
A BILL FOR AN ACT

RELATING TO PARENTAGE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that the State's existing
2 parentage laws need to be updated to include current concepts of
3 families, parenthood, conception, gestation, and parental
4 rights. The legislature further finds that the Uniform
5 Parentage Act of 2017, among other things, ensures the equal
6 treatment of children born to same-gender couples, adds an
7 additional status of functional parent as a legal parent, and
8 includes provisions that reflect developments in surrogacy and
9 assisted reproductive technology.

10 Accordingly, the purpose of this Act is to adopt portions
11 of the Uniform Parentage Act of 2017 to update existing law.

12 SECTION 2. The Hawaii Revised Statutes is amended by
13 adding a new chapter to be appropriately designated and to read
14 as follows:

15 **"CHAPTER**

16 **UNIFORM PARENTAGE ACT**

17 **PART I. GENERAL PROVISIONS**



1

2 § **-101 Short title.** This chapter may be cited as the
3 Uniform Parentage Act.

4 § **-102 Definitions.** As used in this chapter:

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

7 "Adjudicated genetic parent" means an individual who, after
8 genetic testing, has been adjudicated to be a parent of a child
9 by a court with jurisdiction.

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

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

19 "Assisted reproduction" means a method of causing pregnancy
20 other than sexual intercourse. The term includes intrauterine
21 or intracervical insemination, donation of gametes, donation of



1 embryos, in vitro fertilization and transfer of embryos, and
2 intracytoplasmic sperm injection.

3 "Birth" includes, but is not limited to stillbirth.

4 "Birthing center" means any facility, other than a hospital
5 or facility associated with a hospital, that provides maternity
6 services.

7 "Birthing hospital" means any hospital with licensed
8 obstetric-care units, any hospital licensed to provide obstetric
9 services, or any licensed birthing center associated with a
10 hospital.

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

13 "Child support enforcement agency" means the state agency
14 created pursuant to chapter 576D.

15 "Combined relationship index" means the product of all
16 tested relationship indices.

17 "Determination of parentage" means establishment of a
18 parent-child relationship by a judicial or administrative
19 proceeding or signing of a valid acknowledgment of parentage
20 under part IV.



1 "Donor" means an individual who provides gametes or embryos
2 intended for use in assisted reproduction, whether or not for
3 consideration. The term does not include a parent under part
4 VIII, an intended parent under part IX, or an individual who
5 gives birth to a child conceived by assisted reproduction,
6 except as otherwise provided in part IX.

7 "Embryo" means the fertilized product of a sperm and egg,
8 including the zygote stage of early embryo development after
9 fertilization.

10 "Ethnic or racial group" means for the purpose of genetic
11 testing, a recognized group that an individual identifies as the
12 individual's ancestry or part of the individual's ancestry or
13 that is identified by other information.

14 "Fertility clinic" means a medical facility that
15 specializes in diagnosing and treating infertility and the use
16 of assisted reproductive technology.

17 "Functional parent" means an individual who meets the
18 criteria set out in -603(d).

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

20 "Genetic parent" means an individual whose relationship to
21 a child has been determined by genetic testing or based on a



1 statement by the physician who oversaw the in vitro process by
2 which the embryo was created and transferred.

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

5 "Hypothesized genetic relationship" means an asserted
6 genetic relationship between an individual and a child.

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

8 "Intended parent" means an individual, married or
9 unmarried, who manifests an intent to be legally bound as a
10 parent of a child conceived by assisted reproduction or by
11 entering into a surrogacy agreement.

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

14 "Parentage" or "parent-child relationship" means the legal
15 relationship between a child and a parent of the child.

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



1 "Probability of parentage" means, for the ethnic or racial
2 group to which an individual alleged to be a parent belongs, the
3 probability that a hypothesized genetic relationship is
4 supported, compared to the probability that a genetic
5 relationship is supported between the child and a random
6 individual of the ethnic or racial group used in the
7 hypothesized genetic relationship, expressed as a percentage
8 incorporating the combined relationship index and a prior
9 probability.

10 "Record" means information that is written or printed, or
11 that is stored in an electronic or other medium and is
12 retrievable in a perceivable form.

13 "Relationship index" means a likelihood ratio that compares
14 the probability of a genetic marker given a hypothesized genetic
15 relationship and the probability of the genetic marker given a
16 genetic relationship between the child and a random individual
17 of the ethnic or racial group used in the hypothesized genetic
18 relationship.

19 "Sign" means, with present intent to authenticate or adopt
20 a record, to execute or adopt a tangible symbol, or to attach or



1 logically associate with the record an electronic symbol, sound,
2 or process.

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

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

7 "Witnessed" means that at least one individual who is
8 authorized to sign has signed a record to verify that the
9 individual personally observed a signatory sign the record.

10 § -103 **Uniformity of application and construction.** This
11 chapter shall be applied and construed to effectuate its general
12 purpose to make uniform the law with respect to the subject of
13 this chapter among states enacting it.

14 **PART II. JURISDICTION**

15 § -201 **Jurisdiction; venue.** (a) Without limiting the
16 jurisdiction of any other court, the family court shall have
17 jurisdiction over an action brought under this chapter, chapter
18 583A, or chapter 576B. The action may be joined with an action
19 for divorce, annulment, separate maintenance, or support.

20 (b) An individual who has sexual intercourse, undergoes or
21 consents to assisted reproductive technology, or consents to an



1 assisted reproductive or surrogacy technology agreement in this
2 State thereby submits to the jurisdiction of the courts of this
3 State as to an action brought under this chapter with respect to
4 a child who may have been conceived by that act of intercourse
5 or assisted reproductive technology, regardless of where the
6 child is born. A court of this State with jurisdiction to
7 adjudicate parentage may exercise personal jurisdiction over a
8 nonresident individual, or a guardian or conservator of the
9 individual, if the conditions prescribed in section 576B-201 are
10 satisfied. In addition to any other method provided by statute,
11 personal jurisdiction over a resident and non-resident
12 individual may be acquired by personal service within or outside
13 this State or by service by certified or registered mail,
14 postage prepaid, with return receipt requested.

15 (c) In addition to any other method of service provided by
16 statute or court rule, if the respondent is not found within the
17 circuit, service may be effectuated by registered or certified
18 mail, with request for a return receipt and direction to deliver
19 to addressee only. The return receipt signed by the respondent
20 shall be prima facie evidence that the respondent accepted
21 delivery of the complaint and summons on the date set forth on



1 the receipt. For service effectuated by registered or certified
2 mail, an electronic copy or facsimile of the signature of the
3 served individual or certified mailers provided by the United
4 States Postal Service shall constitute valid proof of service on
5 the individual. Actual receipt by the respondent of the
6 complaint and summons sent by registered or certified mail shall
7 be the equivalent to personal service on the respondent by an
8 authorized process server as of the date of the receipt.

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

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



1 The publication of general circulation shall be
2 designated by the court in the order for publication
3 of the summons. Notice by publication shall have the
4 same force and effect as the individual having been
5 personally served with the summons; provided that the
6 date of the last publication shall be set not less
7 than twenty-one days before the return date stated in
8 the summons. Proof of service shall be satisfied by
9 an affidavit or declaration by the authorized
10 representative for the publication that the notice was
11 given in the manner prescribed by the court;

12 (2) When posting to an online publication website is
13 authorized, proof of service shall be satisfied by an
14 affidavit or declaration by the authorized
15 representative for the publication that the notice was
16 given in the manner prescribed by the court;

17 (3) When service by electronic mail or posting to a social
18 networking account is authorized, proof of service
19 shall be satisfied by an affidavit or declaration by
20 the process server that the notice was given in the
21 manner prescribed by the court; and



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

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

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

(2) The child was born;

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

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

§ -202 **Parentage determinations from other states and territories.** Parentage determinations from other states and territories, whether established through voluntary acknowledgement or through administrative or judicial processes, shall be treated the same as a parentage adjudication in this



1 State. A determination addressing parentage only in another
2 state shall not preclude a court in this State from addressing
3 other related issues.

4 § -203 Who may bring action; when action may be brought;
5 16 process, warrant, bond. (a) A child or guardian ad litem of
6 the child, an individual who is the child's parent under this
7 chapter, an individual whose parentage of the child is to be
8 adjudicated, a personal representative of a deceased parent of
9 the child, a personal representative of a deceased individual
10 who otherwise would be entitled to maintain a proceeding, or the
11 child support enforcement agency may bring an action for the
12 purpose of declaring the existence or nonexistence of a
13 parent-child relationship in accordance with the following:

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

16 (A) Within thirty days after the date of the child's
17 birth in any case when a parent relinquishes the
18 child for adoption during the thirty-day period;
19 or

20 (B) Any time before the date of execution by a parent
21 of a valid consent to the child's adoption, or



1 before placement of the child with adoptive
2 parents;

3 (2) If the child has not become the subject of an adoption
4 proceeding, within three years after the child reaches
5 the age of majority or any time after that for good
6 cause; provided that any period of time during which
7 the individual whose parentage is to be adjudicated is
8 absent from the State or is openly cohabitating with a
9 parent of the child or is contributing to the support
10 of the child, shall not be computed;

11 (3) This section shall not extend the time within which a
12 right of inheritance or a right to a succession may be
13 asserted beyond the time otherwise provided by law
14 relating to distribution and closing of decedents'
15 estates or to the determination of heirship; and

16 (4) A personal representative for purposes of this section
17 may be appointed by the court upon a filing of an ex
18 parte motion by one of the parties entitled to file a
19 parentage action. Probate requirements need not be
20 met. Appointment of a personal representative in this



1 section is limited to representation in proceedings
2 under this chapter.

3 (b) When an action is brought under this section, process
4 shall issue in the form of a summons and an order directed to
5 the individual whose parentage of the child is to be
6 adjudicated, requiring each party to appear and to show cause
7 why the action should not be brought. The court, in its
8 discretion, may waive a hearing on an uncontested parentage
9 complaint submitted by an individual who gave birth to a child,
10 an alleged genetic parent of the child, a presumed parent of the
11 child, or a functional parent of the child with proof provided
12 by affidavit.

13 If, at any stage of the proceedings, there appears probable
14 cause to believe that the individual whose parentage of the
15 child is to be adjudicated will fail to appear in response to
16 the summons or will flee the jurisdiction of the court, the
17 court may issue a warrant directed to the sheriff, deputy
18 sheriff, or any police officer within the circuit, requiring the
19 individual to be arrested and brought for pre-trial proceedings
20 before the family court. Upon the pre-trial proceedings, the
21 court may require the individual to enter into bond with good



1 sureties to the State in a sum to be fixed by the court for each
2 individual's appearance and the trial of the proceeding in the
3 family court. If the individual whose parentage of the child is
4 to be adjudicated fails to give the bond required, the court may
5 immediately commit that individual to the custody of the chief
6 of police of the county, there to remain until that individual
7 enters into the required bond or otherwise is discharged by due
8 process of law. If the individual whose parentage of the child
9 is to be adjudicated fails to appear in any proceeding under
10 this chapter, any bond for that individual's appearance in any
11 proceeding under this chapter shall be forfeited; provided that
12 the trial of, or other proceedings in, the action shall proceed
13 as though that individual were present, and the court shall make
14 orders as it deems proper upon the findings as though that
15 individual were in court.

16 In case of forfeiture of any appearance bond, the money
17 collected upon the forfeiture shall be applied in payment of the
18 judgment against the individual if they are adjudicated to be a
19 parent under this chapter.

20 (c) Regardless of its terms, an agreement, other than an
21 agreement approved by the court in accordance with



1 section -502(a)(2), between a parent and the individual whose
2 parentage of the child is to be adjudicated shall not bar an
3 action under this section.

4 (d) Except as otherwise provided in section -910, if an
5 action under this section is brought before the birth of the
6 child, all proceedings shall be stayed until after the birth
7 except service of process and the taking of depositions to
8 perpetuate testimony.

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



1 court, after receiving evidence, may also enter a finding of
2 non-parentage of the spouse.

3 (f) With respect to a child who was not conceived through
4 assisted reproduction, where a married individual has not had
5 sexual contact with the married individual's spouse nor resided
6 in the same house with the spouse for at least three hundred
7 days before the birth of the child, and the biological parent is
8 known, parentage in the married spouse may be disestablished by
9 submission of affidavits of both spouses and the biological
10 parent stating the name and birthdate of the child and
11 acknowledgement that the spouse is not the parent and that the
12 biological parent should be adjudicated as the legal parent.

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

14 **§ -301 Establishment of parent-child relationship.** A
15 parent-child relationship is established between an individual
16 and a child if:

17 (1) The individual gives birth to the child, except as
18 otherwise provided in part IX;

19 (2) There is a presumption under section -303 of the
20 individual's parentage of the child, unless the



presumption is overcome in a judicial proceeding or a valid denial of parentage is made under part VI;

(3) The individual is adjudicated a parent of the child under part V;

(4) The individual adopts the child;

(5) The individual acknowledges parentage of the child under part IV, unless the acknowledgment is rescinded under section -403(f) or successfully challenged under part IV or V;

(6) The individual's parentage of the child is established under part VIII; or

(7) The individual's parentage of the child is established under part IX.

§ -302 Relationship not dependent on marriage. A

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

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

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



1 (A) The prospective presumed parent and the
2 individual who gave birth to the child are
3 married to each other and the child is born
4 during the marriage, regardless of whether the
5 marriage is or could be declared invalid and
6 regardless of the gender of the two individuals;

7 (B) The prospective presumed parent and the
8 individual who gave birth to the child were
9 married to each other and the child is born no
10 later than three hundred days after the marriage
11 is terminated by death, divorce, annulment, or
12 after a decree of separation, regardless of
13 whether the marriage is or could be declared
14 invalid; or

15 (C) The prospective presumed parent and the
16 individual who gave birth to the child married
17 each other after the birth of the child,
18 regardless of whether the marriage is or could be
19 declared invalid, the prospective presumed parent
20 at any time asserted parentage of the child, and:



1 (i) The assertion is in an acknowledgment of
2 parentage as defined in part IV that is
3 filed with the department of health; or

4 (ii) The prospective presumed parent agreed to be
5 and is named as a parent of the child on the
6 birth certificate of the child;

7 (2) The individual resided in the same household with the
8 child before the child reaching the age of majority,
9 and openly held out the child as the individual's
10 child; or

11 (3) Pursuant to section -702, the prospective presumed
12 parent submits to court-ordered genetic testing and
13 the results, as stated in a report prepared by the
14 testing laboratory, do not exclude the possibility of
15 the prospective presumed parent's parentage of the
16 child; provided that the results of the testing
17 disclose the individual has at least a ninety-nine per
18 cent probability of parentage, using a prior
19 probability of .50 as calculated by using the combined
20 relationship index obtained in the testing, and a



1 combined relationship index of at least one hundred to
2 one.

3 (b) A presumption of parentage under this section may be
4 overcome, and competing claims to parentage may be resolved,
5 only by an adjudication under part V or VI or a valid denial of
6 parentage under part VI.

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

8 § -401 **Acknowledgment of parentage.** An individual who
9 gave birth to a child and an alleged genetic parent of the
10 child, intended parent under part VIII, or functional parent may
11 sign an acknowledgment of parentage to establish the parentage
12 of the child.

13 § -402 **Execution of acknowledgement of parentage.** (a)
14 An acknowledgment of parentage under section -401 shall:

15 (1) Be in a record signed by the individual who gave birth
16 to the child and by the other individual seeking to
17 establish a parent-child relationship; provided that
18 the signatures shall be attested by a notarial officer
19 or witnessed;

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



1 (A) Does not have a presumed parent other than the
2 individual seeking to establish the parent-child
3 relationship; and

4 (B) Does not have another acknowledged parent or
5 adjudicated parent, or individual who is a parent
6 of the child under part VIII or IX other than the
7 individual who gave birth to the child; and

8 (3) State that the signatories understand that the
9 acknowledgment is the equivalent of an adjudication of
10 parentage of the child and that a challenge to the
11 acknowledgment is permitted only under limited
12 circumstances and is barred two years after the
13 effective date of the acknowledgment.

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

16 (1) An individual other than the individual seeking to
17 establish parentage is a presumed parent; or

18 (2) An individual, other than the individual who gave
19 birth to the child or the individual seeking to
20 establish parentage, is an acknowledged or adjudicated
21 parent or a parent under part VIII or IX.



1 § **-403 Expedited process of parentage.** (a) To expedite
2 the establishment of parentage, each public or private birthing
3 hospital or birthing center, the child support enforcement
4 agency, midwives, and the department of health shall provide
5 parents the opportunity to voluntarily acknowledge the parentage
6 of a child during the period immediately before or following the
7 child's birth; provided that an individual who is a presumed
8 parent under section -303(a)(1)(C) or section -303(a)(2)
9 may only submit that individual's voluntary acknowledgment
10 directly to the department of health. The voluntary
11 acknowledgment of parentage shall be in writing and shall
12 consist of a single form signed under oath, by the individual
13 who gave birth to the child, the individual seeking to establish
14 a parent-child relationship, and a witness. The voluntary
15 acknowledgment of parentage form shall include the social
16 security numbers, dates of birth, places of birth, and ethnic
17 backgrounds of each signatory. An electronic version of the
18 voluntary acknowledgement of parentage form may be used.

19 (b) Before the signing of the voluntary acknowledgment of
20 parentage form, designated staff members of a facility at which
21 a voluntary acknowledgment may be submitted shall provide to



1 both the individual who gave birth to the child and the other
2 signatory, if either are present at the facility:

3 (1) Written materials regarding parentage establishment;

4 (2) Forms necessary to voluntarily acknowledge parentage;

5 (3) Oral, video, audio, or written descriptions of the

6 alternatives to, the legal consequences of, and the

7 rights and responsibilities of acknowledging

8 parentage, including, if one parent is a minor, any

9 right afforded due to minority status; and

10 (4) The opportunity to speak with staff, either by

11 telephone or in person, who are trained to clarify

12 information and answer questions about parentage

13 establishment.

14 (c) The completed voluntary acknowledgment forms shall

15 clearly identify the name and position of the staff member who

16 provides information to the parents regarding parentage

17 establishment. The provision by designated staff members of the

18 facility of the information required by this section shall not

19 constitute the unauthorized practice of law. Birthing facility

20 staff, midwives, and department of health staff shall not be

21 subject to civil, criminal, or administrative liability for a



1 negligent act or omission relative to the accuracy of the
2 information provided or for filing the declaration with the
3 appropriate state or local agencies. Each facility shall send
4 to the department of health the original acknowledgment of
5 parentage form, or an electronic version, containing the social
6 security numbers, dates of birth, places of birth, and ethnic
7 backgrounds of both signatories, with any other information
8 required by the department of health so that the birth
9 certificate issued includes the names of the signatories. The
10 birth certificate shall be promptly recorded by the department
11 of health.

12 (d) The child support enforcement agency shall:

13 (1) Provide to any individual or facility the necessary:

14 (A) Materials and forms and a written description of
15 the rights and responsibilities related to

16 voluntary acknowledgment of parentage; and

17 (B) Training, guidance, and written instructions
18 regarding voluntary acknowledgment of parentage;

19 (2) Annually assess each facility's parentage
20 establishment program; and



1 (3) Determine if a voluntary acknowledgment has been filed
2 with the department of health whenever it receives an
3 application for parentage establishment services.

4 (e) Notwithstanding sections 338-17.7 and 338-18(b), the
5 department of health shall disclose to the child support
6 enforcement agency, upon request, all voluntary acknowledgment
7 of parentage forms on file with the department of health.

8 (f) The signed voluntary acknowledgment of parentage shall
9 constitute a legal finding of parentage, subject to the right of
10 any signatory to rescind the acknowledgment:

11 (1) Within sixty days of signature; or

12 (2) Before the date of an administrative or judicial
13 proceeding relating to the child, including a
14 proceeding to establish a support order to which the
15 signatory is a party,

16 whichever is sooner.

17 (g) Following the sixty-day period pursuant to
18 subsection (f), a signed voluntary acknowledgment of parentage
19 may be challenged in court only on the basis of fraud, duress,
20 or material mistake of fact, with the burden of proof on the
21 challenger. The legal responsibilities of any signatory arising



1 from the acknowledgment, including child support obligations,
2 shall not be suspended during the challenge, except for good
3 cause shown.

4 (h) The courts and office of child support hearings of
5 this State shall give full faith and credit to affidavits for
6 the voluntary acknowledgment of parentage signed in any other
7 state and made in compliance with the law of that state, and
8 these affidavits shall constitute legal findings of parentage
9 subject to subsections (f) and (g).

10 (i) Judicial and administrative proceedings shall not be
11 required or permitted to ratify an unchallenged acknowledgment
12 of parentage. A voluntary acknowledgment of parentage signed by
13 the individuals and filed with the department of health shall be
14 the basis for establishing and enforcing a support obligation
15 through a judicial or administrative proceeding.

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

17 § -501 **Pretrial hearings.** (a) As soon as practicable
18 after an action to declare the existence or nonexistence of a
19 parent-child relationship has been brought, an informal hearing
20 shall be held. The public shall be barred from the hearing. A
21 record of the proceeding or any portion thereof shall be kept if



1 any party requests, or the court orders. Rules of evidence need
2 not be observed.

3 (b) The court, in its discretion, may waive a hearing on
4 an uncontested parentage complaint submitted by an individual
5 who gave birth to a child, an alleged genetic parent of the
6 child, a presumed parent of the child, or a functional parent of
7 the child with proof provided by affidavit.

8 § -502 **Pretrial recommendations.** (a) On the basis of
9 the information produced at the pretrial hearing held pursuant
10 to section -501, the judge conducting the hearing shall
11 evaluate the probability of determining the existence or
12 nonexistence of the parent-child relationship in a trial and
13 whether a judicial declaration of the relationship would be in
14 the best interest of the child pursuant to section 571-46(b).
15 On the basis of the evaluation, an appropriate recommendation
16 for settlement shall be made to the parties, which may include
17 any of the following:

18 (1) That the action be dismissed with or without
19 prejudice;

20 (2) That the matter be compromised by an agreement among
21 the birth parent and the individual who is seeking to



1 have parentage adjudicated, and the child, in which
2 the individual seeking to be adjudicated to be a
3 parent is not adjudicated to be a parent but in which
4 a defined economic obligation is undertaken in favor
5 of the child and, if appropriate, in favor of the
6 parent, subject to approval by the judge conducting
7 the hearing. In reviewing the obligation undertaken
8 by the individual whose parentage is to be adjudicated
9 in a compromise agreement, the judge conducting the
10 hearing shall consider the best interest of the child,
11 in light of the factors enumerated in section
12 576D-7(a), discounted by the improbability, as it
13 appears to the judge, of establishing the parentage or
14 nonparentage of the individual whose parentage is to
15 be adjudicated in a trial of the action; or

16 (3) That the individual whose parentage is to be
17 adjudicated voluntarily acknowledges parentage of the
18 child.

19 (b) If the parties accept a recommendation made in
20 accordance with subsection (a), judgment shall be entered
21 accordingly.



1 (c) If a party refuses to accept the final recommendation
2 made under subsection (a) and genetic tests have not been taken,
3 the court may order the parties to submit to genetic tests, if
4 practicable. Thereafter the judge shall make an appropriate
5 final recommendation. If a party refuses to accept the final
6 recommendation, the action shall be set for trial.

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

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

13 § -503 Civil action. (a) An action under this chapter
14 shall be a civil action governed by the Hawaii family court
15 rules or the Hawaii rules of civil procedure. The individual
16 who gave birth to the child and the individual whose parentage
17 is to be adjudicated shall be competent to testify and may be
18 compelled to testify; provided that no criminal prosecution,
19 other than a prosecution for perjury, shall afterwards be
20 commenced against the individual who gave birth to the child or
21 the individual whose parentage is to be adjudicated on account



1 of any transaction, matter, or thing concerning which they may
2 testify or produce evidence under this chapter, documentary or
3 otherwise. Part VII shall apply in any action brought under
4 this chapter.

5 (b) Testimony relating to sexual access to the individual
6 who gave birth to the child by an unidentified person at any
7 time or by an identified person at a time other than the
8 probable time of conception of the child shall be inadmissible
9 in evidence, unless offered by the individual who gave birth to
10 the child.

11 (c) Notwithstanding the limitation on the admission of
12 evidence stated in subsection (b), evidence offered with respect
13 to an individual who is not subject to the jurisdiction of the
14 court concerning sexual intercourse or assisted reproduction
15 with the individual who gave birth to the child at or about the
16 probable time of conception of the child shall be admissible in
17 evidence only if the individual offering the evidence has
18 undergone and made available to the court genetic tests,
19 including genetic tests the results of which do not exclude the
20 possibility of the individual's parentage of the child.



1 § **-504 Judgment or order.** (a) The judgment or order of
2 the court determining the existence or nonexistence of the
3 parent-child relationship shall be determinative for all
4 purposes.

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

8 (c) The judgment or order may contain any other provision
9 directed against the appropriate party to the proceeding,
10 concerning the duty of support, the custody and guardianship of
11 the child, visitation privileges with the child, the furnishing
12 of bond or other security for the payment of the judgment, or
13 any other matter in the best interest of the child. Upon
14 neglect or refusal to give this security, or upon default of a
15 parent or a parent's surety in compliance with the terms of the
16 judgment, the court may order the forfeiture of the security and
17 the application of the proceeds thereof toward the payment of
18 any sums due under the terms of the judgment and may also
19 sequester a parent's personal estate, and the rents and profits
20 of a parent's real estate, and may appoint a receiver thereof,
21 and may cause a parent's personal estate, including any



1 salaries, wages, commissions, or other moneys owed to the parent
2 and the rents and profits of the parent's real estate, to be
3 applied toward the meeting of the terms of the judgment, to the
4 extent that the court, from time to time, deems just and
5 reasonable. The judgment or order may direct a parent to pay
6 the reasonable expenses of the pregnancy and birth, including
7 but not limited to medical insurance premiums, such as for
8 MedQuest, that cover the periods of pregnancy and childbirth.
9 The court may further order the noncustodial parent to reimburse
10 the custodial parent, the child, or any public agency for
11 reasonable expenses incurred before entry of judgment, including
12 support, maintenance, education, and funeral expenses expended
13 for the benefit of the child.

14 (d) Support judgments or orders ordinarily shall be for
15 periodic payments that may vary in amount. In the best interest
16 of the child, a lump sum payment or the purchase of an annuity
17 may be ordered in lieu of periodic payments of support. The
18 court may limit the obligor parent's liability for past support
19 of the child to the proportion of the expenses already incurred
20 that the court deems just.



1 (e) In determining the amount to be paid by a parent for
2 support of the child and the period during which the duty of
3 support is owed, a court enforcing the obligation of support
4 shall use the guidelines established under section 576D-7.

5 Provision may be made for the support, maintenance, and
6 education of an adult or minor child and an incompetent adult
7 child, whether or not the petition is made before or after the
8 child has attained the age of majority.

9 (f) Whenever a parent of a child is a minor, unmarried,
10 and not able to provide full support, the court may order one or
11 both parents of the minor to support the child until the minor
12 reaches the age of majority, is otherwise emancipated, or is
13 financially able to fully support the child, whichever occurs
14 first. For the purposes of this subsection:

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

18 (2) The resources, standard of living, and earning ability
19 of the parent or parents of the minor shall be
20 considered under subsection (d) in determining the
21 amount of support; and



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

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

§ -506 **Enforcement of judgment or order.** (a) If existence of the parent-child relationship is declared, or parentage or a duty of support has been acknowledged or adjudicated under this chapter or under prior law, the obligation of a parent may be enforced in the same or other proceedings by the other parent, the child, the public authority that has furnished or may furnish the reasonable expenses of pregnancy, childbirth, education, support, or funeral, or by any other individual, including a private agency, to the extent the individual has furnished or is furnishing these expenses.

(b) The court may order support payments to be made to a parent or an adult child, or through the child support



1 enforcement agency as its rules permit, or through an
2 individual, corporation, or agency designated to administer
3 support payments for the benefit of the child under the
4 supervision of the court.

5 (c) Willful failure to obey the judgment or order of the
6 court shall be a civil contempt of the court. All remedies for
7 the enforcement of judgments shall apply to this chapter. When
8 a court of competent jurisdiction issues an order compelling a
9 parent to furnish support, including child support, medical
10 support, or other remedial care, for the parent's child, it
11 shall constitute prima facie evidence of a civil contempt of
12 court upon proof that:

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

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

17 An order of civil contempt of court based on prima facie
18 evidence under this subsection shall clearly state that the
19 failure to comply with the order of civil contempt of court may
20 subject the parent to a penalty that may include imprisonment
21 or, if imprisonment is immediately ordered, the conditions that



1 must be met for release from imprisonment. A party may also
2 prove civil contempt of court by means other than prima facie
3 evidence under this subsection.

4 § **-507 Modification of judgment or order.** (a) The
5 court shall have continuing jurisdiction to modify or revoke a
6 judgment or order:

7 (1) For future education and support; and

8 (2) With respect to matters listed in

9 section -504(c), -504(d), and -506(b);

10 provided that a court entering a judgment or order for
11 the payment of a lump sum or the purchase of an
12 annuity under section -504(d) may specify that the
13 judgment or order may not be modified or revoked.

14 (b) In those cases where child support payments are to
15 continue due to the adult child's pursuance of education, the
16 child support enforcement agency, at least three months before
17 the adult child's nineteenth birthday, shall send notice by
18 regular mail to the adult child and the custodial parent that
19 prospective child support will be suspended unless proof is
20 provided by the custodial parent or adult child, to the child
21 support enforcement agency, before the child's nineteenth



1 birthday, that the child is presently enrolled as a full-time
2 student in school or has been accepted into and plans to attend
3 as a full-time student for the next semester a post-high school
4 university, college, or vocational school. If the custodial
5 parent or adult child fails to do so, prospective child support
6 payments may be automatically suspended by the child support
7 enforcement agency, hearings officer, or court. In addition, if
8 applicable, the child support enforcement agency, hearings
9 officer, or court may issue an order terminating existing
10 assignments against the responsible parent's income and income
11 assignment orders.

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

15 **§ -508 Hearings and records; confidentiality. (a)**

16 Notwithstanding any other law concerning public hearings and
17 records, any hearing or trial held under this chapter shall be
18 held in closed court without admittance of any individual other
19 than those individuals necessary to the action or proceeding.
20 All papers and records pertaining to the action or proceeding,
21 whether part of the permanent record of the court or of a file



1 in the department of health or elsewhere, shall be subject to
2 inspection only upon consent of the court and all interested
3 individuals; provided that the court records under this chapter
4 shall be sealed, so that the filings, caption, party names,
5 docket, and any information identifying the type of case shall
6 not be open for public inspection; provided further that in
7 exceptional cases the filings, caption, party names, docket, and
8 any information identifying the type of case may be made open
9 for public inspection only upon an order of the court for good
10 cause shown.

11 (b) Upon parentage being established, the confidentiality
12 requirement shall not extend to the judgment and all
13 subsequently filed documents that are used in good faith for
14 support and medical expenses, insurance, or enforcement
15 purposes; provided that the confidentiality requirement shall
16 continue to apply to any references to a non-adjudicated alleged
17 or presumed parent.

18 (c) Subsections (a) and (b) shall only apply to cases
19 under parts VIII and IX and any other case under this chapter
20 filed before January 1, 2021.



1 § **-509 Court filings; minutes of proceedings; posting**
2 **requirement.** The judiciary shall post on its website the titles
3 of all court filings and the minutes of court proceedings in
4 cases brought under this chapter except for actions filed
5 pursuant to part VIII or IX; provided that the judiciary shall
6 redact information that has been made confidential by any
7 statute, rule of court, or court order; provided further that,
8 on request of a party and for good cause, the court may close a
9 proceeding and records to the public; provided further that the
10 titles of all court filings for the case and the contents of a
11 final order shall be available for public inspection, with other
12 papers and records available for public inspection only with the
13 consent of the parties or by court order.

14 § **-510 Birth records.** (a) Upon order of a court of
15 this State or upon request or order of a court of another state,
16 or following acknowledgment as provided in section -401, the
17 department of health shall prepare a new certificate of birth
18 consistent with the findings of the court or in cases of
19 acknowledgment under section -401, consistent with the
20 acknowledgment, and shall substitute the new certificate for the
21 original certificate of birth.



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

5 (c) The evidence upon which the new certificate was made
6 and the original birth certificate shall be kept in a sealed and
7 confidential file and be subject to inspection only upon consent
8 of the court and all interested individuals, or in exceptional
9 cases only upon an order of the court for good cause shown.

10 § -511 **Parentage judgment, acknowledgment, support**
11 **order; social security number.** The social security number of
12 any individual who is subject to a parentage judgment or
13 acknowledgment, or a support order issued under this chapter,
14 shall be placed in the records relating to the matter in
15 compliance with any other court rule or law.

16 § -512 **Filing of acknowledgments and adjudications with**
17 **15 department of health.** (a) All voluntary acknowledgments and
18 adjudications of parentage by judicial process shall be filed
19 with the department of health for comparison with information in
20 the state case registry established pursuant to section
21 576D-6(a)(12). Filing of the adjudications of parentage shall



1 be the responsibility of the natural parent or individual or
2 agency as the court shall direct.

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

4 **§ -601 Adjudicating parentage of child with alleged**
5 **genetic parent.** (a) A proceeding to determine whether an
6 alleged genetic parent who is not a presumed parent is a parent
7 of a child may be commenced:

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

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

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

17 (1) Is identified under section -705 as a genetic
18 parent of the child and the identification is not
19 successfully challenged under section -705;

20 (2) Admits parentage in a pleading, when making an
21 appearance, or during a hearing; the court accepts the



admission; and the court determines the alleged genetic parent to be a parent of the child;

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

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

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

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



1 § -602 Adjudicating parentage of child with presumed
2 parent. (a) A proceeding to determine whether a presumed
3 parent is a parent of a child may be commenced:

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

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

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

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

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

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

19 (1) If no party to the proceeding challenges the presumed
20 parent's parentage of the child, the court shall



1 adjudicate the presumed parent to be a parent of the
2 child;

3 (2) If the presumed parent is identified under
4 section -705 as a genetic parent of the child and
5 that identification is not successfully challenged
6 under section -705, the court shall adjudicate the
7 presumed parent to be a parent of the child; and

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

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



1 § -603 Adjudicating claim of functional parentage of a
2 **child.** (a) A proceeding to establish parentage of a child
3 under this section may be commenced only by an individual who:

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

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

6 (b) An individual who claims to be a functional parent of
7 a child shall commence a proceeding to establish parentage of a
8 child under this section:

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

10 (2) While the child is alive.

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

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

17 The verified pleading shall be served on all parents
18 and legal guardians of the child and any other party
19 to the proceeding;

20 (2) An adverse party, parent, or legal guardian may file a
21 pleading in response to the pleading filed under



1 paragraph (1). A responsive pleading shall be
2 verified and must be served on parties to the
3 proceeding; and

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

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



- 1 (1) The individual resided with the child as a regular
2 member of the child's household for a significant
3 period;
- 4 (2) The individual engaged in consistent caretaking of the
5 child;
- 6 (3) The individual undertook full and permanent
7 responsibilities of a parent of the child without
8 expectation of financial compensation;
- 9 (4) The individual held out the child as the individual's
10 child;
- 11 (5) The individual established a bonded and dependent
12 relationship with the child which is parental in
13 nature;
- 14 (6) Another parent of the child fostered or supported the
15 bonded and dependent relationship required under
16 paragraph (5); and
- 17 (7) Continuing the relationship between the individual and
18 the child is in the best interest of the child.
- 19 (e) Subject to other limitations in this part, if in a
20 proceeding to adjudicate parentage of an individual who claims
21 to be a functional parent of the child, there is more than one



1 other individual who is a parent or has a claim to parentage of
2 the child and the court determines that the requirements of
3 subsection (d) are satisfied, the court shall adjudicate
4 parentage under section -607, unless a valid denial of parentage
5 is filed in accordance with section -608.

6 **§ -604 Adjudicating parentage of child with acknowledged**

7 **parent.** (a) If a child has an acknowledged parent, a
8 proceeding to challenge the acknowledgment of parentage, brought
9 by a signatory to the acknowledgment, is governed by
10 section -403(g).

11 (b) If a child has an acknowledged parent, the following
12 rules apply in a proceeding to challenge the acknowledgment of
13 parentage brought by an individual, other than the child, who
14 has standing under section -203 and was not a signatory to
15 the acknowledgment:

16 (1) The individual shall commence the proceeding no later
17 than two years after the effective date of the
18 acknowledgment, unless good cause is shown;

19 (2) The court may permit the proceeding only if the court
20 finds permitting the proceeding is in the best



1 interest of the child pursuant to section 571-46(b);

2 and

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

5 **§ -605 Adjudicating parentage of child with adjudicated**

6 **parent.** (a) If a child has an adjudicated parent, a proceeding
7 to challenge the adjudication, brought by an individual who was
8 a party to the adjudication or received notice under
9 section -201, shall be governed by the rules governing a
10 collateral attack on a judgment.

11 (b) If a child has an adjudicated parent, the following
12 rules apply to a proceeding to challenge the adjudication of
13 parentage brought by an individual, other than the child, who
14 has standing under section -203 and was not a party to the
15 adjudication and did not receive notice under section -201:

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

19 (2) The court may permit the proceeding only if the court
20 finds permitting the proceeding is in the best



1 interest of the child pursuant to section 571-46(b);

2 and

3 (3) If the court permits the proceeding, the court shall

4 adjudicate parentage under section -607.

5 **§ -606 Adjudicating parentage of a child of assisted**

6 **reproduction.** (a) An individual who is a parent under part

7 VIII or the individual who gave birth to the child may bring a

8 proceeding to adjudicate parentage. If the court determines the

9 individual is a parent under part VIII, the court shall

10 adjudicate the individual to be a parent of the child.

11 (b) In a proceeding to adjudicate an individual's

12 parentage of a child under this section, if another individual

13 other than the individual who gave birth to the child is a

14 parent under part VIII, the court shall adjudicate the

15 individual's parentage of the child under section -607.

16 **§ -607 Adjudicating competing claims of parentage.** (a)

17 Except as otherwise provided by law, in a proceeding to

18 adjudicate competing claims of, or challenges under

19 section -602, -603, -604, or -605 to parentage of a

20 child by two or more individuals, the court shall adjudicate

21 parentage in the best interest of the child, based on:



- 1 (1) The age of the child;
- 2 (2) The length of time during which each individual
- 3 assumed the role of parent of the child;
- 4 (3) The nature of the relationship between the child and
- 5 each individual;
- 6 (4) The harm to the child if the relationship between the
- 7 child and each individual is not recognized;
- 8 (5) The basis for each individual's claim to parentage of
- 9 the child; and
- 10 (6) Other equitable factors arising from the disruption of
- 11 the relationship between the child and each individual
- 12 or the likelihood of other harm to the child.
- 13 (b) If an individual challenges parentage based on the
- 14 results of genetic testing, in addition to the factors listed in
- 15 subsection (a), the court shall consider:
- 16 (1) The facts surrounding the discovery that the
- 17 individual might not be a genetic parent of the child;
- 18 and
- 19 (2) The length of time between the time that the
- 20 individual was placed on notice that the individual



1 might not be a genetic parent and the commencement of
2 the proceeding.

3 (c) The court may adjudicate a child to have more than two
4 parents under this chapter if the court finds that failure to
5 recognize more than two parents would be detrimental to the
6 child. A finding of detriment to the child shall not require a
7 finding of unfitness of any parent or individual seeking an
8 adjudication of parentage. In determining detriment to the
9 child, the court shall consider all relevant factors, including
10 the harm if the child is removed from a stable placement with an
11 individual who has fulfilled the child's physical needs and
12 psychological needs for care and affection and has assumed the
13 role for a substantial period.

14 § -608 Denial of Parentage. A presumed parent or
15 alleged genetic parent may sign a denial of parentage in a
16 record filed with the court. The denial of parentage shall be
17 valid only if:

18 (1) Another individual other than the individual who gave
19 birth to the child agrees to have that other
20 individual's parentage of the child established under



1 this part, and the agreement is in an affidavit filed
2 with the court;

3 (2) The signature of the presumed parent or alleged
4 genetic parent is attested by a notarial officer or
5 witnesses; and

6 (3) The presumed parent or alleged genetic parent has not
7 previously:

8 (A) Completed a valid acknowledgement of parentage,
9 unless the previous acknowledgment was rescinded
10 under section -403(f) or challenged
11 successfully under section -403(g); or

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

13 **PART VII. GENETIC TESTING**

14 § -701 **Scope of part; limitation on use of genetic**
15 **testing.** (a) This part shall govern genetic testing of an
16 individual in a proceeding to adjudicate parentage, whether the
17 individual:

18 (1). Voluntarily submits to testing; or

19 (2) Is tested under an order of the court or the child
20 support enforcement agency.

21 (b) Genetic testing may not be used:



(1) To challenge the parentage of an individual who is a parent under part VIII or IX; or

(2) To establish the parentage of an individual who is a 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 shall order the child and any other individual to submit to genetic testing if a request for testing is supported by the sworn statement of a party:

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

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

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

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



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

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

11 (f) In a proceeding to adjudicate the parentage of a child
12 having a presumed parent or an individual who claims to be a
13 parent under section -602, or to challenge an acknowledgment
14 of parentage, the court may deny a motion for genetic testing of
15 the child and any other individual after considering the factors
16 in section -607(a) and (b).

17 (g) If an individual requesting genetic testing is barred
18 under section -403(g), -604(b), or -605(b) from
19 establishing the individual's parentage, the court shall deny
20 the request for genetic testing.



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

3 § -703 Requirements for genetic testing. (a) Genetic
4 testing shall be of a type reasonably relied on by experts in
5 the field of genetic testing and performed in a testing
6 laboratory accredited by:

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

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

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

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



1 (1) No later than thirty days after receipt of the report
2 of the test, the objecting individual or the child
3 support enforcement agency may request the court to
4 require the laboratory to recalculate the relationship
5 index using an ethnic or racial group different from
6 that used by the laboratory;

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

10 (A) If the requested frequencies are not available to
11 the laboratory for the ethnic or racial group
12 requested, provide the requested frequencies
13 compiled in a manner recognized by accrediting
14 bodies; or

15 (B) Engage another laboratory to perform the
16 calculations; and

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



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

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

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

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



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

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

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

(5) The date each specimen was received.

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

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



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

5 (2) A combined relationship index of at least one hundred
6 to one.

7 (b) An individual identified under subsection (a) as a
8 genetic parent of the child may challenge the genetic testing
9 results only by other genetic testing satisfying the
10 requirements of this part which:

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

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

15 (A) The individual who gave birth to the child; or

16 (B) The individual identified under subsection (a).

17 (c) If more than one individual other than the individual
18 who gave birth is identified by genetic testing as a possible
19 genetic parent of the child, the court shall order each
20 individual to submit to further genetic testing to identify a
21 genetic parent.



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

§ -706 Genetic testing when specimen not available. (a)

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

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

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



1 § **-707 Deceased individual.** If an individual seeking
2 genetic testing demonstrates good cause, the court may order
3 genetic testing of a deceased individual.

4 **PART VIII. ASSISTED REPRODUCTION**

5 § **-801 Scope of part.** This part shall not apply to the
6 birth of a child conceived by sexual intercourse or assisted
7 reproduction under a surrogacy agreement under part IX.

8 § **-802 Parental status of donor.** A donor is not a
9 parent of a child conceived by assisted reproduction.

10 § **-803 Parentage of child of assisted reproduction.** An
11 individual who consents under section -804 to assisted
12 reproduction by another individual with the intent to be a
13 parent of a child conceived by the assisted reproduction is a
14 parent of the child.

15 § **-804 Consent to assisted reproduction.** (a) Except as
16 otherwise provided in subsection (b), the consent described in
17 section -803 shall be in a record signed by an individual
18 giving birth to a child conceived by assisted reproduction and
19 the other individual who intends to be a parent of the child.

20 (b) Failure to consent in a record as required by
21 subsection (a), before, on, or after the birth of the child



1 shall not preclude the court from finding consent to parentage
2 if:

3 (1) The individual giving birth to a child or the other
4 individual proves by clear and convincing evidence the
5 existence of an express agreement entered into before
6 conception that the individual giving birth and the
7 other individual intended they both would be parents
8 of the child; or

9 (2) The individual giving birth to the child and the other
10 individual for the first two years of the child's
11 life, including any period of temporary absence,
12 resided together in the same household with the child
13 and both openly held out the child as the individual's
14 child; provided, however, that if an individual dies
15 or becomes incapacitated before the child attains two
16 years of age or the child dies before the child
17 attains two years of age, the court may find consent
18 under this subsection to parentage if a party proves
19 by clear and convincing evidence that the individual
20 giving birth to the child and the other individual
21 intended to reside together in the same household with



1 the child and both intended the individual would
2 openly hold out the child as the individual's child,
3 but the individual was prevented from carrying out
4 that intent by death or incapacity.

5 § -805 Limitation on spouse's dispute of parentage. (a)

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

11 (1) No later than two years after the birth of the child
12 or the date of which the individual first learns of
13 the birth of the child, whichever is later, the
14 individual commences a proceeding to adjudicate the
15 individual's parentage of the child; and

16 (2) The court finds the individual did not consent to the
17 assisted reproduction, before, on, or after the birth
18 of the child, or withdrew consent under
19 section -807.



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

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

6 (2) The spouse and the individual who gave birth to the
7 child have not cohabited since the probable time of
8 assisted reproduction; and

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

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

14 § -806 **Effect of certain legal proceedings regarding**
15 **marriage.** (a) If a marriage of an individual who gives birth
16 to a child conceived by assisted reproduction is terminated
17 through divorce or dissolution, subject to legal separation or
18 separate maintenance, declared invalid, or annulled before
19 transfer of gametes or embryos to said individual, a former
20 spouse of said individual is not a parent of the child unless
21 the former spouse consented in a record that the former spouse



1 would be a parent of the child if assisted reproduction were to
2 occur after a divorce, dissolution, annulment, declaration of
3 invalidity, legal separation, or separate maintenance, and the
4 former spouse did not withdraw consent under section -807.

5 **§ -807 Withdrawal of consent.** (a) An individual who
6 consents under section -804 to assisted reproduction may
7 withdraw consent any time before a transfer by giving notice in
8 a record of the withdrawal of consent to the individual who
9 agreed to give birth to a child conceived by assisted
10 reproduction and to any clinic or health care provider
11 facilitating the assisted reproduction. Failure to give notice
12 to the clinic or health care provider shall not affect a
13 determination of parentage under this part.

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

16 **§ -808 Parental status of deceased individual.** (a) If
17 an individual who intends to be a parent of a child conceived by
18 assisted reproduction dies during the period between the
19 transfer of a gamete or embryo and the birth of the child, the
20 individual's death shall not preclude the establishment of the



1 individual's parentage of the child if the individual otherwise
2 would be a parent of the child under this chapter.

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

8 (1) Either:

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

13 (B) The individual's intent to be a parent of a child
14 conceived by assisted reproduction after the
15 individual's death is established by
16 clear-andconvincing evidence; and

17 (2) Either:

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

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



1 **PART IX. SURROGACY AGREEMENT**

2 A. General Provisions

3 § **-901 Definitions.** As used in this part:

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

9 "Gestational surrogate" means an individual who is capable
10 of carrying a pregnancy to term and giving birth to a child, who
11 is not an intended parent and who agrees to become pregnant
12 through assisted reproduction using gametes that are not the
13 individual's own, under a gestational surrogacy agreement as
14 provided in this part.

15 "Surrogacy agreement" means an agreement between one or two
16 intended parents and an individual who is capable of carrying a
17 pregnancy to term and giving birth to a child and who is not an
18 intended parent in which the individual agrees to become
19 pregnant through assisted reproduction and provides that any
20 intended parent is a parent of a child conceived under the
21 agreement. Unless otherwise specified, "surrogacy agreement"



1 refers to both a gestational surrogacy agreement and a genetic
2 surrogacy agreement.

3 **§ -902 Eligibility to enter gestational or genetic**
4 **surrogacy agreement.** (a) To execute a surrogacy agreement to
5 act as a gestational or genetic surrogate, an individual who is
6 capable of carrying a pregnancy to term and giving birth to a
7 child shall:

- 8 (1) Have attained twenty-one years of age;
9 (2) Previously have given birth to at least one child;
10 (3) Complete a medical evaluation related to the surrogacy
11 arrangement by a licensed medical doctor;
12 (4) Complete a mental health consultation by a licensed
13 mental health professional; and
14 (5) Have independent legal representation of the
15 individual's choice throughout the surrogacy
16 arrangement regarding the terms of the surrogacy
17 agreement and the potential legal consequences of the
18 surrogacy agreement.

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

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



(2) Have independent legal representation of the intended parent's or parents' choice throughout the surrogacy arrangement regarding the terms of the surrogacy agreement and the potential legal consequences of the surrogacy agreement; provided that the intended parents may be jointly represented if desired.

§ -903 Requirements of gestational or genetic surrogacy agreement; process. (a) A surrogacy agreement shall be executed in compliance with the following rules:

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

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

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



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

3 (5) The surrogate and each intended parent shall
4 acknowledge in a record receipt of a copy of the
5 surrogacy agreement;

6 (6) The signature of each party to the surrogacy agreement
7 shall be attested by a notarial officer or witnessed
8 in accordance with the laws of the jurisdiction in
9 which the surrogacy agreement is signed;

10 (7) The surrogate, surrogate's spouse, if any, and the
11 intended parent or parents shall have independent
12 legal representation throughout the surrogacy
13 arrangement regarding the terms of the surrogacy
14 agreement and the potential legal consequences of the
15 surrogacy agreement, and each counsel shall be
16 identified in the surrogacy agreement; provided that
17 the surrogate and the surrogate's spouse, if any, may
18 be jointly represented if so desired, and the intended
19 parent or parents may be jointly represented if so
20 desired;



(8) The intended parent or parents shall pay for independent legal representation for the surrogate and surrogate's spouse, if any; and

(9) The surrogacy agreement shall be executed before a medical procedure, including the taking of medication, occurs related to the surrogacy agreement, other than the medical evaluation and mental health consultation required by section -902.

§ -904 Requirements of gestational or genetic surrogacy agreement; content. (a) A surrogacy agreement shall comply with the following requirements:

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

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

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



1 (4) Except as otherwise provided in
2 sections -910, -913, and -914, the intended
3 parent, or, if there are two intended parents, each
4 one jointly and severally, immediately upon birth
5 shall be the exclusive parent or parents of the child,
6 regardless of the number of children born, or the
7 gender or mental or physical condition of each child;

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

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

19 (A) Premiums for a health insurance policy that
20 covers medical treatment and hospitalization for
21 the person acting as surrogate unless otherwise



1 mutually agreed upon by the parties, pursuant to
2 the terms of the surrogacy agreement;

3 (B) Payment of all uncovered medical expenses;

4 (C) Payment of legal fees for the legal
5 representation of the person acting as surrogate;

6 (D) Payment of life insurance premiums, pursuant to
7 the terms of the surrogacy agreement; and

8 (E) Any other reasonable financial arrangements
9 mutually agreed upon by the parties, including
10 any applicable reimbursement and compensation
11 schedule, pursuant to the terms of the surrogacy
12 agreement;

13 (7) The intended parent or parents shall be liable for the
14 surrogacy-related expenses of the individual acting as
15 surrogate, including expenses for health care provided
16 for assisted reproduction, prenatal care, labor and
17 delivery and for the medical expenses of the resulting
18 child that are not paid by insurance. This paragraph
19 shall not be construed to supplant any health
20 insurance coverage that is otherwise available to the
21 person acting as surrogate or an intended parent for



1 the coverage of health care costs. This paragraph
2 shall not change the health insurance coverage of the
3 person acting as surrogate or the responsibility of
4 the insurance company to pay benefits under a policy
5 that covers a person acting as surrogate;

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

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

14 (10) The surrogacy agreement shall address confidentiality
15 between the parties to the surrogacy agreement; and

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

19 (b) A surrogacy agreement may provide for:



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

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

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

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

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

(2) The divorce, dissolution, annulment, declaration of invalidity, or legal separation, of the surrogate



1 after the surrogacy agreement is signed by all parties
2 shall not affect the validity of the surrogacy
3 agreement.

4 (b) Unless a surrogacy agreement expressly provides
5 otherwise:

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

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



1 § **-906 Exclusive, continuing jurisdiction.** During the
2 period after the execution of a surrogacy agreement until ninety
3 days after the birth of a child conceived by assisted
4 reproduction under the surrogacy agreement, a court of the State
5 conducting a proceeding under this chapter shall have exclusive,
6 continuing jurisdiction over all matters arising out of the
7 agreement. This section shall not give the court jurisdiction
8 over a child custody or child support proceeding if jurisdiction
9 is not otherwise authorized by a law of this State other than
10 this chapter.

11 B. Special Rules of Gestational Surrogacy Agreement

12 § **-907 Termination of gestational surrogacy agreement.**

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

19 (b) Unless a gestational surrogacy agreement provides
20 otherwise, on termination of the surrogacy agreement under
21 subsection (a), the parties shall be released from the surrogacy



1 agreement, except that each intended parent shall remain
2 responsible for expenses that are reimbursable under the
3 surrogacy agreement and incurred by the gestational surrogate
4 through the date of termination.

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

10 § -908 Parentage under gestational surrogacy agreement.

11 (a) Except as otherwise provided in subsection (c),
12 section -909(b), or section -911, upon birth of a child
13 conceived by assisted reproduction under a gestational surrogacy
14 agreement, each intended parent shall be, by operation of law, a
15 parent of the child.

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

20 (c) If a child is alleged to be a genetic child of the
21 individual who agreed to be a gestational surrogate, the court



1 shall order genetic testing of the child. If the child is a
2 genetic child of said individual who agreed to be a gestational
3 surrogate, parentage shall be determined based on parts I
4 through VII.

5 (d) Except as otherwise provided in subsection (c),
6 section -909(b), or section -911, if, due to a clinical or
7 laboratory error, a child conceived by assisted reproduction
8 under a gestational surrogacy agreement is not genetically
9 related to either intended parent or to a donor who donated
10 gametes to the intended parent or parents, each intended parent,
11 and not the gestational surrogate and the surrogate's spouse or
12 former spouse, if any, is a parent of the child, subject to any
13 other claim of parentage.

14 § -909 Gestational surrogacy agreement; parentage of
15 deceased intended parent. (a) Section -908 shall apply to
16 an intended parent even if the intended parent dies during the
17 period between the transfer of a gamete or embryo and the birth
18 of the child.

19 (b) Except as otherwise provided in section -911, an
20 intended parent is not a parent of a child conceived by assisted
21 reproduction under a gestational surrogacy agreement if the



1 intended parent dies before the transfer of a gamete or embryo
2 unless:

3 (1) The agreement provides otherwise; and

4 (2) The transfer of a gamete or embryo occurs no later
5 than thirty-six months after the death of the intended
6 parent or the birth of the child occurs no later than
7 forty-five months after the death of the intended
8 parent.

9 § -910 Gestational surrogacy agreement; order of
10 parentage. (a) Except as otherwise provided in

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

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

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



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

(4) To protect the privacy of the child and the parties, declaring that the court record is not open to public inspection; provided that the court records under this chapter shall be fully sealed so that the filings, caption, party names, docket, and any information identifying the type of case are not open for public inspection;

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

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

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

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



1 § -911 **Effect of gestational surrogacy agreement.** (a)

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

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

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

20 (d) Specific performance is not a remedy available for
21 breach by a gestational surrogate of a provision in the



1 surrogacy agreement that the gestational surrogate undergo an
2 embryo transfer, terminate or not terminate a pregnancy, or
3 submit to medical procedures.

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

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

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

16 C. Special Rules for Genetic Surrogacy Agreement

17 § -912 **Requirements to validate a genetic surrogacy**
18 **agreement.** (a) Except as otherwise provided in section -915,
19 to be enforceable, a genetic surrogacy agreement shall be
20 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 under section -913 a
10 genetic surrogacy agreement shall file notice of the termination
11 with the court. On receipt of the notice, the court shall
12 vacate any order issued under subsection (b). An individual who
13 terminates a genetic surrogacy agreement under this section but
14 does not notify the court of the termination of the agreement
15 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 is liable to the intended parent or parents for a penalty or
11 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 the court record is not open to public
16 inspection; provided that the court records under this
17 chapter shall be fully sealed, so that the filings,
18 caption, party names, docket, and any information
19 identifying the type of case are not open for public
20 inspection;



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

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

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

9 (d) If a child born to a genetic surrogate is alleged not
10 to have been conceived by assisted reproduction, the court shall
11 order genetic testing to determine the genetic parentage of the
12 child. If the child was not conceived by assisted reproduction,
13 parentage shall be determined under parts I through VII. Unless
14 the genetic surrogacy agreement provides otherwise, if the child
15 was not conceived by assisted reproduction, the surrogate is not
16 entitled to any non-expense related compensation paid for
17 serving as a surrogate.

18 (e) Unless a genetic surrogate exercises the right under
19 section -913 to terminate the genetic surrogacy agreement, if
20 an intended parent fails to file notice required under
21 section -913(a), the genetic surrogate or the department of



1 health may file with the court, no later than sixty days after
2 the birth of a child conceived by assisted reproduction under
3 the surrogacy agreement, notice that the child has been born to
4 the genetic surrogate. Unless the genetic surrogate has
5 properly exercised the right under section -913 to withdraw
6 consent to the surrogacy agreement, on proof of a court order
7 issued under section -912 validating the surrogacy agreement,
8 the court shall order that each intended parent is a parent of
9 the child.

10 **§ -915 Effect of non-validated genetic surrogacy**

11 **agreement.** (a) A genetic surrogacy agreement, whether or not
12 in a record, that is not validated under section -912 shall
13 be enforceable only to the extent provided in this section and
14 section -917.

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

19 (c) If a child conceived by assisted reproduction under a
20 genetic surrogacy agreement that is not validated under
21 section -912 is born and the genetic surrogate, consistent



1 with section -913(a)(2), withdraws their consent to the
2 surrogacy agreement before seventy-two hours after the birth of
3 the child, the court shall adjudicate the parentage of the child
4 under parts I through VII.

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

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

18 § -916 Genetic surrogacy agreement; parentage of
19 deceased intended parent. (a) Except as otherwise provided in
20 section -914 or -915, on birth of a child conceived by
21 assisted reproduction under a genetic surrogacy agreement, each



1 intended parent is, by operation of law, a parent of the child,
2 notwithstanding the death of an intended parent during the
3 period between the transfer of a gamete or embryo and the birth
4 of the child.

5 (b) Except as otherwise provided in section -914
6 or -915, an intended parent is not a parent of a child
7 conceived by assisted reproduction under a genetic surrogacy
8 agreement if the intended parent dies before the transfer of a
9 gamete or embryo unless:

10 (1) The surrogacy agreement provides otherwise; and

11 (2) The transfer of the gamete or embryo occurs no later
12 than thirty-six months after the death of the intended
13 parent, or the birth of the child occurs no later than
14 forty-five months after the death of the intended
15 parent.

16 **§ -917 Breach of genetic surrogacy agreement. (a)**

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



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

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

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

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

PART X. INFORMATION ABOUT DONOR

§ -1001 **Definitions.** As used in this part:

"Identifying information" means:

(1) The full name of a donor;

(2) The date of birth of the donor; and



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

"Medical history" means information regarding any:

(1) Present illness of a donor;

(2) Past illness of the donor; and

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

§ -1002 **Applicability.** This part shall apply only to gametes collected on or after the effective date of this chapter.

§ -1003 **Collection of information.** (a) A gamete bank or fertility clinic licensed in this State shall collect from a donor the donor's identifying information and medical history at the time of the donation.

(b) A gamete bank or fertility clinic licensed in the State that receives gametes of a donor collected by another gamete bank or fertility clinic shall collect the name, address, telephone number, and electronic mail address of the gamete bank or fertility clinic from which it received the gametes.



1 (c) A gamete bank or fertility clinic licensed in the
2 State shall disclose the information collected under subsections
3 (a) and (b) as provided under section -1004.

4 § -1004 Collection of information. (a) A gamete bank
5 or fertility clinic licensed in this State that collects gametes
6 from a donor shall:

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

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

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

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

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

20 (c) A gamete bank or fertility clinic licensed in the
21 State shall allow a donor who has signed a declaration under



1 subsection (b)(2) to withdraw the declaration at any time by
2 signing a declaration under subsection (b)(1).

3 § -1005 Disclosure of identifying information and 22

4 **medical history.** (a) On request of a child conceived by
5 assisted reproduction who attains eighteen years of age, a
6 gamete bank or fertility clinic licensed in the State that
7 collected, stored, or released for use the gametes used in the
8 assisted reproduction shall make a good faith effort to provide
9 the child with identifying information of the donor who provided
10 the gametes, unless the donor signed and did not withdraw a
11 declaration under section -1004(b)(2). If the donor signed
12 and did not withdraw the declaration, the gamete bank or
13 fertility clinic shall make a good-faith effort to notify the
14 donor, who may elect under section -1004(c) to withdraw the
15 donor's declaration.

16 (b) Regardless whether a donor signed a declaration under
17 section -1004(b)(2), on request by a child conceived by
18 assisted reproduction who attains eighteen years of age, or, if
19 the child is a minor, by a parent or guardian of the child, a
20 gamete bank or fertility clinic licensed in the State shall make
21 a good-faith effort to provide the child, or if the child is a



1 minor, the parent or guardian of the child, access to
2 nonidentifying medical history of the donor.

3 (c) On request of a child conceived by assisted
4 reproduction who attains eighteen years of age, a gamete bank or
5 fertility clinic licensed in the State that received the gametes
6 used in the assisted reproduction from another gamete bank or
7 fertility clinic shall disclose the name, address, telephone
8 number, and electronic mail address of the gamete bank or
9 fertility clinic from which it received the gametes.

10 § -1006 Disclosure of identifying information and 22

11 **medical history.** (a) A gamete bank or fertility clinic
12 licensed in the State that collects gametes for use in assisted
13 reproduction shall collect and maintain identifying information
14 and medical history about each gamete donor. The gamete bank or
15 fertility clinic shall collect and maintain records of gamete
16 screening and testing and comply with reporting requirements, in
17 accordance with federal law and the applicable law of the State
18 other than this chapter.

19 (b) A gamete bank or fertility clinic licensed in the
20 State that receives gametes from another gamete bank or
21 fertility clinic shall maintain the name, address, telephone



1 number, and electronic mail address of the gamete bank or
2 fertility clinic from which it received the gametes."

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

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



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

"§338-12 Evidentiary character of certificates.

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

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

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

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

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

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



1 **"§338-15 Late or altered certificates.** A person born in
2 the State may file or amend a certificate after the time
3 prescribed, upon submitting proof as required by rules adopted
4 by the department of health. Certificates registered after the
5 time prescribed for filing by the rules of the department of
6 health shall be registered subject to any evidentiary
7 requirements that the department adopts by rule to substantiate
8 the alleged facts of birth. The department may amend a birth
9 certificate to change or establish the identity of a
10 registrant's parent only pursuant to a court order from a court
11 of appropriate jurisdiction or pursuant to a legal establishment
12 of parenthood pursuant to chapter ~~[584.]~~ _____. Amendments that
13 change or establish the identity of a registrant's parent that
14 are made in accordance with this section shall not be considered
15 corrections of personal records pursuant to chapter 92F."

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

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

19 "(a) All children born to parents not married to each
20 other, irrespective of the marriage of either natural parent to
21 another, (1) on the marriage of the natural parents with each



1 other, (2) on the voluntary, written acknowledgments of
2 [~~paternity~~] parentage under oath signed by the [~~natural father~~
3 ~~and the natural mother,~~] birthing parent and alleged genetic
4 parent, or intended parent under part VIII of chapter _____, or
5 (3) on establishment of the parent and child relationship under
6 chapter [~~584,~~] _____, are entitled to the same rights as those
7 born to parents married to each other and shall take the name so
8 stipulated by their parents or, if the parents do not agree on
9 the name, shall take the name specified by a court of competent
10 jurisdiction to be the name that is in the best interests of the
11 child. The original certificate of birth shall contain the name
12 so stipulated. The child or children or the parents thereof may
13 petition the department of health to issue a new original
14 certificate of birth, and not a duplicate of the original
15 certificate that has been amended, altered, or modified, in the
16 new name of the child, and the department shall issue the new
17 original certificate of birth. As used in this section "name"
18 includes the first name, middle name, or last name."

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

20 "(d) Nothing in this section shall be construed to limit
21 the power of the courts to order the department of health to



1 prepare new certificates of birth under section

2 [~~584-23.~~] -510."

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

5 "§532-6 To child born to parents not married to each
6 other. Every child born to parents not married to each other at
7 the time of the child's birth and for whom the parent and child
8 relationship has not been established pursuant to chapter
9 [~~584~~] _____ shall be considered as an heir to the child's
10 mother, and shall inherit her estate, in whole or in part, as
11 the case may be, in like manner as if the child had been born in
12 lawful wedlock."

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

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

17 (1) To try any offense committed against a child by the
18 child's parent or guardian or by any other person
19 having the child's legal or physical custody, and any
20 violation of section 707-726, 707-727, 709-902,
21 709-903, 709-903.5, 709-904, 709-905, 709-906, or



1 302A-1135, whether or not included in other provisions
2 of this paragraph or paragraph (2);

3 (2) To try any adult charged with:

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

6 (B) An offense, other than a felony, against the
7 person of the defendant's husband or wife;

8 (C) Any violation of an order issued pursuant to
9 chapter 586; or

10 (D) Any violation of an order issued by a family
11 court judge.

12 In any case within paragraph (1) or (2), the court, in its
13 discretion, may waive its jurisdiction over the offense
14 charged;

15 (3) In all proceedings under chapter 580, and in all
16 proceedings under chapter ~~584~~ _____;

17 (4) In proceedings under chapter 575, the Uniform
18 Desertion and Nonsupport Act, and under chapter 576B,
19 the Uniform Interstate Family Support Act;

20 (5) For commitment of an adult alleged to be mentally
21 defective or mentally ill;



(6) In all proceedings for support between parent and child or between ~~[husband and wife,]~~ spouses;

(7) In all proceedings for pre-trial detention or waiver of jurisdiction over an adult who was a child at the time of an alleged criminal act as provided in section 571-13 or 571-22;

(8) In all proceedings under chapter 586, Domestic Abuse Protective Orders; and

(9) For the protection of vulnerable adults under chapter 346, part X.

In any case within paragraph (3), (4), or (6), the attorney general, through the child support enforcement agency, may exercise concurrent jurisdiction as provided in chapter 576E."

SECTION 9. Section 571-50, Hawaii Revised Statutes, is amended to read as follows:

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

At any time during supervision of a child the court may issue notice or other appropriate process to the child if the



1 child is of sufficient age to understand the nature of the
2 process, to the parents, and to any other necessary parties to
3 appear at a hearing on a charge of violation of the terms of
4 supervision, for any change in or modification of the decree or
5 for discharge. The provisions of this chapter relating to
6 process, custody, and detention at other stages of the
7 proceeding shall be applicable.

8 A parent, guardian, custodian, or next friend of any child
9 whose status has been adjudicated by the court, or any adult
10 affected by a decree of the court, at any time may petition the
11 court for a rehearing on the ground that new evidence, which was
12 not known or not available through the exercise of due diligence
13 at the time of the original hearing and which might affect the
14 decree, has been discovered. Upon a satisfactory showing of
15 this evidence, the court shall order a new hearing and make any
16 disposition of the case that the facts and the best interests of
17 the child warrant.

18 A parent, guardian, or next friend of a child whose legal
19 custody has been transferred by the court to an institution,
20 facility, agency, or person may petition the court for
21 modification or revocation of the decree, on the ground that the



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

15 Notwithstanding the foregoing provisions of this section
16 the court's authority with respect to the review, rehearing,
17 renewal, modification, or revocation of decrees, judgments, or
18 orders entered in the hereinbelow listed classes of proceedings
19 shall be limited by any specific limitations set forth in the
20 statutes governing these proceedings or in any other



specifically applicable statutes or rules. These proceedings are as follows:

- (1) Annulment, divorce, separation, and other proceedings under chapter 580;
- (2) Adoption proceedings under chapter 578;
- (3) ~~[Paternity]~~ Parentage proceedings under chapter ~~584;~~ _____;
- (4) Termination of parental rights proceedings under this chapter; and
- (5) State hospital commitment proceedings under chapter 334.

A decree, judgment, or order committing a child to the care of the director of human services shall be reviewable under this section at the instance of others other than duly authorized representatives of the department only after a lapse of thirty days following the date of the decree, judgment, or order, and thereafter only at intervals of not less than one year.

Notwithstanding this section the court shall not conduct a rehearing of any petition, filed under section 571-11(1), which, following a hearing, has been denied or dismissed."



1 SECTION 10. Section 571-52.6, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§571-52.6 Child support order, judgment, or decree;**
4 **accident and health or sickness insurance coverage.** Each order,
5 judgment, or decree under this chapter or chapter 576B, 580, or
6 ~~[584]~~ _____ ordering a person to pay child support shall include
7 the following provisions:

8 (1) Both the obligor and the obligee are required to file
9 with the state case registry, through the child
10 support enforcement agency, upon entry of the child
11 support order and to update as appropriate,
12 information on the identity and location of the party,
13 including social security number, residential and
14 mailing addresses, telephone number, driver's license
15 number if different from social security number, and
16 name, address, and telephone number of the party's
17 employer; and

18 (2) The liability of that person for accident and health
19 or sickness insurance coverage when available at
20 reasonable cost."



SECTION 11. Section 571-84, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) The court shall maintain records of all cases brought before it. Except as provided in sections 571-84.6 and ~~[584-20.5,]~~ -509, in proceedings under section 571-11 and in ~~[paternity]~~ parentage proceedings under chapter ~~[584,]~~ , the following records shall be withheld from public inspection: the court docket, petitions, complaints, motions, and other papers filed in any case; transcripts of testimony taken by the court; and findings, judgments, orders, decrees, and other papers other than social records filed in proceedings before the court. The records other than social records shall be open to inspection: by the parties and their attorneys, by an institution or agency to which custody of a minor has been transferred, and by an individual who has been appointed guardian; with consent of the judge, by persons having a legitimate interest in the proceedings from the standpoint of the welfare of the minor; and, pursuant to order of the court or the rules of court, by persons conducting pertinent research studies, and by persons, institutions, and agencies having a



1 legitimate interest in the protection, welfare, treatment, or
 2 disposition of the minor."

3 SECTION 12. Section 571-84.5, Hawaii Revised Statutes, is
 4 amended to read as follows:

5 "§571-84.5 Support order, decree, judgment, or
 6 acknowledgment; social security number. The social security
 7 number of any individual who is a party to a divorce decree, or
 8 subject to a support order or [~~paternity~~] parentage
 9 determination, or has made an acknowledgment of [~~paternity~~]
 10 parentage issued under this chapter or chapter 576B, 580, or
 11 [~~584~~] _____ shall be placed in the records relating to the
 12 matter."

13 SECTION 13. Section 571-87, Hawaii Revised Statutes, is
 14 amended by amending subsection (c) to read as follows:

15 "(c) The maximum allowable fee shall not exceed the
 16 following schedule:

17 (1) Cases arising under chapters [~~+~~]587A[~~+~~] and 346,
 18 part X:

19 (A) Predisposition
 20 \$3,000;



(B) Postdisposition review hearing

\$1,000;

(2) Cases arising under chapters 560, 571, 580, and

[584] ____

\$3,000.

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

SECTION 14. Section 571-92, Hawaii Revised Statutes, is amended to read as follows:

"§571-92 Application. This part shall only apply to actions under chapters 580 and ~~[584.]~~ _____. Nothing in this part shall supersede any provision of any existing state or federal law. The provisions in this part shall be interpreted consistently with other relevant laws and the standard of "best interest of the child" shall remain paramount."



SECTION 15. Section 574-3, Hawaii Revised Statutes, is amended to read as follows:

"§574-3 Children born to parents not married to each other. The registrar of births shall register any child born to parents not married to each other at the time of the child's birth and where either the natural parents have not married each other or where the parent and child relationship has not been established pursuant to chapter [584,] _____, as having both a family name and given name chosen by the ~~[mother.]~~ individual who gave birth to the child."

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

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

- (1) A presumed ~~[father]~~ parent of the child;
- (2) Petitioning to have ~~[paternity]~~ parentage adjudicated;
- (3) Identified as the ~~[father]~~ parent of the child through genetic testing;
- (4) An alleged ~~[father]~~ parent who has declined to submit to genetic testing;



1 (5) Shown by clear and convincing evidence to be the
2 ~~[father]~~ parent of the child;

3 (6) An acknowledged ~~[father]~~ parent as provided by section
4 ~~[584-3.5;]~~ -403;

5 (7) The ~~[mother of]~~ individual who gave birth to the
6 child; or

7 (8) An individual who has been ordered to pay child
8 support in a previous proceeding and the order has not
9 been reversed or vacated."

10 SECTION 17. Section 576B-402, Hawaii Revised Statutes, is
11 amended by amending subsection (b) to read as follows:

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

15 SECTION 18. Section 576E-2, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "**§576E-2 Attorney general; powers.** Notwithstanding any
18 other law to the contrary, the attorney general, through the
19 agency and the office, shall have concurrent jurisdiction with
20 the court in all proceedings in which a support obligation is
21 established, modified, or enforced, including but not limited to



proceedings under chapters 571, 580, [~~584,~~] _____, and 576B.

The attorney general, through the agency and the office, may establish, modify, suspend, terminate, and enforce child support obligations and collect or enforce spousal support using the administrative process provided in this chapter on all cases for which the department has a responsibility under Title IV-D of the Social Security Act, including but not limited to welfare and nonwelfare cases in which the responsible parent is subject to the department's jurisdiction, regardless of the residence of the children for whom support is sought. These powers shall include but not be limited to the power to:

(1) Conduct investigations into the ability of parties to pay support and into nonpayment of support;

(2) Administer oaths, issue subpoenas, and require production of books, accounts, documents, and evidence;

(3) Establish, modify, suspend, terminate, or enforce a child support order and to collect or enforce a spousal support order in conjunction with a child support order;



- 1 (4) Determine that a party has not complied with a court
2 or administrative order of support and make
3 recommendations to the court or other agency with
4 respect to contempt or other appropriate proceedings;
- 5 (5) Establish arrearage;
- 6 (6) Establish an order for child support for periods which
7 public assistance was provided to the child or
8 children by the department of human services;
- 9 (7) Order and enforce assignment of future income under
10 section 576E-16, chapter 571, and section 576D-14;
- 11 (8) Exercise the powers and authority described in this
12 section, notwithstanding the existence of a prior
13 court or administrative order of support issued by
14 another state or foreign jurisdiction, except as
15 modified or limited by this chapter;
- 16 (9) Determine that an obligor owes past-due support with
17 respect to a child receiving assistance under a state
18 program funded under Title IV-A of the Social Security
19 Act, including Aid to Families with Dependent Children
20 and Temporary Assistance to Needy Families and
21 petition the court to issue an order that requires the



1 obligor to pay the support in accordance with a plan
2 approved by the court or, if the obligor is subject to
3 a plan and is not incapacitated, participate in work
4 activities, as defined in 42 U.S.C. §607(d), as the
5 court deems appropriate;

6 (10) Order genetic testing pursuant to chapter
7 [584] _____ for the purpose of establishing
8 [~~paternity,~~] parentage, with payment of costs to be
9 made by the agency, subject to recoupment by the State
10 from [~~the father or the mother,~~] a parent, if
11 appropriate, if [~~paternity~~] parentage is established,
12 and to also order additional testing in any case if an
13 original test result is contested, upon request and
14 advance payment by the contestant;

15 (11) Exercise the powers and authority described in this
16 section, notwithstanding the existence of a prior
17 court or administrative order of support issued by
18 another state or foreign jurisdiction, except as
19 modified or limited by this chapter and chapter 576B;
20 and



1 (12) Delegate the powers and authority described in this
2 section to hearings officers and employees of the
3 agency."

4 SECTION 19. Section 580-47, Hawaii Revised Statutes, is
5 amended by amending subsection (a) to read as follows:

6 "(a) Upon granting a divorce, or thereafter if, in
7 addition to the powers granted in subsections (c) and (d),
8 jurisdiction of those matters is reserved under the decree by
9 agreement of both parties or by order of court after finding
10 that good cause exists, the court may make any further orders
11 that appear just and equitable (1) compelling the parties or
12 either of them to provide for the support, maintenance, and
13 education of the children of the parties; (2) compelling either
14 party to provide for the support and maintenance of the other
15 party; (3) finally dividing and distributing the estate of the
16 parties, real, personal, or mixed, whether community, joint, or
17 separate; and (4) allocating, as between the parties, the
18 responsibility for the payment of the debts of the parties
19 whether community, joint, or separate, and the ~~[attorney's]~~
20 attorneys' fees, costs, and expenses incurred by each party by
21 reason of the divorce. In making these further orders, the



1 court shall take into consideration: the respective merits of
2 the parties, the relative abilities of the parties, the
3 condition in which each party will be left by the divorce, the
4 burdens imposed upon either party for the benefit of the
5 children of the parties, the concealment of or failure to
6 disclose income or an asset, or violation of a restraining order
7 issued under section 580-10(a) or (b), if any, by either party,
8 and all other circumstances of the case. In establishing the
9 amounts of child support, the court shall use the guidelines
10 established under section 576D-7. Provision may be made for the
11 support, maintenance, and education of an adult or minor child
12 and for the support, maintenance, and education of an
13 incompetent adult child regardless of whether the petition is
14 made before or after the child has attained the age of majority.
15 In those cases where child support payments are to continue due
16 to the adult child's pursuance of education, the agency, at
17 least three months before the adult child's nineteenth birthday,
18 shall send notice by regular mail to the adult child and the
19 custodial parent that prospective child support will be
20 suspended unless proof is provided by the custodial parent or
21 adult child to the child support enforcement agency, before the



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

13 In addition to any other relevant factors considered, the
14 court, in ordering spousal support and maintenance, shall
15 consider the following factors:

- 16 (1) Financial resources of the parties;
- 17 (2) Ability of the party seeking support and maintenance
18 to meet the party's needs independently;
- 19 (3) Duration of the marriage;
- 20 (4) Standard of living established during the marriage;
- 21 (5) Age of the parties;



1 (6) Physical and emotional condition of the parties;

2 (7) Usual occupation of the parties during the marriage;

3 (8) Vocational skills and employability of the party

4 seeking support and maintenance;

5 (9) Needs of the parties;

6 (10) Custodial and child support responsibilities;

7 (11) Ability of the party from whom support and maintenance

8 is sought to meet the party's own needs while meeting

9 the needs of the party seeking support and

10 maintenance;

11 (12) Other factors that measure the financial condition in

12 which the parties will be left as the result of the

13 action under which the determination of maintenance is

14 made; and

15 (13) Probable duration of the need of the party seeking

16 support and maintenance.

17 The court may order support and maintenance to a party for

18 an indefinite period or until further order of the court;

19 provided that in the event the court determines that support and

20 maintenance shall be ordered for a specific duration wholly or

21 partly based on competent evidence as to the amount of time that



1 will be required for the party seeking support and maintenance
2 to secure adequate training, education, skills, or other
3 qualifications necessary to qualify for appropriate employment,
4 whether intended to qualify the party for a new occupation,
5 update or expand existing qualification, or otherwise enable or
6 enhance the employability of the party, the court shall order
7 support and maintenance for a period sufficient to allow
8 completion of the training, education, skills, or other
9 activity, and shall allow, in addition, sufficient time for the
10 party to secure appropriate employment."

11 SECTION 20. Section 607-5.6, Hawaii Revised Statutes, is
12 amended by amending subsection (a) to read as follows:

13 "(a) In addition to the fees prescribed under section
14 607-5 for a matrimonial action where either party has a minor
15 child, or a family court proceeding under chapter [584,] _____,
16 the court shall collect a surcharge of \$50 at the time of filing
17 the initial complaint or petition. In cases where the surcharge
18 has been initially waived, the court may collect the surcharge
19 subsequent to the filing with [~~such~~] the surcharge to be
20 assessed from either party or apportioned between both parties."



1 SECTION 21. Section 634-37, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§634-37 Presumption of notice and service of process in**
4 **child support cases.** Whenever notice and service of process is
5 required for child support enforcement proceedings subsequent to
6 an order issued pursuant to chapter 571, 576B, 576E, 580, or
7 ~~[584,]~~ , upon a showing that diligent effort has been made
8 to ascertain the location of a party, notice and service of
9 process shall be presumed to be satisfied upon delivery of
10 written notice to the most recent residential or employer
11 address on file with the state case registry pursuant to section
12 571-52.6."

13 SECTION 22. Chapter 584, Hawaii Revised Statutes, is
14 repealed.

15 SECTION 23. This Act does not affect rights and duties
16 that matured, penalties that were incurred, and proceedings that
17 were begun before its effective date.

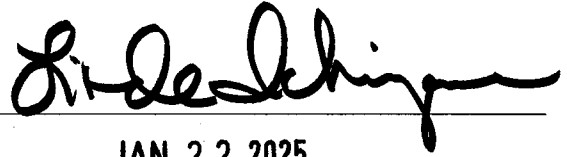
18 SECTION 24. Statutory material to be repealed is bracketed
19 and stricken. New statutory material is underscored.



1 SECTION 25. This Act shall take effect on January 1, 2026.

2

INTRODUCED BY:



JAN 22 2025



H.B. NO. 1193

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.

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

