** (a) An individual who is a parent under part
21 VIII or the individual who gave birth to the child may bring a



1 proceeding to adjudicate parentage. If the court determines the
2 individual is a parent under part VIII, the court shall
3 adjudicate the individual to be a parent of the child.

4 (b) In a proceeding to adjudicate an individual's
5 parentage of a child under this section, if another individual
6 other than the individual who gave birth to the child is a
7 parent under part VIII, the court shall adjudicate the
8 individual's parentage of the child under section -607.

9 § -607 Adjudicating competing claims of parentage. (a)

10 Except as otherwise provided by law, in a proceeding to
11 adjudicate competing claims of, or challenges under
12 section -601, -602, -603, -604, -605, or -606
13 to, parentage of a child by two or more individuals, the court
14 shall adjudicate parentage in the best interest of the child,
15 based on:

- 16 (1) The age of the child;
- 17 (2) The length of time during which each individual
- 18 assumed the role of parent of the child;
- 19 (3) The nature of the relationship between the child and
- 20 each individual;



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

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

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

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

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

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

18 (c) The court may adjudicate a child to have more than two
19 parents under this chapter if the court finds that failure to
20 recognize more than two parents would be detrimental to the
21 child. A finding of detriment to the child shall not require a



1 finding of unfitness of any parent or individual seeking an
2 adjudication of parentage. In determining detriment to the
3 child, the court shall consider all relevant factors, including
4 the harm if the child is removed from a stable placement with an
5 individual who has fulfilled the child's physical needs and
6 psychological needs for care and affection and has assumed the
7 role for a substantial period.

8 **§ -608 Denial of parentage.** An alleged genetic parent
9 or presumed parent may sign a denial of parentage in a record
10 filed with the court. The denial of parentage shall be valid
11 only if:

12 (1) Another individual other than the individual who gave
13 birth to the child agrees to have that other
14 individual's parentage of the child established under
15 this part, and the agreement is in an affidavit filed
16 with the court;

17 (2) The signature of the alleged genetic parent or
18 presumed parent is attested by a notarial officer or
19 witnesses; and

20 (3) The alleged genetic parent or presumed parent has not
21 previously:



- 1 (A) Completed a valid acknowledgment of parentage,
- 2 unless the previous acknowledgment was rescinded
- 3 under section -403(f) or challenged
- 4 successfully under section -403(g); or
- 5 (B) Been adjudicated to be a parent of the child.

PART VII. GENETIC TESTING

§ -701 Scope of part; limitation on use of genetic

testing. (a) This part shall govern genetic testing of an individual in a proceeding to adjudicate parentage, whether the individual:

- 11 (1) Voluntarily submits to testing; or
- 12 (2) Is tested under an order of the court or the child
- 13 support enforcement agency.
- 14 (b) Genetic testing shall not be used to:
 - 15 (1) Challenge the parentage of an individual who is a
 - 16 parent under part VIII or IX; or
 - 17 (2) Establish the parentage of an individual who is a
 - 18 donor.

§ -702 Authority to order or deny genetic testing. (a)

Except as otherwise provided in this part or part V, in a proceeding under this chapter to determine parentage, the court



1 shall order the child and any other individual to submit to
2 genetic testing if a request for testing is supported by the
3 sworn statement of a party:

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

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

9 (b) The child support enforcement agency may order genetic
10 testing only if there is no presumed parent, acknowledged
11 parent, or adjudicated parent of a child other than the
12 individual who gave birth to the child.

13 (c) The court or the child support enforcement agency
14 shall not order in utero genetic testing.

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

18 (e) Genetic testing of an individual who gave birth to a
19 child shall not be a condition precedent to testing of the child
20 and an individual whose genetic parentage of the child is being
21 determined. If the individual who gave birth to the child is



1 unavailable or declines to submit to genetic testing, the court
2 may order genetic testing of the child and each individual whose
3 genetic parentage of the child is being adjudicated.

4 (f) In a proceeding to adjudicate the parentage of a child
5 having a presumed parent or an individual who claims to be a
6 parent under section -602, or to challenge an acknowledgment
7 of parentage, the court may deny a motion for genetic testing of
8 the child and any other individual after considering the factors
9 in section -607(a) and (b).

10 (g) If an individual requesting genetic testing is barred
11 under section -402(a), -403(g), -604(b), or -605(b)
12 from establishing the individual's parentage, the court shall
13 deny the request for genetic testing.

14 (h) An order under this section for genetic testing shall
15 be enforceable by contempt.

16 **§ -703 Requirements for genetic testing.** (a) Genetic
17 testing shall be of a type reasonably relied on by experts in
18 the field of genetic testing and performed in a testing
19 laboratory accredited by:

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



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

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

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

14 (1) No later than thirty days after receipt of the report
15 of the test, the objecting individual or the child
16 support enforcement agency may request the court to
17 require the laboratory to recalculate the relationship
18 index using an ethnic or racial group different from
19 that used by the laboratory;



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

4 (A) If the requested frequencies are not available to
5 the laboratory for the ethnic or racial group
6 requested, provide the requested frequencies
7 compiled in a manner recognized by accrediting
8 bodies; or

9 (B) Engage another laboratory to perform the
10 calculations; and

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

16 (d) If, after recalculation of the relationship index
17 under subsection (c) using a different ethnic or racial group,
18 genetic testing under section -705 does not identify an
19 individual as a genetic parent of a child, the court may require
20 an individual who has been tested to submit to additional
21 genetic testing to identify a genetic parent.



1 § -704 **Report of genetic testing.** (a) In any hearing
2 or trial brought under this chapter, a report of the facts and
3 results of genetic tests ordered by the court under this chapter
4 shall be admissible in evidence by affidavit of the person whose
5 name is signed to the report, attesting to the procedures
6 followed in obtaining the report. A report of the facts and
7 results of genetic tests shall be admissible as evidence of
8 parentage without the need for foundation testimony or other
9 proof of authenticity or accuracy, unless objection is made.

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

- 14 (1) The name and photograph of each individual whose
15 specimen has been taken;
- 16 (2) The name of the individual who collected each
17 specimen;
- 18 (3) The place and date each specimen was collected;
- 19 (4) The name of the individual who received each specimen
20 in the testing laboratory; and
- 21 (5) The date each specimen was received.



1 (c) An alleged genetic parent or party to the parentage
2 action who objects to the admission of the report concerning the
3 genetic test results shall file a motion no later than twenty
4 days after receiving a copy of the report and shall show good
5 cause as to why a witness is necessary to lay the foundation for
6 the admission of the report as evidence. The court may, sua
7 sponte or at a hearing on the motion, determine whether a
8 witness shall be required to lay the foundation for the
9 admission of the report as evidence. The right to call
10 witnesses to rebut the report shall be reserved to all parties.

11 § -705 **Report of genetic testing.** (a) Subject to a
12 challenge under subsection (b), an individual is identified
13 under this chapter as a genetic parent of a child if genetic
14 testing complies with this part and the results of the testing
15 disclose:

- 16 (1) The individual has at least a ninety-nine per cent
17 probability of parentage, using a prior probability of
18 0.50, as calculated by using the combined relationship
19 index obtained in the testing; and
20 (2) A combined relationship index of at least one hundred
21 to one.



1 (b) An individual identified under subsection (a) as a
2 genetic parent of the child may challenge the genetic testing
3 results only by other genetic testing satisfying the
4 requirements of this part that:

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

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

9 (A) Who gave birth to the child; or

10 (B) Identified under subsection (a).

11 (c) If more than one individual other than the individual
12 who gave birth is identified by genetic testing as a possible
13 genetic parent of the child, the court shall order each
14 individual to submit to further genetic testing to identify a
15 genetic parent.

16 (d) If an original test result is contested, the court
17 shall order further genetic testing with payment of the testing
18 to be advanced and paid for by the contesting party.

19 **§ -706 Genetic testing when specimen not available. (a)**
20 Subject to subsection (b), if a genetic-testing specimen is not
21 available from an alleged genetic parent of a child, an



1 individual seeking genetic testing demonstrates good cause, and
2 the court finds that the circumstances are just, the court may
3 order any of the following individuals to submit specimens for
4 genetic testing:

- 5 (1) A parent of the alleged genetic parent;
- 6 (2) A sibling of the alleged genetic parent;
- 7 (3) Another child of the alleged genetic parent and the
8 individual who gave birth to the other child; and
- 9 (4) Another relative of the alleged genetic parent
10 necessary to complete genetic testing.

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

14 § -707 **Deceased individual.** If an individual seeking
15 genetic testing demonstrates good cause, the court may order
16 genetic testing of a deceased individual.

17 **PART VIII. ASSISTED REPRODUCTION**

18 § -801 **Scope of part.** This part shall not apply to the
19 birth of a child conceived by sexual intercourse or assisted
20 reproduction under a surrogacy agreement under part IX.



1 § **-802 Parental status of donor.** A donor is not a
2 parent of a child conceived by assisted reproduction.

3 § **-803 Parentage of child of assisted reproduction.** An
4 individual who consents under section -804 to assisted
5 reproduction by another individual with the intent to be a
6 parent of a child conceived by the assisted reproduction is a
7 parent of the child.

8 § **-804 Consent to assisted reproduction.** (a) Except as
9 otherwise provided in subsection (b), the consent described in
10 section -803 shall be in a record signed by an individual
11 giving birth to a child conceived by assisted reproduction and
12 the other individual who intends to be a parent of the child.

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

17 (1) The individual giving birth to a child or the other
18 individual proves by clear and convincing evidence the
19 existence of an express agreement entered into before
20 conception that the individual giving birth and the



1 other individual intended they both would be parents
2 of the child; or

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

20 § -805 Limitation on spouse's dispute of parentage. (a)

21 Except as otherwise provided in subsection (b), an individual



1 who, at the time of the child's birth, is the spouse of an
2 individual who gave birth to the child by assisted reproduction
3 may not challenge the individual's own parentage of the child
4 unless:

5 (1) No later than two years after the birth of the child
6 or the date of which the individual first learns of
7 the birth of the child, whichever is later, the
8 individual commences a proceeding to adjudicate the
9 individual's parentage of the child; and

10 (2) The court finds the individual did not consent to the
11 assisted reproduction, before, on, or after the birth
12 of the child, or withdrew consent under
13 section -807.

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

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

19 (2) The spouse and the individual who gave birth to the
20 child have not cohabited since the probable time of
21 assisted reproduction; and



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

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

6 § -806 **Effect of certain legal proceedings regarding**
7 **marriage.** If a marriage of an individual who gives birth to a
8 child conceived by assisted reproduction is terminated through
9 divorce or dissolution, subject to legal separation or separate
10 maintenance, declared invalid, or annulled before transfer of
11 gametes or embryos to said individual, a former spouse of said
12 individual is not a parent of the child unless the former spouse
13 consented in a record that the former spouse would be a parent
14 of the child if assisted reproduction were to occur after a
15 divorce, dissolution, legal separation, separate maintenance,
16 declaration of invalidity, or annulment, and the former spouse
17 did not withdraw consent under section -807.

18 § -807 **Withdrawal of consent.** (a) An individual who
19 consents under section -804 to assisted reproduction may
20 withdraw consent any time before a transfer by giving notice in
21 a record of the withdrawal of consent to the individual who



1 agreed to give birth to a child conceived by assisted
2 reproduction and to any fertility clinic or health care provider
3 facilitating the assisted reproduction. Failure to give notice
4 to the fertility clinic or health care provider shall not affect
5 a determination of parentage under this part.

6 (b) An individual who withdraws consent under subsection
7 (a) is not a parent of the child under this part.

8 § -808 Parental status of deceased individual. (a) If
9 an individual who intends to be a parent of a child conceived by
10 assisted reproduction dies during the period between the
11 transfer of a gamete or embryo and the birth of the child, the
12 individual's death shall not preclude the establishment of the
13 individual's parentage of the child if the individual otherwise
14 would be a parent of the child under this chapter.

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

20 (1) Either:



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

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

9 (2) Either:

10 (A) The embryo is in utero no later than thirty-six
11 months after the individual's death; or

12 (B) The child is born no later than forty-five months
13 after the individual's death.

14 **PART IX. SURROGACY AGREEMENT**

15 A. General Provisions

16 § -901 **Definitions.** As used in this part:

17 "Genetic surrogate" means an individual who is capable of
18 carrying a pregnancy to term and giving birth to a child, who is
19 not an intended parent and who agrees to become pregnant through
20 assisted reproduction using the individual's own gamete, under a
21 genetic surrogacy agreement as provided in this part.



1 "Gestational surrogate" means an individual who is capable
2 of carrying a pregnancy to term and giving birth to a child, who
3 is not an intended parent and who agrees to become pregnant
4 through assisted reproduction using gametes that are not the
5 individual's own, under a gestational surrogacy agreement as
6 provided in this part.

7 "Surrogacy agreement" means an agreement between one or two
8 intended parents and an individual who is capable of carrying a
9 pregnancy to term and giving birth to a child and who is not an
10 intended parent in which the individual agrees to become
11 pregnant through assisted reproduction and provides that any
12 intended parent is a parent of a child conceived under the
13 agreement. Unless otherwise specified, "surrogacy agreement"
14 refers to both a gestational surrogacy agreement and a genetic
15 surrogacy agreement.

16 **§ -902 Eligibility to enter gestational or genetic**
17 **surrogacy agreement.** (a) To execute a surrogacy agreement to
18 act as a gestational surrogate or genetic surrogate, an
19 individual who is capable of carrying a pregnancy to term and
20 giving birth to a child shall:

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



- 1 (2) Previously have given birth to at least one child;
- 2 (3) Complete a medical evaluation related to the surrogacy
- 3 arrangement by a licensed medical doctor;
- 4 (4) Complete a mental health consultation by a licensed
- 5 mental health professional; and
- 6 (5) Have independent legal representation of the
- 7 individual's choice throughout the surrogacy
- 8 arrangement regarding the terms of the surrogacy
- 9 agreement and the potential legal consequences of the
- 10 surrogacy agreement.

11 (b) To execute a surrogacy agreement, each intended
12 parent, whether or not genetically related to the child, shall
13 have:

- 14 (1) Attained twenty-one years of age; and
- 15 (2) Independent legal representation of the intended
- 16 parent's or parents' choice throughout the surrogacy
- 17 arrangement regarding the terms of the surrogacy
- 18 agreement and the potential legal consequences of the
- 19 surrogacy agreement; provided that the intended
- 20 parents may be jointly represented if desired.



1 § -903 Requirements of gestational or genetic surrogacy

2 **agreement; process.** (a) A surrogacy agreement shall be
3 executed in compliance with the following rules:

4 (1) At least one party shall be a resident of the State
5 or, if no party is a resident of the State, at least
6 one medical evaluation or procedure or mental health
7 consultation under the surrogacy agreement shall occur
8 in the State and each party to the agreement shall
9 consent to the jurisdiction of the courts of the
10 State;

11 (2) A surrogate and each intended parent shall meet the
12 requirements of section -902;

13 (3) Each intended parent, the surrogate, and the
14 surrogate's spouse, if any, shall be parties to the
15 surrogacy agreement;

16 (4) The surrogacy agreement shall be in a record signed by
17 each party listed in paragraph (3);

18 (5) The surrogate and each intended parent shall
19 acknowledge, in a record, receipt of a copy of the
20 surrogacy agreement;



- 1 (6) The signature of each party to the surrogacy agreement
2 shall be attested by a notarial officer or witnessed
3 in accordance with the laws of the jurisdiction in
4 which the surrogacy agreement is signed;
- 5 (7) The surrogate, surrogate's spouse, if any, and the
6 intended parent or parents shall have independent
7 legal representation throughout the surrogacy
8 arrangement regarding the terms of the surrogacy
9 agreement and the potential legal consequences of the
10 surrogacy agreement, and each counsel shall be
11 identified in the surrogacy agreement; provided that
12 the surrogate and the surrogate's spouse, if any, may
13 be jointly represented if so desired, and the intended
14 parent or parents may be jointly represented if so
15 desired;
- 16 (8) The intended parent or parents shall pay for
17 independent legal representation for the surrogate and
18 surrogate's spouse, if any; and
- 19 (9) The surrogacy agreement shall be executed before a
20 medical procedure, including the taking of medication,
21 occurs related to the surrogacy agreement, other than



1 the medical evaluation and mental health consultation
2 required by section -902.

3 § -904 Requirements of gestational or genetic surrogacy

4 agreement; content. (a) A surrogacy agreement shall comply
5 with the following requirements:

6 (1) A surrogate shall agree to attempt to become pregnant
7 by means of assisted reproduction;

8 (2) Except as otherwise provided in
9 sections -910, -913, and -914, the surrogate
10 and the surrogate's spouse or former spouse, if any,
11 shall have no claim to parentage of a child conceived
12 by assisted reproduction under the agreement;

13 (3) The surrogate's spouse, if any, shall acknowledge and
14 agree to comply with the obligations imposed on the
15 surrogate by the agreement;

16 (4) Except as otherwise provided in
17 sections -910, -913, and -914, the intended
18 parent, or, if there are two intended parents, each
19 one jointly and severally, immediately upon birth
20 shall be the exclusive parent or parents of the child,



1 regardless of the number of children born or the
2 gender or mental or physical condition of each child;

3 (5) Except as otherwise provided in
4 sections -910, -913, and -914, the intended
5 parent or, if there are two intended parents, each
6 parent jointly and severally, immediately upon birth
7 shall assume physical and legal custody of, and
8 responsibility for the financial support of the child,
9 regardless of the number of children born or the
10 gender or mental or physical condition of each child;

11 (6) The surrogacy agreement shall provide for payment by
12 the intended parent or parents of reasonable legal,
13 medical, and ancillary expenses, including:

14 (A) Premiums for a health insurance policy that
15 covers medical treatment and hospitalization for
16 the person acting as surrogate unless otherwise
17 mutually agreed upon by the parties, pursuant to
18 the terms of the surrogacy agreement;

19 (B) Payment of all uncovered medical expenses;



- 1 (C) Payment of legal fees for the legal
- 2 representation of the person acting as surrogate
- 3 and the person's spouse, if any;
- 4 (D) Payment of life insurance premiums, pursuant to
- 5 the terms of the surrogacy agreement; and
- 6 (E) Any other reasonable financial arrangements
- 7 mutually agreed upon by the parties, including
- 8 any applicable reimbursement and compensation
- 9 schedule, pursuant to the terms of the surrogacy
- 10 agreement;
- 11 (7) The intended parent or parents shall be liable for the
- 12 surrogacy-related expenses of the individual acting as
- 13 surrogate, including expenses for health care provided
- 14 for assisted reproduction, prenatal care, labor, and
- 15 delivery and for the medical expenses of the resulting
- 16 child that are not paid by insurance. This paragraph
- 17 shall not be construed to supplant any health
- 18 insurance coverage that is otherwise available to the
- 19 person acting as surrogate or an intended parent for
- 20 the coverage of health care costs. This paragraph
- 21 shall not change the health insurance coverage of the



1 person acting as surrogate or the responsibility of
2 the insurance company to pay benefits under a policy
3 that covers a person acting as surrogate;

4 (8) The surrogacy agreement shall permit the surrogate to
5 make all health and welfare decisions regarding
6 themselves and their pregnancy. This chapter shall
7 not enlarge or diminish the surrogate's constitutional
8 or other legal right to terminate the pregnancy;

9 (9) The surrogacy agreement shall include information
10 about each party's right under this part to terminate
11 the surrogacy agreement;

12 (10) The surrogacy agreement shall address confidentiality
13 between the parties to the surrogacy agreement; and

14 (11) The surrogacy agreement shall address whether the
15 intended parents will complete a mental health
16 consultation by a licensed mental health professional.

17 (b) A surrogacy agreement may provide for:

18 (1) Payment of consideration, and payment or reimbursement
19 of reasonable expenses, to the surrogate; and

20 (2) Reimbursement of specific expenses if the agreement is
21 terminated under this part.



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

4 § -905 **Surrogacy agreement; effect of subsequent change**
5 **of marital status.** (a) Unless a surrogacy agreement expressly
6 provides otherwise:

7 (1) The marriage of a surrogate after the surrogacy
8 agreement is signed by all parties shall not affect
9 the validity of the surrogacy agreement, the
10 surrogate's spouse's consent to the surrogacy
11 agreement is not required, and the surrogate's spouse
12 shall not be a presumed parent of a child conceived by
13 assisted reproduction under the surrogacy agreement;
14 and

15 (2) The divorce, dissolution, annulment, declaration of
16 invalidity, or legal separation of the surrogate after
17 the surrogacy agreement is signed by all parties shall
18 not affect the validity of the surrogacy agreement.

19 (b) Unless a surrogacy agreement expressly provides
20 otherwise:



1 (1) The marriage of an intended parent after the surrogacy
2 agreement is signed by all parties shall not affect
3 the validity of a surrogacy agreement, the consent of
4 the spouse of the intended parent is not required, and
5 the spouse of the intended parent shall not be, based
6 on the surrogacy agreement alone, a parent of a child
7 conceived by assisted reproduction under the surrogacy
8 agreement; and

9 (2) The divorce, dissolution, annulment, declaration of
10 invalidity, or legal separation of an intended parent
11 after the surrogacy agreement is signed by all parties
12 shall not affect the validity of the surrogacy
13 agreement and, except as otherwise provided in
14 section -913, the intended parents are the parents
15 of the child.

16 § -906 **Exclusive, continuing jurisdiction.** During the
17 period after the execution of a surrogacy agreement until ninety
18 days after the birth of a child conceived by assisted
19 reproduction under the surrogacy agreement, a court of the State
20 conducting a proceeding under this chapter shall have exclusive,
21 continuing jurisdiction over all matters arising out of the

1 agreement. This section shall not give the court jurisdiction
2 over a child custody or child support proceeding if jurisdiction
3 is not otherwise authorized by a law of this State other than
4 this chapter.

5 B. Special Rules of Gestational Surrogacy Agreement

6 § -907 Termination of gestational surrogacy agreement.

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

13 (b) Unless a gestational surrogacy agreement provides
14 otherwise, on termination of the surrogacy agreement under
15 subsection (a), the parties shall be released from the surrogacy
16 agreement, except that each intended parent shall remain
17 responsible for expenses that are reimbursable under the
18 surrogacy agreement and incurred by the gestational surrogate
19 through the date of termination.

20 (c) Except in a case involving fraud, neither a
21 gestational surrogate nor the surrogate's spouse or former



1 spouse, if any, shall be liable to the intended parent or
2 parents for a penalty or liquidated damages for terminating a
3 gestational surrogacy agreement under this section.

4 **§ -908 Parentage under gestational surrogacy agreement.**

5 (a) Except as otherwise provided in subsection (c),
6 section -909(b), or section -911, upon birth of a child
7 conceived by assisted reproduction under a gestational surrogacy
8 agreement, each intended parent shall be, by operation of law, a
9 parent of the child.

10 (b) Except as otherwise provided in subsection (c) or
11 section -911, neither a gestational surrogate nor the
12 surrogate's spouse or former spouse, if any, is a parent of the
13 child.

14 (c) If a child is alleged to be a genetic child of the
15 individual who agreed to be a gestational surrogate, the court
16 shall order genetic testing of the child. If the child is a
17 genetic child of said individual who agreed to be a gestational
18 surrogate, parentage shall be determined based on parts I
19 through VII.

20 (d) Except as otherwise provided in subsection (c),
21 section -909(b), or section -911, if, due to a clinical or



1 laboratory error, a child conceived by assisted reproduction
2 under a gestational surrogacy agreement is not genetically
3 related to either intended parent or to a donor who donated
4 gametes to the intended parent or parents, each intended parent,
5 and not the gestational surrogate and the surrogate's spouse or
6 former spouse, if any, is a parent of the child, subject to any
7 other claim of parentage.

8 § -909 **Gestational surrogacy agreement; parentage of**
9 **deceased intended parent.** (a) Section -908 shall apply to
10 an intended parent even if the intended parent dies during the
11 period between the transfer of a gamete or embryo and the birth
12 of the child.

13 (b) Except as otherwise provided in section -911, an
14 intended parent is not a parent of a child conceived by assisted
15 reproduction under a gestational surrogacy agreement if the
16 intended parent dies before the transfer of a gamete or embryo
17 unless:

- 18 (1) The agreement provides otherwise; and
19 (2) The transfer of a gamete or embryo occurs no later
20 than thirty-six months after the death of the intended
21 parent, or the birth of the child occurs no later than



1 forty-five months after the death of the intended
2 parent.

3 § -910 **Gestational surrogacy agreement; order of**
4 **parentage.** (a) Except as otherwise provided in

5 section -908(c) or -911, before, on, or after the birth of
6 a child conceived by assisted reproduction under a gestational
7 surrogacy agreement, a party to the agreement may commence a
8 proceeding in the appropriate court for an order or judgment:

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

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

16 (3) Designating the content of the birth record in
17 accordance with chapter 338, and directing the
18 department of health to designate each intended parent
19 as a parent of the child;

20 (4) To protect the privacy of the child and the parties,
21 declaring that unless the court orders otherwise, the



1 court record, including a petition and any other
2 document related to a surrogacy agreement filed with
3 the court under this chapter shall be sealed and shall
4 not be open to inspection by any individual other than
5 the parties to the proceeding, a child conceived by
6 assisted reproduction under the agreement, their
7 attorneys, and the department of health; provided that
8 the court shall only authorize an individual to
9 inspect the sealed records for good cause shown;
10 provided further that the individual seeking to
11 inspect the document may be required to pay the
12 expense of preparing a copy of the document to be
13 inspected;

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

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

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



1 (c) Neither the State nor the department of health shall
2 be a necessary party to a proceeding under subsection (a).

3 **§ -911 Effect of gestational surrogacy agreement.** (a)

4 A gestational surrogacy agreement that complies with
5 sections -902, -903, and -904 shall be enforceable.

6 (b) If a child was conceived by assisted reproduction
7 under a gestational surrogacy agreement that does not comply
8 with sections -902, -903, and -904, the court shall
9 determine the rights and duties of the parties to the surrogacy
10 agreement consistent with the intent of the parties at the time
11 of execution of the surrogacy agreement. Each party to the
12 surrogacy agreement and any individual who at the time of the
13 execution of the surrogacy agreement was a spouse of a party to
14 the surrogacy agreement shall have standing to maintain a
15 proceeding to adjudicate an issue related to the enforcement of
16 the surrogacy agreement.

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



1 (d) Specific performance is not a remedy available for
2 breach by a gestational surrogate of a provision in the
3 surrogacy agreement that the gestational surrogate undergo an
4 embryo transfer, terminate or not terminate a pregnancy, or
5 submit to medical procedures.

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

9 (1) Of the surrogacy agreement by a gestational surrogate
10 or gestational surrogate's spouse that prevents the
11 intended parent from exercising immediately on the
12 birth of the child the full rights of parentage; or

13 (2) By the intended parent that prevents the intended
14 parent's acceptance, immediately on the birth of the
15 child conceived by assisted reproduction under the
16 agreement, of the duties of parentage.

17 C. Special Rules for Genetic Surrogacy Agreement

18 § -912 Requirements to validate a genetic surrogacy

19 agreement. (a) Except as otherwise provided in section -915,

20 to be enforceable, a genetic surrogacy agreement shall be

21 validated by the family court. A proceeding to validate the



1 surrogacy agreement shall be commenced before assisted
2 reproduction related to the surrogacy agreement is initiated.

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

5 (1) Sections -902, -903, and -904 are satisfied;
6 and

7 (2) All parties entered into the surrogacy agreement
8 voluntarily and understand its terms.

9 (c) An individual who terminates a genetic surrogacy
10 agreement under section -913 shall file notice of the
11 termination with the court. On receipt of the notice, the court
12 shall vacate any order issued under subsection (b). An
13 individual who terminates a genetic surrogacy agreement under
14 this section but does not notify the court of the termination of
15 the agreement shall be subject to sanctions.

16 **§ -913 Termination of genetic surrogacy agreement.** (a)

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

19 (1) An intended parent who is a party to the surrogacy
20 agreement may terminate the surrogacy agreement at any
21 time before a gamete or embryo transfer by giving



1 notice of termination in a record to all other
2 parties. If a gamete or embryo transfer does not
3 result in a pregnancy, a party may terminate the
4 surrogacy agreement at any time before a subsequent
5 gamete or embryo transfer. The notice of termination
6 shall be attested by a notarial officer or witnessed;
7 and

8 (2) A genetic surrogate who is a party to the agreement
9 may withdraw consent to the surrogacy agreement any
10 time before seventy-two hours after the birth of a
11 child conceived by assisted reproduction under the
12 surrogacy agreement. To withdraw consent, the genetic
13 surrogate shall execute a notice of termination in a
14 record stating the surrogate's intent to terminate the
15 surrogacy agreement. The notice of termination shall
16 be attested by a notarial officer or witnessed and be
17 delivered to each intended parent any time before
18 seventy-two hours after the birth of the child.

19 (b) On termination of the genetic surrogacy agreement
20 under subsection (a), the parties shall be released from all
21 obligations under the surrogacy agreement except that each



1 intended parent shall remain responsible for all expenses
2 incurred by the surrogate through the date of termination that
3 are reimbursable under the surrogacy agreement. Unless the
4 surrogacy agreement provides otherwise, the surrogate shall not
5 be entitled to and shall refund to intended parents within ten
6 days after withdrawal of consent any non-expense-related
7 compensation paid for serving as a surrogate.

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

13 **§ -914 Parentage under validated genetic surrogacy**
14 **agreement.** (a) Unless a genetic surrogate exercises the right
15 under section -913 to terminate a genetic surrogacy
16 agreement, each intended parent is a parent of a child conceived
17 by assisted reproduction under a surrogacy agreement validated
18 under section -912.

19 (b) Unless a genetic surrogate exercises the right under
20 section -913 to terminate the genetic surrogacy agreement, on



1 proof of a court order issued under section -912 validating
2 the surrogacy agreement, the court shall make an order:

3 (1) Declaring that each intended parent is a parent of a
4 child conceived by assisted reproduction under the
5 surrogacy agreement and ordering that parental rights
6 and duties vest exclusively in each intended parent;

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

10 (3) Designating the contents of the birth certificate in
11 accordance with chapter 338 and directing the
12 department of health to designate each intended parent
13 as a parent of the child;

14 (4) To protect the privacy of the child and the parties,
15 declaring that unless the court orders otherwise, the
16 court record, including a petition and any other
17 document related to a surrogacy agreement filed with
18 the court under this chapter shall be sealed and shall
19 not be open to inspection by any individual other than
20 the parties to the proceeding, a child conceived by
21 assisted reproduction under the agreement, their



1 attorneys, and the department of health; provided that
2 the court shall only authorize an individual to
3 inspect the sealed records for good cause shown;
4 provided further that the individual seeking to
5 inspect the document may be required to pay the
6 expense of preparing a copy of the document to be
7 inspected;

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

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

12 (c) If a genetic surrogate terminates a genetic surrogacy
13 agreement under section -913(a)(2), parentage of the child
14 conceived by assisted reproduction under the surrogacy agreement
15 shall be determined under parts I through VII.

16 (d) If a child born to a genetic surrogate is alleged not
17 to have been conceived by assisted reproduction, the court shall
18 order genetic testing to determine the genetic parentage of the
19 child. If the child was not conceived by assisted reproduction,
20 parentage shall be determined under parts I through VII. Unless
21 the genetic surrogacy agreement provides otherwise, if the child



1 was not conceived by assisted reproduction, the surrogate is not
2 entitled to any non-expense-related compensation paid for
3 serving as a surrogate.

4 (e) Unless a genetic surrogate exercises the right under
5 section -913 to terminate the genetic surrogacy agreement, if
6 an intended parent fails to file notice required under
7 section -913(a), the genetic surrogate or the department of
8 health may file with the court, no later than sixty days after
9 the birth of a child conceived by assisted reproduction under
10 the surrogacy agreement, notice that the child has been born to
11 the genetic surrogate. Unless the genetic surrogate has
12 properly exercised the right under section -913 to withdraw
13 consent to the surrogacy agreement, on proof of a court order
14 issued under section -912 validating the surrogacy agreement,
15 the court shall order that each intended parent is a parent of
16 the child.

17 **§ -915 Effect of non-validated genetic surrogacy**
18 **agreement.** (a) A genetic surrogacy agreement, whether or not
19 in a record, that is not validated under section -912 shall
20 be enforceable only to the extent provided in this section and
21 section -917.



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

5 (c) If a child conceived by assisted reproduction under a
6 genetic surrogacy agreement that is not validated under
7 section -912 is born and the genetic surrogate, consistent
8 with section -913(a)(2), withdraws their consent to the
9 surrogacy agreement before seventy-two hours after the birth of
10 the child, the court shall adjudicate the parentage of the child
11 under parts I through VII.

12 (d) If a child conceived by assisted reproduction under a
13 genetic surrogacy agreement that is not validated under
14 section -912 is born and a genetic surrogate does not
15 withdraw their consent to the surrogacy agreement, consistent
16 with section -913(a)(2), before seventy-two hours after the
17 birth of the child, the genetic surrogate is not automatically a
18 parent and the court shall adjudicate parentage of the child
19 based on the best interest of the child, taking into account the
20 factors in section -607(a) and the intent of the parties at
21 the time of the execution of the surrogacy agreement.



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

4 § -916 Genetic surrogacy agreement; parentage of
5 deceased intended parent. (a) Except as otherwise provided in
6 section -914 or -915, on birth of a child conceived by
7 assisted reproduction under a genetic surrogacy agreement, each
8 intended parent is, by operation of law, a parent of the child,
9 notwithstanding the death of an intended parent during the
10 period between the transfer of a gamete or embryo and the birth
11 of the child.

12 (b) Except as otherwise provided in section -914
13 or -915, an intended parent is not a parent of a child
14 conceived by assisted reproduction under a genetic surrogacy
15 agreement if the intended parent dies before the transfer of a
16 gamete or embryo unless:

- 17 (1) The surrogacy agreement provides otherwise; and
18 (2) The transfer of the gamete or embryo occurs no later
19 than thirty-six months after the death of the intended
20 parent, or the birth of the child occurs no later than



1 forty-five months after the death of the intended
2 parent.

3 § -917 **Breach of genetic surrogacy agreement.** (a)

4 Subject to section -913(b), if a genetic surrogacy agreement
5 is breached by a genetic surrogate or one or more intended
6 parents, the non-breaching party shall be entitled to the
7 remedies available at law or in equity.

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

13 (c) Except as otherwise provided in subsection (b),
14 specific performance is a remedy available for breach:

15 (1) Of a validated genetic surrogacy agreement by a
16 genetic surrogate of a requirement that prevents an
17 intended parent from exercising the full rights of
18 parentage seventy-two hours after the birth of the
19 child; or



1 (2) By an intended parent that prevents the intended
2 parent's acceptance of duties of parentage seventy-two
3 hours after the birth of the child."

4 SECTION 3. Section 26-14.6, Hawaii Revised Statutes, is
5 amended by amending subsection (f) to read as follows:

6 "(f) Effective July 1, 1990, the functions, authority, and
7 obligations, together with the limitations imposed thereon and
8 the privileges and immunities conferred thereby, exercised by a
9 "sheriff", "sheriffs", a "sheriff's deputy", "sheriff's
10 deputies", a "deputy sheriff", "deputy sheriffs", or a "deputy",
11 under sections 21-8, 47-18, 105-4, 134-51, 183D-11, 187A-14,
12 231-25, 281-108, 281-111, 286-52, 286-52.5, 321-1, 322-6, 325-9,
13 353-11, 356D-54, 356D-94, 383-71, 445-37, 482E-4, 485A-202,
14 501-42, 501-171, 501-218, 521-78, 578-4, [~~584-67~~] -203,
15 603-29, 604-6.2, 606-14, 607-2, 607-4, 607-8, 633-8, 634-11,
16 634-12, 634-21, 634-22, 651-33, 651-37, 651-51, 654-2, 655-2,
17 657-13, 660-16, 666-11, 666-21, 803-23, 803-34, 803-35, 804-14,
18 804-18, 804-41, 805-1, 806-71, and 832-23 shall be exercised to
19 the same extent by the department of public safety; and
20 effective January 1, 2024, those functions, authority, and



1 obligations shall be exercised to the same extent by the
2 department of law enforcement."

3 SECTION 4. Section 338-12, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "**§338-12 Evidentiary character of certificates.**

6 Certificates filed within thirty days after the time prescribed
7 therefor shall be prima facie evidence of the facts therein
8 stated. Data pertaining to [~~the father~~] a parent of a child is
9 prima facie evidence if:

10 (1) The alleged [~~father~~] parent is:

11 (A) The [~~husband~~] spouse of the [~~mother~~] other
12 parent; or

13 (B) The acknowledged [~~father~~] parent of the child; or

14 (2) The [~~father and child~~] parent-child relationship has
15 been established under chapter [~~584~~] _____. Data
16 pertaining to the alleged [~~father~~] parent
17 acknowledging [~~paternity~~] parentage of the child [~~is~~]
18 shall be admissible as evidence of [~~paternity~~]
19 parentage in any family court proceeding, including
20 proceedings under chapter [~~584~~] _____."



1 SECTION 5. Section 338-15, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§338-15 Late or altered certificates.** A person born in
4 the State may file or amend a certificate after the time
5 prescribed, upon submitting proof as required by rules adopted
6 by the department of health. Certificates registered after the
7 time prescribed for filing by the rules of the department of
8 health shall be registered subject to any evidentiary
9 requirements that the department adopts by rule to substantiate
10 the alleged facts of birth. The department may amend a birth
11 certificate to change or establish the identity of a
12 registrant's parent only pursuant to a court order from a court
13 of appropriate jurisdiction or pursuant to a legal establishment
14 of parenthood pursuant to chapter ~~[584.]~~ _____. Amendments that
15 change or establish the identity of a registrant's parent that
16 are made in accordance with this section shall not be considered
17 corrections of personal records pursuant to chapter 92F."

18 SECTION 6. Section 338-21, Hawaii Revised Statutes, is
19 amended as follows:

20 1. By amending subsection (a) to read:



1 "(a) All children born to parents not married to each
2 other, irrespective of the marriage of either natural parent to
3 another, on:

4 (1) [~~on the~~] The marriage of the natural parents with each
5 other[~~r~~];

6 (2) [~~on the~~] The voluntary, written acknowledgments of
7 [~~paternity~~] parentage under oath signed by the
8 [~~natural father and the natural mother,~~] birthing
9 parent and alleged genetic parent, presumed parent, or
10 intended parent under part VIII of chapter _____ ; or

11 (3) [~~on establishment~~] Establishment of the [~~parent and~~
12 ~~child~~] parent-child relationship under chapter
13 [~~584r~~] _____,

14 are entitled to the same rights as those born to parents married
15 to each other and shall take the name so stipulated by their
16 parents or, if the parents do not agree on the name, shall take
17 the name specified by a court of competent jurisdiction to be
18 the name that is in the best interests of the child. The
19 original certificate of birth shall contain the name so
20 stipulated. The child or children or the parents thereof may
21 petition the department of health to issue a new original



1 certificate of birth, and not a duplicate of the original
2 certificate that has been amended, altered, or modified, in the
3 new name of the child, and the department shall issue the new
4 original certificate of birth. As used in this section, "name"
5 includes the first name, middle name, or last name."

6 2. By amending subsection (d) to read:

7 "(d) Nothing in this section shall be construed to limit
8 the power of the courts to order the department of health to
9 prepare new certificates of birth under section
10 ~~[584-23.]~~ _____ -510."

11 SECTION 7. Section 532-6, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "**§532-6 To child born to parents not married to each**
14 **other.** Every child born to parents not married to each other at
15 the time of the child's birth and for whom the ~~[parent and~~
16 ~~child]~~ parent-child relationship has not been established
17 pursuant to chapter ~~[584]~~ _____ shall be considered as an heir
18 to the child's mother, and shall inherit ~~[her]~~ the mother's
19 estate, in whole or in part, as the case may be, in like manner
20 as if the child had been born in lawful wedlock."



1 SECTION 8. Section 560:2-121, Hawaii Revised Statutes, is
2 amended as follows:

3 1. By amending the definition of "child of assisted
4 reproduction" to read:

5 ""Child of assisted reproduction" means a child conceived
6 by means of assisted reproduction by an individual other than a
7 gestational [~~carrier~~] surrogate under section 560:2-127."

8 2. By amending the definition of "genetic father" to read:

9 ""Genetic father" means the individual whose sperm
10 fertilized the egg of a child's genetic mother; provided that if
11 the [~~father-child~~] parent-child relationship is established by
12 the presumption of [~~paternity~~] parentage under chapter
13 [~~584,~~] , "genetic father" means only the individual for whom
14 that relationship is established."

15 SECTION 9. Section 560:2-126, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "[~~{~~§560:2-126[~~}~~—Child] Individual conceived by assisted
18 reproduction [~~other than a child~~] but not born to gestational
19 [~~carrier.~~] or genetic surrogate. [~~(a)~~—In this section:

20 "Birth mother" means an individual, other than a
21 gestational carrier under section 560:2-127, who gives birth to



1 ~~a child of assisted reproduction. "Birth mother" is not limited~~
2 ~~to an individual who is the child's genetic mother.~~

3 ~~"Third-party donor" means an individual who produces eggs~~
4 ~~or sperm used for assisted reproduction, whether or not for~~
5 ~~consideration. "Third-party donor" does not include:~~

6 ~~(1) A spouse who provides sperm or eggs that are used for~~
7 ~~assisted reproduction by a gestational spouse;~~

8 ~~(2) The birth mother of a child of assisted reproduction;~~
9 ~~or~~

10 ~~(3) An individual who has been determined under subsection~~
11 ~~(e) or (f) to have a parent-child relationship with a~~
12 ~~child of assisted reproduction.~~

13 ~~(b) A parent-child relationship shall not be deemed to~~
14 ~~exist between a child of assisted reproduction and a third-party~~
15 ~~donor.~~

16 ~~(c) A parent-child relationship shall be deemed to exist~~
17 ~~between a child of assisted reproduction and the child's birth~~
18 ~~mother.~~

19 ~~(d) Except as otherwise provided in subsections (i) and~~
20 ~~(j), a parent-child relationship shall be deemed to exist~~
21 ~~between a child of assisted reproduction and the spouse of the~~



1 ~~child's birth mother if the spouse provided the sperm that the~~
2 ~~birth mother used during the spouse's lifetime for assisted~~
3 ~~reproduction.~~

4 ~~(c) A birth certificate identifying an individual other~~
5 ~~than the birth mother as the other parent of a child of assisted~~
6 ~~reproduction shall presumptively establish a parent-child~~
7 ~~relationship between the child and that individual.~~

8 ~~(f) Except as otherwise provided in subsections (g), (i),~~
9 ~~and (j), and unless a parent-child relationship is established~~
10 ~~under subsection (d) or (e), a parent-child relationship shall~~
11 ~~be deemed to exist between a child of assisted reproduction and~~
12 ~~an individual other than the birth mother who consented to~~
13 ~~assisted reproduction by the birth mother with the intent to be~~
14 ~~treated as the other parent of the child. Consent to assisted~~
15 ~~reproduction by the birth mother with intent to be treated as~~
16 ~~the other parent of the child shall be established if the~~
17 ~~individual:~~

18 ~~(1) Signed a record, before or after the child's birth,~~
19 ~~that, considering all the facts and circumstances,~~
20 ~~evidences the individual's consent; or~~

21 ~~(2) In the absence of a signed record under paragraph (1):~~



1 ~~(A) Functioned as a parent of the child no later than~~
2 ~~two years after the child's birth;~~

3 ~~(B) Intended to function as a parent of the child no~~
4 ~~later than two years after the child's birth but~~
5 ~~was prevented from carrying out that intent by~~
6 ~~death, incapacity, or other circumstances; or~~

7 ~~(C) Intended to be treated as a parent of a~~
8 ~~posthumously conceived child, if that intent is~~
9 ~~established by clear and convincing evidence.~~

10 ~~(g) For the purpose of subsection (f) (1), neither an~~
11 ~~individual who signed a record more than two years after the~~
12 ~~birth of the child, nor a relative of that individual who is not~~
13 ~~also a relative of the birth mother, inherits from or through~~
14 ~~the child unless the individual functioned as a parent of the~~
15 ~~child before the child reached eighteen years of age.~~

16 ~~(h) For the purpose of subsection (f) (2):~~

17 ~~(1) If the birth mother is married and no divorce~~
18 ~~proceeding is pending, or in a reciprocal beneficiary~~
19 ~~relationship, in the absence of clear and convincing~~
20 ~~evidence to the contrary, the birth mother's spouse or~~



1 ~~reciprocal beneficiary shall be deemed to satisfy~~
2 ~~subsection (f) (2) (A) or (B); and~~

3 ~~(2) If the birth mother is a surviving spouse and at the~~
4 ~~death of the birth mother's deceased spouse no divorce~~
5 ~~proceeding was pending, or is the surviving reciprocal~~
6 ~~beneficiary, in the absence of clear and convincing~~
7 ~~evidence to the contrary, the birth mother's deceased~~
8 ~~spouse or reciprocal beneficiary shall be deemed to~~
9 ~~satisfy subsection (f) (2) (B) or (C).~~

10 ~~(i) If a married couple is divorced before placement of~~
11 ~~eggs, sperm, or embryos, a child resulting from the assisted~~
12 ~~reproduction shall not be treated as a child of the birth~~
13 ~~mother's former spouse, unless the former spouse consented in a~~
14 ~~record that, if assisted reproduction were to occur after~~
15 ~~divorce, the child would be treated as the former spouse's~~
16 ~~child.~~

17 ~~(j) If, in a record, an individual withdraws consent to~~
18 ~~assisted reproduction before placement of eggs, sperm, or~~
19 ~~embryos, a child resulting from the assisted reproduction shall~~
20 ~~not be treated as a child of that individual, unless the~~
21 ~~individual subsequently satisfies subsection (f).~~



1 ~~(k) If, under this section, an individual is a parent of a~~
2 ~~child of assisted reproduction who is conceived after the~~
3 ~~individual's death, the child shall be treated as in gestation~~
4 ~~at the individual's death for purposes of section 560:2-~~
5 ~~104(b)(2) if the child is:~~

- 6 ~~(1) In utero no later than thirty-six months after the~~
7 ~~individual's death; or~~
- 8 ~~(2) Born no later than forty-five months after the~~
9 ~~individual's death.]~~

10 Except as otherwise provided under section 560:2-127,
11 parentage of an individual conceived by assisted reproduction
12 shall be determined under part VIII of chapter , other than
13 section -808(b)(2)."

14 SECTION 10. Section 560:2-127, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "~~[§560:2-127]~~ Child Individual born to gestational
17 carrier.] or genetic surrogate. ~~[(a) In this section:~~

18 "~~Gestational agreement" means an enforceable or~~
19 ~~unenforceable agreement for assisted reproduction in which an~~
20 ~~individual agrees to carry a child to birth for an intended~~



1 ~~parent, intended parents, or an individual described in~~
2 ~~subsection (e).~~

3 ~~"Gestational carrier" means an individual who is not an~~
4 ~~intended parent who gives birth to a child under a gestational~~
5 ~~agreement. "Gestational carrier" is not limited to an~~
6 ~~individual who is the child's genetic mother.~~

7 ~~"Gestational child" means a child born to a gestational~~
8 ~~carrier under a gestational agreement.~~

9 ~~"Intended parent" means an individual who entered into a~~
10 ~~gestational agreement providing that the individual will be the~~
11 ~~parent of a child born to a gestational carrier by means of~~
12 ~~assisted reproduction. "Intended parent" is not limited to an~~
13 ~~individual who has a genetic relationship with the child.~~

14 ~~(b) A parent-child relationship shall be deemed to be~~
15 ~~conclusively established by a court order designating the parent~~
16 ~~or parents of a gestational child.~~

17 ~~(c) A parent-child relationship between a gestational~~
18 ~~child and the gestational child's carrier shall not be deemed to~~
19 ~~exist unless the gestational carrier is:~~

20 ~~(1) Designated as a parent of the child in a court order,~~
21 ~~as described in subsection (b); or~~



1 ~~(2) The child's genetic mother and a parent-child~~
2 ~~relationship does not exist under this section with an~~
3 ~~individual other than the gestational carrier.~~

4 ~~(d) In the absence of a court order under subsection (b),~~
5 ~~a parent-child relationship shall be deemed to exist between a~~
6 ~~gestational child and an intended parent who:~~

7 ~~(1) Functioned as a parent of the child no later than two~~
8 ~~years after the child's birth; or~~

9 ~~(2) Died while the gestational carrier was pregnant if:~~

10 ~~(A) There were two intended parents, and the other~~
11 ~~intended parent functioned as a parent of the~~
12 ~~child no later than two years after the child's~~
13 ~~birth;~~

14 ~~(B) There were two intended parents, the other~~
15 ~~intended parent also died while the gestational~~
16 ~~carrier was pregnant, and a relative of either~~
17 ~~deceased intended parent or the spouse,~~
18 ~~reciprocal beneficiary, or surviving spouse or~~
19 ~~reciprocal beneficiary of a relative of either~~
20 ~~deceased intended parent functioned as a parent~~



1 ~~of the child no later than two years after the~~
2 ~~child's birth; or~~

3 ~~(C) There was no other intended parent and a relative~~
4 ~~of the deceased intended parent, or the spouse,~~
5 ~~reciprocal beneficiary, or surviving spouse or~~
6 ~~reciprocal beneficiary of a relative of the~~
7 ~~deceased intended parent, functioned as a parent~~
8 ~~of the child no later than two years after the~~
9 ~~child's birth.~~

10 ~~(c) In the absence of a court order under subsection (b),~~
11 ~~a parent-child relationship shall be deemed to exist between a~~
12 ~~gestational child and an individual whose sperm or eggs were~~
13 ~~used after the individual's death or incapacity to conceive a~~
14 ~~child under a gestational agreement entered into after the~~
15 ~~individual's death or incapacity if the individual intended to~~
16 ~~be treated as the parent of the child. The individual's intent~~
17 ~~may be shown by:~~

18 ~~(1) A record signed by the individual that, considering~~
19 ~~all the facts and circumstances, evidences the~~
20 ~~individual's intent; or~~



1 ~~(2) Other facts and circumstances establishing the~~
2 ~~individual's intent by clear and convincing evidence.~~

3 ~~(f) Except as otherwise provided in subsection (g), and~~
4 ~~unless there is clear and convincing evidence of a contrary~~
5 ~~intent, an individual shall be deemed to have intended to be~~
6 ~~treated as the parent of a gestational child for purposes of~~
7 ~~subsection (e) (2) if:~~

8 ~~(1) The individual, before death or incapacity, deposited~~
9 ~~the sperm or eggs that were used to conceive the~~
10 ~~child;~~

11 ~~(2) When the individual deposited the sperm or eggs, the~~
12 ~~individual was married, and no divorce proceeding was~~
13 ~~pending; and~~

14 ~~(3) The individual's spouse or reciprocal beneficiary, or~~
15 ~~surviving spouse or reciprocal beneficiary, functioned~~
16 ~~as a parent of the child no later than two years after~~
17 ~~the child's birth.~~

18 ~~(g) The presumption under subsection (f) shall not apply~~
19 ~~if there is:~~

20 ~~(1) A court order under subsection (b); or~~

21 ~~(2) A signed record that satisfies subsection (e) (1).~~



1 ~~(h) If, under this section, an individual is a parent of a~~
2 ~~gestational child who is conceived after the individual's death,~~
3 ~~the child shall be treated as in gestation at the individual's~~
4 ~~death for purposes of section 560:2-104(b) (2) if the child is:~~

5 ~~(1) In utero no later than thirty-six months after the~~
6 ~~individual's death; or~~

7 ~~(2) Born no later than forty-five months after the~~
8 ~~individual's death.~~

9 ~~(i) This section shall not affect other laws of this State~~
10 ~~governing the enforceability or validity of a gestational~~
11 ~~agreement.] Parentage of an individual conceived by assisted~~
12 ~~reproduction and born to a gestational or genetic surrogate~~
13 ~~shall be determined under part IX of chapter , other than~~
14 ~~sections -909(b) (2) and -916(b) (2) ."~~

15 SECTION 11. Section 571-14, Hawaii Revised Statutes, is
16 amended by amending subsection (a) to read as follows:

17 "(a) Except as provided in sections 603-21.5 and 604-8,
18 the court shall have exclusive original jurisdiction:

19 (1) To try any offense committed against a child by the
20 child's parent or guardian or by any other person
21 having the child's legal or physical custody, and any



1 violation of section 302A-1135, 707-726, 707-727, 709-
2 902, 709-903, 709-903.5, 709-904, 709-905, or 709-906,
3 [~~or 302A-1135,~~] whether or not included in other
4 provisions of this paragraph or paragraph (2);

5 (2) To try any adult charged with:

6 (A) Deserting, abandoning, or failing to provide
7 support for any person in violation of law;

8 (B) An offense, other than a felony, against the
9 person of the defendant's [~~husband or wife,~~]
10 spouse;

11 (C) Any violation of an order issued pursuant to
12 chapter 586; or

13 (D) Any violation of an order issued by a family
14 court judge[~~+~~];

15 [~~In any case within paragraph (1) or (2), the court, in its~~
16 ~~discretion, may waive its jurisdiction over the offense~~
17 ~~charged;~~]

18 (3) In all proceedings under chapter 580, and in all
19 proceedings under chapter [~~584,~~] _____;



- 1 (4) In proceedings under chapter 575, the Uniform
2 Desertion and Nonsupport Act, and under chapter 576B,
3 the Uniform Interstate Family Support Act;
- 4 (5) For commitment of an adult alleged to be mentally
5 defective or mentally ill;
- 6 (6) In all proceedings for support between parent and
7 child or between [~~husband and wife,~~] spouses;
- 8 (7) In all proceedings for pre-trial detention or waiver
9 of jurisdiction over an adult who was a child at the
10 time of an alleged criminal act as provided in section
11 571-13 or 571-22;
- 12 (8) In all proceedings under chapter 586, Domestic Abuse
13 Protective Orders; and
- 14 (9) For the protection of vulnerable adults under
15 chapter 346, part X~~-~~;
- 16 [~~It~~] provided that in any case within paragraph (1) or (2), the
17 court, in its discretion, may waive its jurisdiction over the
18 offense charged; provided further that in any case within
19 paragraph (3), (4), or (6), the attorney general, through the
20 child support enforcement agency, may exercise concurrent
21 jurisdiction as provided in chapter 576E."



1 SECTION 12. Section 571-50, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§571-50 Modification of decree, rehearing.** (a) Except
4 as otherwise provided by this chapter, any decree or order of
5 the court may be modified at any time.

6 (b) At any time during supervision of a child the court
7 may issue notice or other appropriate process to the child if
8 the child is of sufficient age to understand the nature of the
9 process, to the parents, and to any other necessary parties to
10 appear at a hearing on a charge of violation of the terms of
11 supervision, for any change in or modification of the decree or
12 for discharge. The provisions of this chapter relating to
13 process, custody, and detention at other stages of the
14 proceeding shall be applicable.

15 (c) A parent, guardian, custodian, or next friend of any
16 child whose status has been adjudicated by the court, or any
17 adult affected by a decree of the court, at any time may
18 petition the court for a rehearing on the ground that new
19 evidence, which was not known or not available through the
20 exercise of due diligence at the time of the original hearing
21 and [~~which~~] that might affect the decree, has been discovered.



1 Upon a satisfactory showing of this evidence, the court shall
2 order a new hearing and make any disposition of the case that
3 the facts and the best interests of the child warrant.

4 (d) A parent, guardian, or next friend of a child whose
5 legal custody has been transferred by the court to an
6 institution, facility, agency, or person may petition the court
7 for modification or revocation of the decree, on the ground that
8 the legal custodian has wrongfully denied application for the
9 release of the child or has failed to act upon it within a
10 reasonable time, or has acted in an arbitrary manner not
11 consistent with the welfare of the child or the public interest.
12 An institution, facility, agency, or person vested with legal
13 custody of a child may petition the court for a renewal,
14 modification, or revocation of the custody order on the ground
15 that the change is necessary for the welfare of the child or in
16 the public interest. The court may dismiss the petition if on
17 preliminary investigation it finds the petition without
18 substance. If the court is of the opinion that the decree
19 should be reviewed, it shall conduct a hearing on notice to all
20 parties concerned, and may enter an order continuing, modifying,
21 or terminating the decree.



1 (e) Notwithstanding the foregoing provisions of this
2 section, the court's authority with respect to the review,
3 rehearing, renewal, modification, or revocation of decrees,
4 judgments, or orders entered in the hereinbelow listed classes
5 of proceedings shall be limited by any specific limitations set
6 forth in the statutes governing these proceedings or in any
7 other specifically applicable statutes or rules. These
8 proceedings are as follows:

9 (1) Annulment, divorce, separation, and other proceedings
10 under chapter 580;

11 (2) Adoption proceedings under chapter 578;

12 (3) [~~Paternity~~] Parentage proceedings under chapter
13 ~~[584+]~~ _____;

14 (4) Termination of parental rights proceedings under this
15 chapter; and

16 (5) State hospital commitment proceedings under
17 chapter 334.

18 (f) A decree, judgment, or order committing a child to the
19 care of the director of human services shall be reviewable under
20 this section at the instance of others other than duly
21 authorized representatives of the department only after a lapse



1 of thirty days following the date of the decree, judgment, or
2 order, and thereafter only at intervals of [~~not~~] no less than
3 one year.

4 (g) Notwithstanding this section, the court shall not
5 conduct a rehearing of any petition, filed under section 571-
6 11(1), [~~which,~~] that, following a hearing, has been denied or
7 dismissed."

8 SECTION 13. Section 571-52.6, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "**§571-52.6 Child support order, judgment, or decree;**
11 **accident and health or sickness insurance coverage.** Each order,
12 judgment, or decree under this chapter or chapter 576B, 580, or
13 [584] _____ ordering a person to pay child support shall include
14 the following provisions:

15 (1) Both the obligor and the obligee are required to file
16 with the state case registry, through the child
17 support enforcement agency, upon entry of the child
18 support order and to update as appropriate,
19 information on the identity and location of the party,
20 including social security number, residential and
21 mailing addresses, telephone number, driver's license



1 number if different from social security number, and
2 name, address, and telephone number of the party's
3 employer; and

4 (2) The liability of that person for accident and health
5 or sickness insurance coverage when available at
6 reasonable cost."

7 SECTION 14. Section 571-84, Hawaii Revised Statutes, is
8 amended by amending subsection (a) to read as follows:

9 "(a) The court shall maintain records of all cases brought
10 before it. Except as provided in sections 571-84.6 and
11 [~~584-20.5,~~] -509, in proceedings under section 571-11 and in
12 [~~paternity~~] parentage proceedings under chapter [~~584,~~] ,
13 the following records shall be withheld from public inspection:
14 the court docket, petitions, complaints, motions, and other
15 papers filed in any case; transcripts of testimony taken by the
16 court; and findings, judgments, orders, decrees, and other
17 papers other than social records filed in proceedings before the
18 court. The records other than social records shall be open to
19 inspection: by the parties and their attorneys, by an
20 institution or agency to which custody of a minor has been
21 transferred, and by an individual who has been appointed



1 guardian; with consent of the judge, by persons having a
2 legitimate interest in the proceedings from the standpoint of
3 the welfare of the minor; and, pursuant to order of the court or
4 the rules of court, by persons conducting pertinent research
5 studies, and by persons, institutions, and agencies having a
6 legitimate interest in the protection, welfare, treatment, or
7 disposition of the minor."

8 SECTION 15. Section 571-84.5, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "**§571-84.5 Support order, decree, judgment, or**
11 **acknowledgment; social security number.** The social security
12 number of any individual who is a party to a divorce decree, or
13 subject to a support order or [~~paternity~~] parentage
14 determination, or has made an acknowledgment of [~~paternity~~]
15 parentage issued under this chapter or chapter 576B, 580, or
16 [~~584~~] _____ shall be placed in the records relating to the
17 matter."

18 SECTION 16. Section 571-87, Hawaii Revised Statutes, is
19 amended by amending subsection (c) to read as follows:

20 "(c) The maximum allowable fee shall not exceed the
21 following schedule:



- 1 (1) Cases arising under chapters [~~587A~~ and] 346,
- 2 part X[+], and 587A:
- 3 (A) Predisposition \$3,000;
- 4 (B) Postdisposition review hearing \$1,000;
- 5 (2) Cases arising under chapters 560, 571, 580, and
- 6 [~~584~~] ____ \$3,000.

7 Payments in excess of any maximum provided for under
 8 paragraphs (1) and (2) may be made whenever the court in which
 9 the representation was rendered certifies, based upon
 10 representations of extraordinary circumstances, attested to by
 11 the applicant, that the amount of the excess payment is
 12 necessary to provide fair compensation in light of those
 13 circumstances, and the payment is approved by the administrative
 14 judge of that court."

15 SECTION 17. Section 571-92, Hawaii Revised Statutes, is
 16 amended to read as follows:

17 "**§571-92 Application.** This part shall only apply to
 18 actions under chapters 580 and [~~584~~]. _____. Nothing in this
 19 part shall supersede any provision of any existing state or
 20 federal law. The provisions in this part shall be interpreted

1 consistently with other relevant laws and the standard of "best
2 interest of the child" shall remain paramount."

3 SECTION 18. Section 574-3, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "**§574-3 Children born to parents not married to each**
6 **other.** The registrar of births shall register any child born to
7 parents not married to each other at the time of the child's
8 birth and where either the natural parents have not married each
9 other or where the [~~parent and child~~] parent-child relationship
10 has not been established pursuant to chapter [~~584,~~] _____, as
11 having both a family name and given name chosen by the [~~mother.~~]
12 individual who gave birth to the child, unless the child is born
13 to a gestational surrogate or genetic surrogate pursuant to part
14 IX, in which case, the child's name shall be chosen by the
15 intended parent or parents."

16 SECTION 19. Section 576B-401, Hawaii Revised Statutes, is
17 amended by amending subsection (b) to read as follows:

18 "(b) The tribunal may issue a temporary child support
19 order if the tribunal determines that the order is appropriate
20 and the individual ordered to pay is:

21 (1) A presumed [~~father~~] parent of the child;



- 1 (2) Petitioning to have [~~paternity~~] parentage adjudicated;
- 2 (3) Identified as the [~~father~~] parent of the child through
- 3 genetic testing;
- 4 (4) An alleged [~~father~~] parent who has declined to submit
- 5 to genetic testing;
- 6 (5) Shown by clear and convincing evidence to be the
- 7 [~~father~~] parent of the child;
- 8 (6) An acknowledged [~~father~~] parent as provided by section
- 9 [~~584-3.5;~~] -403;
- 10 (7) The [~~mother of~~] individual who gave birth to the
- 11 child; or
- 12 (8) An individual who has been ordered to pay child
- 13 support in a previous proceeding and the order has not
- 14 been reversed or vacated."

15 SECTION 20. Section 576B-402, Hawaii Revised Statutes, is
 16 amended by amending subsection (b) to read as follows:

17 "(b) In a proceeding to determine parentage, a responding
 18 tribunal of this State shall apply chapter [~~584~~] _____ and the
 19 rules of this State on choice of law."

20 SECTION 21. Section 576E-2, Hawaii Revised Statutes, is
 21 amended to read as follows:



1 "**§576E-2 Attorney general; powers.** Notwithstanding any
2 other law to the contrary, the attorney general, through the
3 agency and the office, shall have concurrent jurisdiction with
4 the court in all proceedings in which a support obligation is
5 established, modified, or enforced, including but not limited to
6 proceedings under chapters 571, 576B, 580, [~~584, and 576B.~~]
7 and _____. The attorney general, through the agency and the
8 office, may establish, modify, suspend, terminate, and enforce
9 child support obligations and collect or enforce spousal support
10 using the administrative process provided in this chapter on all
11 cases for which the department has a responsibility under Title
12 IV-D of the Social Security Act, including but not limited to
13 welfare and nonwelfare cases in which the responsible parent is
14 subject to the department's jurisdiction, regardless of the
15 residence of the children for whom support is sought. These
16 powers shall include but not be limited to the power to:

- 17 (1) Conduct investigations into the ability of parties to
18 pay support and into nonpayment of support;
19 (2) Administer oaths, issue subpoenas, and require
20 production of books, accounts, documents, and
21 evidence;



- 1 (3) Establish, modify, suspend, terminate, or enforce a
2 child support order and to collect or enforce a
3 spousal support order in conjunction with a child
4 support order;
- 5 (4) Determine that a party has not complied with a court
6 or administrative order of support and make
7 recommendations to the court or other agency with
8 respect to contempt or other appropriate proceedings;
- 9 (5) Establish arrearage;
- 10 (6) Establish an order for child support for periods
11 [~~which~~] that public assistance was provided to the
12 child or children by the department of human services;
- 13 (7) Order and enforce assignment of future income under
14 [~~section 576E-16,~~] chapter 571, [~~and~~] section 576D-
15 14[~~+~~], and section 576E-16;
- 16 (8) Exercise the powers and authority described in this
17 section, notwithstanding the existence of a prior
18 court or administrative order of support issued by
19 another state or foreign jurisdiction, except as
20 modified or limited by this chapter;



- 1 (9) Determine that an obligor owes past-due support with
2 respect to a child receiving assistance under a state
3 program funded under Title IV-A of the Social Security
4 Act, including Aid to Families with Dependent Children
5 and Temporary Assistance to Needy Families and
6 petition the court to issue an order that requires the
7 obligor to pay such support in accordance with a plan
8 approved by the court or, if the obligor is subject to
9 a plan and is not incapacitated, participate in work
10 activities, as defined in title 42 [U.S.C. §607(d),]
11 United States Code 607(d), as the court deems
12 appropriate;
- 13 (10) Order genetic testing pursuant to chapter
14 [584] _____ for the purpose of establishing
15 [~~paternity,~~] parentage, with payment of costs to be
16 made by the agency, subject to recoupment by the State
17 from [~~the father or the mother,~~] a parent, if
18 appropriate, if [~~paternity~~] parentage is established,
19 and to also order additional testing in any case if an
20 original test result is contested, upon request and
21 advance payment by the contestant;



1 (11) Exercise the powers and authority described in this
2 section, notwithstanding the existence of a prior
3 court or administrative order of support issued by
4 another state or foreign jurisdiction, except as
5 modified or limited by this chapter and chapter 576B;
6 and

7 (12) Delegate the powers and authority described in this
8 section to hearings officers and employees of the
9 agency."

10 SECTION 22. Section 580-47, Hawaii Revised Statutes, is
11 amended by amending subsection (a) to read as follows:

12 "(a) Upon granting a divorce, or thereafter if, in
13 addition to the powers granted in subsections (c) and (d),
14 jurisdiction of those matters is reserved under the decree by
15 agreement of both parties or by order of court after finding
16 that good cause exists, the court may make any further orders
17 that appear just and equitable (1) compelling the parties or
18 either of them to provide for the support, maintenance, and
19 education of the children of the parties; (2) compelling either
20 party to provide for the support and maintenance of the other
21 party; (3) finally dividing and distributing the estate of the



1 parties, real, personal, or mixed, whether community, joint, or
2 separate; and (4) allocating, as between the parties, the
3 responsibility for the payment of the debts of the parties
4 whether community, joint, or separate, and the [~~attorney's~~
5 attorneys' fees, costs, and expenses incurred by each party by
6 reason of the divorce. In making these further orders, the
7 court shall take into consideration: the respective merits of
8 the parties, the relative abilities of the parties, the
9 condition in which each party will be left by the divorce, the
10 burdens imposed upon either party for the benefit of the
11 children of the parties, the concealment of or failure to
12 disclose income or an asset, or violation of a restraining order
13 issued under section 580-10(a) or (b), if any, by either party,
14 and all other circumstances of the case. In establishing the
15 amounts of child support, the court shall use the guidelines
16 established under section 576D-7. Provision may be made for the
17 support, maintenance, and education of an adult or minor child
18 and for the support, maintenance, and education of an
19 incompetent adult child regardless of whether the petition is
20 made before or after the child has attained the age of majority.
21 In those cases where child support payments are to continue due



1 to the adult child's pursuance of education, the agency, at
2 least three months before the adult child's nineteenth birthday,
3 shall send notice by regular mail to the adult child and the
4 custodial parent that prospective child support will be
5 suspended unless proof is provided by the custodial parent or
6 adult child to the child support enforcement agency, before the
7 child's nineteenth birthday, that the child is presently
8 enrolled as a full-time student in school or has been accepted
9 into and plans to attend as a full-time student for the next
10 semester a post-high school university, college, or vocational
11 school. If the custodial parent or adult child fails to do so,
12 prospective child support payments may be automatically
13 suspended by the child support enforcement agency, hearings
14 officer, or court upon the child reaching the age of nineteen
15 years. In addition, if applicable, the agency, hearings
16 officer, or court may issue an order terminating existing
17 assignments against the responsible parent's income and income
18 assignment orders.

19 In addition to any other relevant factors considered, the
20 court, in ordering spousal support and maintenance, shall
21 consider the following factors:



- 1 (1) Financial resources of the parties;
- 2 (2) Ability of the party seeking support and maintenance
- 3 to meet the party's needs independently;
- 4 (3) Duration of the marriage;
- 5 (4) Standard of living established during the marriage;
- 6 (5) Age of the parties;
- 7 (6) Physical and emotional condition of the parties;
- 8 (7) Usual occupation of the parties during the marriage;
- 9 (8) Vocational skills and employability of the party
- 10 seeking support and maintenance;
- 11 (9) Needs of the parties;
- 12 (10) Custodial and child support responsibilities;
- 13 (11) Ability of the party from whom support and maintenance
- 14 is sought to meet the party's own needs while meeting
- 15 the needs of the party seeking support and
- 16 maintenance;
- 17 (12) Other factors that measure the financial condition in
- 18 which the parties will be left as the result of the
- 19 action under which the determination of maintenance is
- 20 made; and



1 (13) Probable duration of the need of the party seeking
2 support and maintenance.

3 The court may order support and maintenance to a party for
4 an indefinite period or until further order of the court;
5 provided that in the event the court determines that support and
6 maintenance shall be ordered for a specific duration wholly or
7 partly based on competent evidence as to the amount of time that
8 will be required for the party seeking support and maintenance
9 to secure adequate training, education, skills, or other
10 qualifications necessary to qualify for appropriate employment,
11 whether intended to qualify the party for a new occupation,
12 update or expand existing qualification, or otherwise enable or
13 enhance the employability of the party, the court shall order
14 support and maintenance for a period sufficient to allow
15 completion of the training, education, skills, or other
16 activity, and shall allow, in addition, sufficient time for the
17 party to secure appropriate employment."

18 SECTION 23. Section 607-5, Hawaii Revised Statutes, is
19 amended by amending subsection (b) to read as follows:

20 " (b) **PART I**

21 Action or proceeding, general:



- 1 (1) Civil action or special proceeding, unless
- 2 another item in part I applies.....\$200
- 3 (1a) Petition for conversion of nonjudicial
- 4 foreclosure to judicial foreclosure.....\$250
- 5 (2) Appeal to a circuit court.....\$100
- 6 (3) Transfer of action to circuit court from district
- 7 court, in addition to district court fees.....\$125
- 8 Trusts:
- 9 (4) Proceeding for (A) appointment of trustee; (B)
- 10 appointment of successor; (C) resignation of
- 11 trustee; (D) instructions; (E) approval of
- 12 investment; (F) approval of sale, mortgage,
- 13 lease, or other disposition of property; (G)
- 14 approval of compromise of claim, for each such
- 15 matter.....\$100
- 16 (5) Proceeding for (A) removal of trustee; (B) order
- 17 requiring accounting; (C) invalidation of action
- 18 taken by trustee; (D) termination of trust, for
- 19 each such matter.....\$100



- 1 (6) Accounting, this fee to be paid for each account
- 2 filed and to include the settlement of the
- 3 account.....\$10
- 4 (7) Vesting order.....no charge under part I
- 5 (8) Allowance of fees of trustees, attorneys, or
- 6 other fees for services incurred in a
- 7 proceeding for which a fee has been paid
- 8 under this section.....no charge under part I
- 9 (8a) Registration of a trust, or release of
- 10 registration, under chapter 560.....\$3
- 11 (9) Any other proceeding relating to a trust.....\$15
- 12 Conservatorship:
- 13 (10) Proceeding for (A) appointment; (B) appointment
- 14 of successor; (C) resignation; (D) instructions,
- 15 unless included in one of the foregoing
- 16 proceedings; (E), (F), (G) approval of any matter
- 17 listed in (E), (F), or (G) of item (4) in
- 18 relation to a trust, for each such matter.....\$100
- 19 (11) Proceeding of the nature listed in (A), (B), (C),
- 20 or (D) of item (5) in relation to a trust, for
- 21 each such matter.....\$15



1 (12) Accounting, same as provided by item (6) in
2 relation to a trust.....\$10

3 (13) Any other proceeding relating to a
4 conservatorship.....no charge under part I

5 Guardianship:

6 (13a) Guardianship, including all matters of the nature
7 listed in items (4) to (9), whether in family or
8 circuit court\$100

9 Probate (decedents' estates). These fees include all matters of
10 the nature listed in items (4) to (9), without additional
11 charge:

12 (14) Probate, administration, domiciliary foreign
13 personal representative, or ancillary
14 administration, this fee to be paid once only for
15 each decedent's estate.....\$100

16 Family court cases:

17 (15) Matrimonial action (annulment, divorce,
18 separation, or separate maintenance).....\$100

19 (16) Adoption.....\$100



1 (17) Guardianship, including all matters of the nature
2 listed in items (4) to (9)....As provided in item [13a]
3 (13a)

4 (18) Termination of parental rights, except
5 determinations of [~~father and child~~] parent-child
6 relationship pursuant to section [~~584-6~~] -203.....no
7 charge under part I

8 (19) Determinations of [~~father and child~~] parent-child
9 relationship pursuant to section [~~584-6~~] -203...\$100

10 (20) Any other family court proceeding, except motions
11 or other pleadings in matrimonial, adoption,
12 determinations of [~~father and child~~] parent-child
13 relationship pursuant to section [~~584-~~
14 ~~67~~] -203, and guardianship actions, but
15 including without limitation custody proceedings
16 even if in the form of an habeas corpus
17 proceeding.....\$15"

18 SECTION 24. Section 607-5.6, Hawaii Revised Statutes, is
19 amended by amending subsection (a) to read as follows:

20 "(a) In addition to the fees prescribed under section
21 607-5 for a matrimonial action where either party has a minor



1 child, or a family court proceeding under chapter [~~584,~~] _____,
2 the court shall collect a surcharge of \$50 at the time of filing
3 the initial complaint or petition. In cases where the surcharge
4 has been initially waived, the court may collect the surcharge
5 subsequent to the filing with [~~such~~] the surcharge to be
6 assessed from either party or apportioned between both parties."

7 SECTION 25. Section 634-37, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "**§634-37 Presumption of notice and service of process in**
10 **child support cases.** Whenever notice and service of process is
11 required for child support enforcement proceedings subsequent to
12 an order issued pursuant to chapter 571, 576B, 576E, 580, or
13 [~~584,~~] _____, upon a showing that diligent effort has been made
14 to ascertain the location of a party, notice and service of
15 process shall be presumed to be satisfied upon delivery of
16 written notice to the most recent residential or employer
17 address on file with the state case registry pursuant to section
18 571-52.6."

19 SECTION 26. Chapter 584, Hawaii Revised Statutes, is
20 repealed.



1 SECTION 27. This Act does not affect rights and duties
2 that matured, penalties that were incurred, and proceedings that
3 were begun before its effective date.

4 SECTION 28. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

6 SECTION 29. This Act shall take effect on January 1, 2026.



Report Title:

Uniform Parentage Act

Description:

Repeals the Uniform Parentage Act of 1973 and updates laws relating to parentage, including enacting portions of the Uniform Parentage Act of 2017. (HD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

