

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2 Evidence relating to paternity may include:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7 (i) A presumed parent;

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

9 (iii) A donor.

10 (4) "Assisted reproduction" means a method of causing pregnancy other than through
11 sexual intercourse and includes, but is not limited to:

12 (i) Intrauterine, intracervical insemination, or vaginal insemination;

13 (ii) Donation of gametes;

14 (iii) Donation of embryos;

15 (iv) In vitro fertilization and transfer of embryos; and

16 (v) Intracytoplasmic sperm injection.

17 (5) "Birth" includes birth and fetal death.

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

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

23 (8) "Combined relationship index" means the product of all tested relationship indices.

24 (9) "Department of health" means the Rhode Island department of health, center for vital
25 records.

26 (10) "Determination of parentage" means establishment of a parent-child relationship by
27 a judicial or administrative proceeding or signing of a valid acknowledgment of parentage
28 pursuant to §§ 15-8.1-12 through 15-8.1-26.

29 (11) "Donor" means an individual who provides a gamete or gametes or an embryo or
30 embryos intended for assisted reproduction or gestation, whether or not for consideration. This
31 term does not include:

32 (i) A person who gives birth to a child conceived by assisted reproduction, except as
33 otherwise provided in §§ 15-8.1-68 through 15-8.1-84; or

34 (ii) A parent or an intended parent provided for pursuant to §§ 15-8.1-59 through 15-8.1-

1 84.

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

5 (13) "Gamete" means sperm, egg, or any part of a sperm or egg.

6 (14) "Genetic surrogate" means a person who is not an intended parent and who agrees to
7 become pregnant through assisted reproduction using the surrogate's own gamete, under a genetic
8 surrogacy agreement as provided in this chapter.

9 (15) "Genetic testing" means an analysis of genetic markers to identify or exclude a
10 genetic relationship.

11 (16) "Gestational surrogate" means a person who is not an intended parent and who
12 agrees to become pregnant through assisted reproduction using gametes that are not the
13 surrogate's own, under a gestational surrogacy agreement as provided in this chapter.

14 (17) "Hypothesized genetic relationship" means an asserted genetic relationship between
15 an individual and a child.

16 (18) "Individual" means a natural person of any age.

17 (19) "Intended parent" means an individual, married or unmarried, who manifests an
18 intent to be legally bound as a parent of a child conceived by assisted reproduction or a
19 gestational carrier agreement.

20 (20) "Marriage" includes any legal relationship that provides substantially the same
21 rights, benefits, and responsibilities as marriage and is recognized as valid in the state or
22 jurisdiction in which it was entered.

23 (21) "Parent" means an individual who has established parentage that meets the
24 requirements of this chapter.

25 (22) "Parentage" or "parent-child relationship" means the legal relationship between a
26 child and a parent of the child.

27 (23) "Presumed parent" means an individual who, under § 15-8.1-11, is presumed to be a
28 parent of a child, unless the presumption is overcome in a judicial proceeding, a valid denial of
29 parentage is made under §§ 15-8.1-13 through 15-8.1-14, or a court adjudicates the individual to
30 be a parent.

31 (24) "Probability of parentage" means, for the ethnic or racial group to which an
32 individual alleged to be a parent belongs, the probability that a hypothesized genetic relationship
33 is supported, compared to the probability that a genetic relationship is supported between the
34 child and a random individual of the ethnic or racial group used in the hypothesized genetic

1 relationship, expressed as a percentage incorporating the combined relationship index and a prior
2 probability.

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

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

9 (27) "Sign" means, with intent to authenticate or adopt a record to:

10 (i) Execute or adopt a tangible symbol; or

11 (ii) Attach to or logically associate with the record an electronic symbol, sound, or
12 process.

13 (28) "Signatory" means an individual who signs a record.

14 (29) "Surrogacy agreement" means an agreement between one or more intended parents
15 and a person who is not an intended parent in which the person agrees to become pregnant
16 through assisted reproduction and which provides that each intended parent is a parent of a child
17 conceived under the agreement. Unless otherwise specified, the term refers to both a gestational
18 surrogacy agreement and a genetic surrogacy agreement.

19 (30) "Transfer" means a procedure for assisted reproduction by which an embryo or
20 sperm is placed in the body of the person who will give birth to the child.

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

23 **15-8.1-3. Scope.**

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

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

27 **15-8.1-4. Authorized court.**

28 The family court may adjudicate parentage under this chapter.

29 **15-8.1-5. Applicable law.**

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

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

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

34 **15-8.1-6. Data privacy.**

1 Other than the provisions of this chapter, a proceeding under this chapter is subject to the
2 laws of this state, which govern the health, safety, privacy, and liberty of a child or other
3 individual who could be affected by disclosure of information that could identify the child or
4 other individual, including address, telephone number, digital contact information, place of
5 employment, social security number, and the child's day-care facility or school.

6 **15-8.1-7. Establishment of parentage.**

7 To the extent practicable, a provision of this chapter applicable to a father-child
8 relationship applies to a mother-child relationship and a provision of this chapter applicable to a
9 mother-child relationship applies to a father-child relationship. This chapter is intended to allow
10 access to establish parentage in a gender-neutral manner.

11 **15-8.1-8. Establishment of parent-child relationship.**

12 (a) A parent-child relationship is established between an individual and a child if:

13 (1) The individual gives birth to the child, except as otherwise provided pursuant to §§
14 15-8.1-68 through 15-8.1-84;

15 (2) There is a presumption under § 15-8.1-11 of the individual's parentage of the child,
16 unless the presumption is overcome in a judicial proceeding or a valid denial of parentage is made
17 under §§ 15-8.1-13 through 15-8.1-14;

18 (3) The individual is adjudicated a parent of the child pursuant to §§ 15-8.1-27 through
19 15-8.1-37;

20 (4) The individual adopts the child pursuant to chapter 7 of title 15;

21 (5) The individual acknowledges parentage of the child pursuant to §§ 15-8.1-12 through
22 15-8.1-26, unless the acknowledgment is rescinded pursuant to the provisions of § 15-8.1-19 or
23 otherwise successfully challenged pursuant to any authority contained in §§ 15-8.1-12 through
24 15-8.1-26, or §§ 15-8.1-38 through 15-8.1-58;

25 (6) The individual is adjudicated a de facto parent of the child pursuant to § 15-8.1-46; or

26 (7) The individual's parentage of the child is established pursuant to §§ 15-8.1-59 through
27 15-8.1-67.

28 **15-8.1-9. Nondiscrimination.**

29 Every child has the same rights under law as any other child without regard to the marital
30 status, sex, or gender of the parents or the circumstances of the birth of the child.

31 **15-8.1-10. Consequences of establishing parentage.**

32 Unless parental rights have been terminated, a parent-child relationship established under
33 this chapter applies for all purposes, including the rights and duties of parentage, except as
34 otherwise provided by law of this state other than this chapter.

1 **15-8.1-11. Presumption of parentage.**

2 (a) Except as otherwise provided under §§ 15-8.1-68 through 15-8.1-84, an individual is
3 presumed to be a parent of a child if:

4 (1) The individual and the person who gave birth to the child are married to each other
5 and the child is born during the marriage, whether the marriage is or could be declared invalid;

6 (2) The individual and the person who gave birth to the child were married to each other
7 and the child is born not later than three hundred (300) days after the marriage is terminated by
8 death, divorce, or annulment, whether the marriage is or could be declared invalid; or

9 (3) The individual and the person who gave birth to the child married each other after the
10 birth of the child, whether the marriage is or could be declared invalid, the individual at any time
11 asserted parentage of the child, and:

12 (i) The assertion is in a record filed with the department of health; or

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

15 (2) While the child is under the age of majority, the individual, jointly with the person
16 who gave birth, received the child into his or her home and openly held out the child as his or her
17 child.

18 (b) A presumption of parentage under this section may be overcome, and competing
19 claims to parentage may be resolved, only by an adjudication under §§ 15-8.1-38 through 15-8.1-
20 58 or a valid denial of parentage under §§ 15-8.1-12 through 15-8.1-26.

21 **15-8.1-12. Voluntary acknowledgment of parentage.**

22 (1) A person who gave birth to a child;

23 (2) An alleged genetic parent;

24 (3) An intended parent under §§ 15-8.1-59 through 15-8.1-67; or

25 (4) A presumed parent may sign an acknowledgment of parentage to establish the
26 parentage of the child.

27 **15-8.1-13. Execution of acknowledgment of parentage.**

28 (a) An acknowledgment of parentage under § 15-8.1-12 must:

29 (1) Be in a record signed by the person who gave birth to the child and by the individual
30 seeking to establish a parent-child relationship, and the signatures must be attested by a notary or
31 witnessed;

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

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

1 (ii) Does not have another acknowledged parent, adjudicated parent, or individual who is
2 a parent of the child under §§ 15-8.1-59 through 15-8.1-67 other than the person who gave birth
3 to the child; and

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

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

9 (1) An individual other than the individual seeking to establish parentage is a presumed
10 parent, unless a denial of parentage by the presumed parent in a signed record is filed with the
11 department of health; or

12 (2) An individual, other than the person who gave birth to the child or the individual
13 seeking to establish parentage, is an acknowledged or adjudicated parent or a parent under §§ 15-
14 8.1-59 through 15-8.1-67 or §§ 15-8.1-68 through 15-8.1-84.

15 **15-8.1-14. Denial of parentage.**

16 (a) A presumed parent or alleged genetic parent may sign a denial of parentage in a
17 record only in the limited circumstances set forth in this section. A denial of parentage is valid
18 only if:

19 (1) An acknowledgment of parentage by another individual has been filed pursuant to this
20 chapter;

21 (2) The signature of the presumed parent or alleged genetic parent is attested by a notary
22 or witnessed; and

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

24 (i) Completed a valid acknowledgment of parentage, unless the previous
25 acknowledgment was rescinded pursuant to § 15-8.1-19 or challenged successfully; or

26 (ii) Been adjudicated to be a parent of the child.

27 **15-8.1-15. Rules for acknowledgment or denial of parentage.**

28 (a) An acknowledgment of parentage and a denial of parentage may be contained in a
29 single document or may be in counterparts and may be filed with the department of health
30 separately or simultaneously. If filing of the acknowledgment and denial both are required under
31 this chapter, neither is effective until both are filed.

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

34 (c) Subject to subsection (a) of this section, an acknowledgment of parentage or denial of

1 parentage takes effect on the birth of the child or filing of the document with the department of
2 health whichever occurs later.

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

5 **15-8.1-16. Effect of acknowledgment or denial of parentage.**

6 (a) Except as otherwise provided in §§ 15-8.1-19 and 15-8.1-20, an acknowledgment of
7 parentage that complies with this chapter and is filed with the department of health is equivalent
8 to an adjudication of parentage of the child and confers on the acknowledged parent all rights and
9 duties of a parent.

10 (b) Except as otherwise provided in §§ 15-8.1-19 and 15-8.1-20, a denial of parentage by
11 a presumed parent or alleged genetic parent which complies with this chapter and is filed with the
12 department of health with an acknowledgment of parentage that complies with this chapter is
13 equivalent to an adjudication of the nonparentage of the presumed parent or alleged genetic
14 parent and discharges the presumed parent or alleged genetic parent from all rights and duties of a
15 parent.

16 **15-8.1-17. Filing fees.**

17 The department of health may not charge a fee for filing an acknowledgment of parentage
18 or denial of parentage at a hospital.

19 **15-8.1-18. Ratification barred.**

20 A court conducting a judicial proceeding or an administrative agency conducting an
21 administrative proceeding is not required or permitted to ratify an unchallenged acknowledgment
22 of parentage.

23 **15-8.1-19. Procedure for rescission.**

24 (a) A signatory may rescind an acknowledgment of parentage or denial of parentage by
25 filing with the department of health a rescission in a signed record which is attested by a notary or
26 witnessed, before the earlier of:

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

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

31 (b) If an acknowledgment of parentage is rescinded under subsection (a) of this section,
32 an associated denial of parentage is invalid, and the department of health shall notify the
33 individual who gave birth to the child and the individual who signed a denial of parentage of the
34 child that the acknowledgment has been rescinded. Failure to give the notice required by this

1 subsection does not affect the validity of the rescission.

2 **15-8.1-20. Challenge after expiration of period for rescission.**

3 (a) After the period for rescission under § 15-8.1-19 expires, but not later than two (2)
4 years after the effective date under § 15-8.1-15 of an acknowledgment of parentage or denial of
5 parentage, a signatory of the acknowledgment or denial may commence a proceeding to challenge
6 the acknowledgment or denial, including a challenge brought under § 15-8.1-49, only on the basis
7 of fraud, duress, or material mistake of fact.

8 (b) A challenge to an acknowledgment of parentage or denial of parentage by an
9 individual who was not a signatory to the acknowledgment or denial is governed by § 15-8.1-47.

10 **15-8.1-21. Procedure for challenge by signatory.**

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

13 (b) By signing an acknowledgment of parentage or denial of parentage, a signatory
14 submits to personal jurisdiction in this state in a proceeding to challenge the acknowledgment or
15 denial, effective on the filing of the acknowledgment or denial with the department of health.

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

20 (d) A party challenging an acknowledgment of parentage or denial of parentage has the
21 burden of proof by clear and convincing evidence.

22 (e) If the court determines that a party has satisfied the burden of proof under subsection
23 (d) of this section, the court shall order them to amend the birth record of the child to reflect the
24 legal parentage of the child.

25 (f) A proceeding to challenge an acknowledgment of parentage or denial of parentage
26 must be conducted pursuant to §§ 15-8.1-38 through 15-8.1-58.

27 **15-8.1-22. Full faith and credit.**

28 This state shall give full faith and credit to an acknowledgment of parentage or denial of
29 parentage effective in another state if the acknowledgment or denial was in a signed record and
30 otherwise complies with law of the other state.

31 **15-8.1-23. Forms for acknowledgment and denial of parentage.**

32 (a) The department of health shall develop forms for an acknowledgment of parentage
33 and denial of parentage consistent with this chapter.

34 (b) A valid acknowledgment of parentage or denial of parentage is not affected by a later

1 modification of the form under subsection (a) of this section.

2 **15-8.1-24. Release of information.**

3 The department of health may release information relating to an acknowledgment of
4 parentage or denial of parentage to a signatory of the acknowledgment or denial, the child, a
5 court, federal agency, and child-support agency of this or another state.

6 **15-8.1-25. Child's name.**

7 The signatories to an acknowledgment of parentage can agree on any name or surname
8 for the child. There shall be no requirement that the child born to an unmarried person giving
9 birth must bear the surname of the person giving birth.

10 **15-8.1-26. Adoption of rules.**

11 The department of health may adopt rules to implement this chapter.

12 **15-8.1-27. Scope; Limitation on use of genetic testing.**

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

15 (1) Voluntarily submits to testing; or

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

18 (b) Genetic testing may not be used:

19 (1) To challenge the parentage of an individual who is a parent under §§ 15-8.1-59
20 through 15-8.1-67 or §§ 15-8.1-68 through 15-8.1-84; or

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

22 **15-8.1-28. Authority to order or deny genetic testing.**

23 (a) Except as otherwise provided in §§ 15-8.1-38 through 15-8.1-58, in a proceeding
24 under this chapter to determine parentage, the court shall order the child and any other individual
25 to submit to genetic testing if a request for testing is supported by the sworn statement of a party:

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

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

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

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

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

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

6 (f) In a proceeding to adjudicate the parentage of a child having a presumed parent or an
7 individual who claims to be a parent under § 15-8.1-46, or to challenge an acknowledgment of
8 parentage, the court may deny a motion for genetic testing of the child and any other individual
9 after considering the factors in § 15-8.1-50.

10 (g) If an individual requesting genetic testing is barred under this chapter from
11 establishing the individual's parentage, the court shall deny the request for genetic testing.

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

13 **15-8.1-29. Requirements for genetic testing.**

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

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

18 (2) An accrediting body designated by the secretary of the United States Department of
19 Health and Human Services.

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

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

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

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

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

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

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

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

9 **15-8.1-30. Report of genetic testing.**

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

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

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

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

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

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

20 (5) The date each specimen was received.

21 **15-8.1-31. Genetic testing results; Challenge to results.**

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

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

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

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

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

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

34 (i) The individual who gave birth to the child; or

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

2 (c) Except as otherwise provided in § 15-8.1-36, if more than one individual, other than
3 the individual who gave birth, is identified by genetic testing as a possible genetic parent of the
4 child, the court shall order each individual to submit to further genetic testing to identify a genetic
5 parent.

6 **15-8.1-32. Cost of genetic testing.**

7 (a) Subject to assessment of fees, payment of the cost of initial genetic testing must be
8 made in advance:

9 (1) By a child-support agency in a proceeding in which the child-support agency is
10 providing services:

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

12 (3) As agreed by the parties; or

13 (4) As ordered by the court.

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

16 **15-8.1-33. Additional genetic testing.**

17 The court or child-support agency shall order additional genetic testing on request of an
18 individual who contests the result of the initial testing under § 15-8.1-31. If initial genetic testing
19 under § 15-8.1-31 identified an individual as a genetic parent of the child, the court or agency
20 may not order additional testing unless the contesting individual pays for the testing in advance.

21 **15-8.1-34. Genetic testing when specimen not available.**

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

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

27 (2) A sibling of the alleged genetic parent; and

28 (3) Another relative of the alleged genetic parent as the court deems necessary to
29 complete genetic testing.

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

32 **15-8.1-35. Deceased individual.**

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

1 **15-8.1-36. Identical siblings.**

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

5 (b) If more than one sibling is identified under § 15-8.1-31 as a genetic parent of the
6 child, the court may rely on nongenetic evidence to adjudicate which sibling is a genetic parent of
7 the child.

8 **15-8.1-37. Confidentiality of genetic testing.**

9 (a) A report of genetic testing for parentage is exempt from public inspection and
10 copying, shall not be a public record, and shall be kept confidential and released only as provided
11 in this chapter.

12 (b) A person shall not intentionally release a report of genetic testing or the genetic
13 material of another person for a purpose not relevant to a parentage proceeding without the
14 written permission of the person who furnished the genetic material or a court order. A person
15 who violates this section commits an appropriate level misdemeanor.

16 **15-8.1-38. Proceeding authorized.**

17 (a) A proceeding may be commenced to adjudicate the parentage of a child. Except as
18 otherwise provided in this chapter, the proceeding is governed by the rules of procedure for
19 domestic relations.

20 (b) A proceeding to adjudicate the parentage of a child born under a surrogacy agreement
21 is governed by §§ 15-8.1-68 through 15-8.1-84.

22 **15-8.1-39. Standing to maintain proceeding.**

23 Except as otherwise provided in §§ 15-8.1-12 through 15-8.1-26 and §§ 15-8.1-45
24 through 15-8.1-48, a proceeding to adjudicate parentage may be maintained by:

25 (1) The child;

26 (2) The individual who gave birth to the child, unless a court has adjudicated that the
27 individual is not a parent;

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

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

30 (5) The office of child support services;

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

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

1 **15-8.1-40. Notice of proceeding.**

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

4 (1) The individual who gave birth to the child, unless a court has adjudicated that this
5 individual is not a parent;

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

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

8 (4) The child, if the child is above the age of fourteen (14); and

9 (5) An individual whose parentage of the child is to be adjudicated.

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

12 (c) Lack of notice required by subsection (a) of this section does not render a judgment
13 void. Lack of notice does not preclude an individual entitled to notice under subsection (a) of this
14 section from bringing a proceeding under § 15-8.1-48(b).

15 **15-8.1-41. Personal jurisdiction.**

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

18 (b) A court of this state with jurisdiction to adjudicate parentage may exercise personal
19 jurisdiction over a nonresident individual, or the guardian or conservator of the individual, if the
20 conditions prescribed in § 15-23.1-201 (UIFSA) are satisfied.

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

23 **15-8.1-42. Venue.**

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

25 (1) The child resides or is located or is or will be born;

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

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

29 **15-8.1-43. Admissibility of results of genetic testing.**

30 (a) Except as otherwise provided in § 15-8.1-27(b), the court shall admit a report of
31 genetic testing ordered by the court under § 15-8.1-28 as evidence of the truth of the facts
32 asserted in the report.

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

1 specific grounds for exclusion.

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

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

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

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

9 **15-8.1-44. Adjudicating parentage of child with alleged genetic parent.**

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

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

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

14 (b) Except as otherwise provided in § 15-8.1-51, this subsection applies in a proceeding
15 described in subsection (a) of this section if the person who gave birth to the child is the only
16 other individual with a claim to parentage of the child. The court shall adjudicate an alleged
17 genetic parent to be a parent of the child if the alleged genetic parent:

18 (1) Is identified under § 15-8.1-31 as a genetic parent of the child and the identification is
19 not successfully challenged under § 15-8.1-31;

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

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

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

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

30 (c) For the purpose of this section, if the court declares parentage pursuant to this section,
31 the alleged genetic parent's liability for past education and necessary support and maintenance are
32 limited to a period of six (6) years next preceding the commencement of an action under the
33 provisions of this chapter.

34 (d) Except as otherwise provided in § 15-8.1-51 and subject to other limitations in this

1 part, if in a proceeding involving an alleged genetic parent, at least one other individual in
2 addition to the person who gave birth to the child has a claim to parentage of the child, the court
3 shall adjudicate parentage under § 15-8.1-51.

4 **15-8.1-45. Adjudicating parentage of child with presumed parent.**

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

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

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

9 (b) A presumption of parentage under § 15-8.1-11 cannot be overcome after the child
10 attains two (2) years of age unless the court determines:

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

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

14 (c) Except as otherwise provided in § 15-8.1-51, the following rules apply in a
15 proceeding to adjudicate a presumed parent's parentage of a child if the person who gave birth to
16 the child is the only other individual with a claim to parentage of the child:

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

19 (2) If the presumed parent is identified under § 15-8.1-31 as a genetic parent of the child
20 and that identification is not successfully challenged under § 15-8.1-31, the court shall adjudicate
21 the presumed parent to be a parent of the child.

22 (3) If the presumed parent is not identified under § 15-8.1-31 as a genetic parent of the
23 child and the presumed parent or the person who gave birth to the child challenges the presumed
24 parent's parentage of the child, the court shall adjudicate the parentage of the child in the best
25 interest of the child based on the factors under §§ 15-8.1-50(a) and (b).

26 (d) Except as otherwise provided in § 15-8.1-51 and subject to other limitations in this
27 chapter, if in a proceeding to adjudicate a presumed parent's parentage of a child, another
28 individual in addition to the person who gave birth to the child asserts a claim to parentage of the
29 child, the court shall adjudicate parentage under § 15-8.1-50.

30 **15-8.1-46. Adjudicating claim of de facto parentage of child.**

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

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

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

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

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

4 (2) While the child is alive.

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

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

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

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

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

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

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

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

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

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

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

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

1 (e) Subject to other limitations in this chapter, if in a proceeding to adjudicate parentage
2 of an individual who claims to be a de facto parent of the child, there is more than one other
3 individual who is a parent or has a claim to parentage of the child and the court determines that
4 the requirements of subsection (d) of this section are satisfied, the court shall adjudicate parentage
5 under § 15-8.1-50.

6 **15-8.1-47. Adjudicating parentage of child with acknowledged parent.**

7 (a) If a child has an acknowledged parent, a proceeding to challenge the acknowledgment
8 of parentage or a denial of parentage, brought by a signatory to the acknowledgment or denial, is
9 governed by §§ 15-8.1-20 and 15-8.1-21.

10 (b) If a child has an acknowledged parent, the following rules apply in a proceeding to
11 challenge the acknowledgment of parentage or a denial of parentage brought by an individual,
12 other than the child, who has standing pursuant to § 15-8.1-39 and was not a signatory to the
13 acknowledgment or denial:

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

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

18 (3) If the court permits the proceeding, the court shall adjudicate parentage under § 15-
19 8.1-48.

20 **15-8.1-48. Adjudicating parentage of child with adjudicated parent.**

21 (a) If a child has an adjudicated parent, a proceeding to challenge the adjudication,
22 brought by an individual who was a party to the adjudication or received notice under § 15-8.1-
23 37, is governed by the rules governing a collateral attack on a judgment.

24 (b) If a child has an adjudicated parent, the following rules apply to a proceeding to
25 challenge the adjudication of parentage brought by an individual, other than the child, who has
26 standing under § 15-8.1-39 and was not a party to the adjudication and did not receive notice
27 under § 15-8.1-40:

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

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

32 (3) If the court permits the proceeding, the court shall adjudicate parentage under § 15-
33 8.1-50.

34 **15-8.1-49. Adjudicating parentage of child of assisted reproduction.**

1 An individual who is a parent under §§ 15-8.1-59 through 15-8.1-67 relating to assisted
2 reproduction, or the individual who gave birth to the child may bring a proceeding to adjudicate
3 parentage. If the court determines the individual is a parent under §§ 15-8.1-59 through 15-8.1-67
4 relating to assisted reproduction, the court shall adjudicate the individual to be a parent of the
5 child.

6 **15-8.1-50. Adjudicating competing claims of parentage.**

7 (a) Except as otherwise provided in § 15-8.1-51, in a proceeding to adjudicate competing
8 claims of, or challenges under §§ 15-8.1-45(c), 15-8.1-47, or 15-8.1-48 to, parentage of a child by
9 two (2) or more individuals, the court shall adjudicate parentage in the best interest of the child,
10 based on:

11 (1) The age of the child;

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

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

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

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

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

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

22 (1) The facts surrounding the discovery the individual might not be a genetic parent of
23 the child; and

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

26 (c) The court may adjudicate a child to have more than two (2) parents under this act if
27 the court finds that it is in the best interests of the child to do so. A finding of best interests of the
28 child under this subsection does not require a finding of unfitness of any parent or person seeking
29 an adjudication of parentage.

30 **15-8.1-51. Precluding establishment of parentage by perpetrator of sexual assault.**

31 (a) In this section, "sexual assault" shall include first-degree sexual assault as defined in §
32 11-37-2 and similar offenses in other jurisdictions.

33 (b) In a proceeding in which a person is alleged to have committed a sexual assault that
34 resulted in the birth of a child, the person giving birth may seek to preclude the establishment of

1 the other person's parentage.

2 (c) This section shall not apply if:

3 (1) The person alleged to have committed the sexual assault has previously been
4 adjudicated to be a parent of the child; or

5 (2) After the birth of the child, the person alleged to have committed the sexual assault
6 established a bonded and dependent relationship with the child which is parental in nature.

7 (d) Unless §§ 15-8.1-20 or 15-8.1-44 applies, a person giving birth must file a pleading
8 making an allegation under subsection (b) of this section not later than two (2) years after the
9 birth of the child. The person giving birth may file the pleading only in a proceeding to establish
10 parentage under this act.

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

12 (1) Evidence that the person alleged to have committed the sexual assault was convicted
13 of a sexual assault, or a comparable crime in another jurisdiction, against the person giving birth
14 and the child was born not later than three hundred (300) days after the sexual assault; or

15 (2) Clear and convincing evidence that the person sexually assaulted the person who gave
16 birth to the child and the child was born not later than three hundred (300) days after the sexual
17 assault, regardless of whether criminal charges were brought against the person.

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

20 (1) Adjudicate that the person alleged to have committed the sexual assault is not a parent
21 of the child;

22 (2) Require the department of health to amend the birth certificate if requested by the
23 person giving birth; and

24 (3) Require the person alleged to have committed the sexual assault to pay child support,
25 birth-related costs, or both, unless the person giving birth requests otherwise.

26 **15-8.1-52. Temporary order.**

27 (a) In a proceeding under this chapter, the court may issue a temporary order for child
28 support if the order is consistent with law of this state and the individual ordered to pay support
29 is:

30 (1) A presumed parent of the child;

31 (2) Petitioning to be adjudicated a parent;

32 (3) Identified as a genetic parent through genetic testing under § 15-8.1-31;

33 (4) An alleged genetic parent who has declined to submit to genetic testing;

34 (5) Shown by a preponderance of the evidence to be a parent of the child; or

1 [\(6\) A parent under this chapter.](#)

2 [\(b\) A temporary order may include a provision for custody and visitation under title 15.](#)

3 **15-8.1-53. Combining proceedings.**

4 [\(a\) Except as otherwise provided in subsection \(b\) of this section, the court may combine](#)
5 [a proceeding to adjudicate parentage under this chapter with a proceeding for adoption,](#)
6 [termination of parental rights, child custody or visitation, child support, divorce, annulment,](#)
7 [administration of an estate, or other appropriate proceeding.](#)

8 [\(b\) A respondent may not combine a proceeding described in subsection \(a\) with a](#)
9 [proceeding to adjudicate parentage brought under the Uniform Interstate Family Support Act,](#)
10 [pursuant to chapter 23.1 of title 15.](#)

11 **15-8.1-54. Proceeding before birth.**

12 [Except as otherwise provided in §§ 15-8.1-68 through 15-8.1-84, a proceeding to](#)
13 [adjudicate parentage may be commenced before the birth of the child and an order or judgment](#)
14 [may be entered before birth, but enforcement of the order or judgment must be stayed until the](#)
15 [birth of the child.](#)

16 **15-8.1-55. Hearing; Inspection of records.**

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

19 [\(b\) A final order in a proceeding under this chapter shall be available for public](#)
20 [inspection. Other papers and records are available for public inspection only with the consent of](#)
21 [the parties or by court order.](#)

22 **15-8.1-56. Dismissal for want of prosecution.**

23 [The court may dismiss a proceeding under this chapter for want of prosecution only](#)
24 [without prejudice. An order of dismissal for want of prosecution purportedly with prejudice is](#)
25 [void and has only the effect of a dismissal without prejudice.](#)

26 **15-8.1-57. Order adjudicating parentage.**

27 [\(a\) In a proceeding under this chapter, the court shall issue a final judgment adjudicating](#)
28 [whether a person alleged or claiming to be a parent is the parent of a child.](#)

29 [\(b\) A final judgment under subsection \(a\) of this section shall identify the child by name](#)
30 [and date of birth.](#)

31 [\(c\) On request of a party and for good cause, the court in a proceeding under this chapter](#)
32 [may order the name of the child changed.](#)

33 [\(d\) If the final judgment pursuant to this section is at variance with the child's birth](#)
34 [certificate, the court shall order the department of health to issue an amended birth certificate.](#)

1 The fact that the parent-child relationship was declared after the child's birth shall not be
2 ascertainable from the new certificate, but the actual place and date of birth shall be shown on it.
3 If the person giving birth was not married at the time of conception or birth, there shall be no
4 requirement that the child bear the surname of the person giving birth.

5 **15-8.1-58. Binding effect of determination of parentage.**

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

7 (1) A signatory to an acknowledgment of parentage or denial of parentage is bound by
8 the acknowledgment and denial as provided pursuant to §§ 15-8.1-12 through 15-8.1-26; and

9 (2) A party to an adjudication of parentage by a court, acting under circumstances that
10 satisfy the jurisdiction requirements of § 15-23.1-201 Uniform Interstate Family Support Act
11 (UIFSA), and any individual who received notice of the proceeding are bound by the
12 adjudication.

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

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

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

18 (3) The determination of parentage was made under §§ 15-8.1-59 through 15-8.1-84; or

19 (4) The child was a party or was represented by an attorney, guardian ad litem, or similar
20 individual in the proceeding in which the child's parentage was adjudicated.

21 (c) In a proceeding for divorce or annulment, the court is deemed to have made an
22 adjudication of parentage of a child if the court acts, under circumstances that satisfy the
23 jurisdiction requirements of § 15-23.1-201 UIFSA, and the final order:

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

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

28 (d) Except as otherwise provided in subsection (b) of this section or § 15-8.1-48, a
29 determination of parentage may be asserted as a defense in a subsequent proceeding seeking to
30 adjudicate parentage of an individual who was not a party to the earlier proceeding.

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

34 **15-8.1-59. Surrogacy agreements; Scope.**

1 The provisions contained in §§ 15-8.1-59 through 15-8.1-67 do not apply to the birth of a
2 child conceived by sexual intercourse or assisted reproduction under a surrogacy agreement.

3 **15-8.1-60. Parental status of donor.**

4 A donor is not a parent of a child conceived through assisted reproduction.

5 **15-8.1-61. Parentage of child of assisted reproduction.**

6 An individual who consents under § 15-8.1-62 to assisted reproduction by a person with
7 the intent to be a parent of a child conceived by the assisted reproduction is a parent of the child.

8 **15-8.1-62. Consent to assisted reproduction.**

9 (a) Except as otherwise provided in subsection (b) of this section, the consent described
10 in § 15-8.1-61, must be in a record signed by a person giving birth to a child conceived by
11 assisted reproduction and an individual who intends to be a parent of the child.

12 (b) Failure to consent in a record as required by subsection (a) of this section, before, on,
13 or after birth of the child, does not preclude the court from finding consent to parentage if the
14 court finds by a preponderance of the evidence that:

15 (1) Prior to conception of the child, the parties agreed that they both intended to be the
16 parents of the child; or

17 (2) With the agreement of the person giving birth, the intended parent consented to the
18 procedures that resulted in the conception of the child.

19 **15-8.1-63. Limitation on spouse's dispute of parentage.**

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

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

25 (2) The court finds the spouse did not consent to the assisted reproduction, before, on, or
26 after birth of the child, or withdrew consent under § 15-8.1-65.

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

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

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

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

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

1 **15-8.1-64. Effect of certain legal proceedings regarding marriage.**

2 If a marriage of a person who gives birth to a child conceived by assisted reproduction is
3 terminated through divorce or annulment before transfer of gametes or embryos to the person
4 giving birth, a former spouse of the person giving birth is not a parent of the child unless the
5 former spouse consented in a record that the former spouse would be a parent of the child if
6 assisted reproduction were to occur after a divorce or annulment, and the former spouse did not
7 withdraw consent under § 15-8.1-65.

8 **15-8.1-65. Withdrawal of consent.**

9 (a) An individual who consents pursuant to § 15-8.1-62 to assisted reproduction may
10 withdraw consent any time before a transfer or implantation of gametes or embryos that results in
11 a pregnancy, by giving notice in a record of the withdrawal of consent to the person who agreed
12 to give birth to a child conceived by assisted reproduction and to any clinic or health care
13 provider who may be facilitating the assisted reproduction. Failure to give notice to the clinic or
14 health care provider does not affect a determination of parentage under this chapter.

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

17 **15-8.1-66. Parental status of deceased individual.**

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

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

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

27 (2) The individual's intent to be a parent of a child conceived by assisted reproduction
28 after the individual's death is established by a preponderance of the evidence; and:

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

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

32 **15-8.1-67. Laboratory error.**

33 If due to a laboratory error the child is not genetically related to either of the intended
34 parents, the intended parent or parents are the parents of the child unless otherwise determined by

1 [the court.](#)

2 **15-8.1-68. Eligibility to enter gestational or genetic surrogacy agreement.**

3 [\(a\) To execute an agreement to act as a gestational or genetic surrogate, a person must:](#)

4 [\(1\) Be at least twenty-one \(21\) years of age;](#)

5 [\(2\) Previously have given birth to at least one child;](#)

6 [\(3\) Complete a medical evaluation related to the surrogacy arrangement by a licensed](#)
7 [medical doctor;](#)

8 [\(4\) Complete a mental health consultation by a licensed mental health professional; and](#)

9 [\(5\) Have independent legal representation of the person's choice throughout the surrogacy](#)
10 [arrangement regarding the terms of the surrogacy agreement and the potential legal consequences](#)
11 [of the agreement and that is paid for by the intended parent or parents.](#)

12 [\(b\) To execute a surrogacy agreement, each intended parent, whether or not genetically](#)
13 [related to the child, must:](#)

14 [\(1\) Be at least twenty-one \(21\) years of age;](#)

15 [\(2\) Complete a medical evaluation related to the surrogacy arrangement by a licensed](#)
16 [medical doctor;](#)

17 [\(3\) Complete a mental health consultation by a licensed mental health professional; and](#)

18 [\(4\) Have independent legal representation of the intended parent's choice throughout the](#)
19 [surrogacy arrangement regarding the terms of the surrogacy agreement and the potential legal](#)
20 [consequences of the agreement.](#)

21 **15-8.1-69. Requirements of gestational or genetic surrogacy agreement; Process.**

22 [A surrogacy agreement must be executed in compliance with the following rules:](#)

23 [\(1\) At least one party must be a resident of this state or, if no party is a resident of this](#)
24 [state, at least one medical evaluation or procedure or mental health consultation under the](#)
25 [agreement must occur in this state, or birth is anticipated to or does occur in this state.](#)

26 [\(2\) A surrogate and each intended parent must meet the requirements of § 15-8.1-68.](#)

27 [\(3\) Each intended parent, the surrogate, and the surrogate's spouse, if any, must be parties](#)
28 [to the agreement.](#)

29 [\(4\) The agreement must be in a record signed by each party listed in subsection \(3\) of this](#)
30 [section.](#)

31 [\(5\) The surrogate and each intended parent must acknowledge in a record receipt of a](#)
32 [copy of the agreement.](#)

33 [\(6\) The signature of each party to the agreement must be attested by a notary or](#)
34 [witnessed.](#)

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

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

6 (9) The agreement must be executed before a medical procedure occurs related to the
7 surrogacy agreement, other than the medical evaluation and mental health consultation required
8 by § 15-8.1-68.

9 **15-8.1-70. Requirements of gestational or genetic surrogacy agreement; Content.**

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

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

12 (2) Except as otherwise provided in §§ 15-8.1-77, 15-8.1-80 and 15-8.1-81, the surrogate
13 and the surrogate's spouse or former spouse, if any, have no claim to parentage of a child
14 conceived by assisted reproduction under the agreement.

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

17 (4) Except as otherwise provided in §§ 15-8.1-77, 15-8.1-80 and 15-8.1-81, the intended
18 parent or, if there are two (2) intended parents, each one jointly and severally, immediately upon
19 birth will be the exclusive parent or parents of the child, regardless of the number of children born
20 or gender or mental or physical condition of each child.

21 (5) Except as otherwise provided in §§ 15-8.1-77, 15-8.1-80 and 15-8.1-81, the intended
22 parent or, if there are two (2) intended parents, each parent jointly and severally, immediately
23 upon birth will assume responsibility for the financial support of the child, regardless of the
24 number of children born or gender or mental or physical condition of each child.

25 (6) The agreement must include information providing that the intended parent(s) will be
26 responsible for the surrogacy-related expenses, including medical expenses, of the surrogate and
27 the medical expenses of the child.

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

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

33 (b) A surrogacy agreement may provide for:

34 (1) Payment of consideration, which must be reasonable and negotiated in good faith;

- 1 (2) Payment of reasonable expenses; and
2 (3) Reimbursement of specific expenses if the agreement is terminated under this chapter.
3 (c) A right created under a surrogacy agreement is not assignable and there is no third-
4 party beneficiary of the agreement other than the child.

5 **15-8.1-71. Surrogacy agreement; Effect of subsequent change of marital status.**

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

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

11 (2) The divorce or annulment of the surrogate after the agreement is signed by all parties
12 does not affect the validity of the agreement.

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

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

18 (2) The divorce or annulment of an intended parent after the agreement is signed by all
19 parties does not affect the validity of the agreement and, except as otherwise provided in § 15-
20 8.1-80, the intended parents are the parents of the child.

21 **15-8.1-72. Inspection of documents.**

22 Unless the court orders otherwise, a petition and any other document related to a
23 surrogacy agreement filed with the court under this chapter are not open to inspection by any
24 individual other than the parties to the proceeding, a child conceived by assisted reproduction
25 under the agreement, or his or her attorneys. A court may not authorize an individual to inspect a
26 document related to the agreement, unless required by exigent circumstances. The individual
27 seeking to inspect the document may be required to pay the expense of preparing a copy of the
28 document to be inspected.

29 **15-8.1-73. Exclusive; Continuing jurisdiction.**

30 During the period after the execution of a surrogacy agreement until ninety (90) days
31 after the birth of a child conceived by assisted reproduction under the agreement, a court of this
32 state conducting a proceeding under this chapter has exclusive, continuing jurisdiction over all
33 matters arising out of the agreement. This section does not give the court jurisdiction over a child
34 custody or child support proceeding if jurisdiction is not otherwise authorized by law of this state

1 other than this chapter.

2 **15-8.1-74. Termination of gestational surrogacy agreement.**

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

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

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

14 **15-8.1-75. Parentage under gestational surrogacy agreement.**

15 (a) Except as otherwise provided in subsection (c) of this section or §§ 15-8.1-76(b) or
16 15-8.1-78, upon birth of a child conceived by assisted reproduction under a gestational surrogacy
17 agreement, each intended parent is, by operation of law, a parent of the child.

18 (b) Except as otherwise provided in subsection (c) of this section or § 15-8.1-78, neither a
19 gestational surrogate nor the surrogate's spouse or former spouse, if any, is a parent of the child.

20 (c) If a child is alleged to be a genetic child of the person who agreed to be a gestational
21 surrogate, the court shall order genetic testing of the child. If the child is a genetic child of the
22 person who agreed to be a gestational surrogate, parentage must be determined based on
23 provisions contained in §§ 15-8.1-1 through 15-8.1-58.

24 (d) Except as otherwise provided in subsection (c) of this section or §§ 15-8.1-76(b) or
25 15-8.1-78, if, due to a clinical or laboratory error, a child conceived by assisted reproduction
26 under a gestational surrogacy agreement is not genetically related to an intended parent or a donor
27 who donated to the intended parent or parents, each intended parent, and not the gestational
28 surrogate and the surrogate's spouse or former spouse, if any, is a parent of the child, subject to
29 any claim of parentage.

30 **15-8.1-76. Gestational surrogacy agreement; Parentage of deceased intended parent.**

31 (a) Section 15-8.1-75 applies to an intended parent even if the intended parent died
32 during the period between the transfer of a gamete or embryo and the birth of the child.

33 (b) Except as otherwise provided in § 15-8.1-78, an intended parent is not a parent of a
34 child conceived by assisted reproduction under a gestational surrogacy agreement if the intended

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

2 (1) The agreement provides otherwise; and

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

6 **15-8.1-77. Gestational surrogacy agreement; Order of parentage.**

7 (a) Except as otherwise provided in §§ 15-8.1-75 or 15-8.1-78, before, upon, or after the
8 birth of a child conceived by assisted reproduction under a gestational surrogacy agreement, a
9 party to the agreement may commence a proceeding in the family court for an order or judgment:

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

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

14 (3) Designating the content of the birth record in accordance with chapter 3 of title 23,
15 and directing the department of health to designate each intended parent as a parent of the child;

16 (4) To protect the privacy of the child and the parties, declaring that the court record is
17 not open to inspection except as authorized under § 15-8.1-72;

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

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

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

23 (c) Neither this state nor the department of health is a necessary party to a proceeding
24 under subsection (a) of this section.

25 (d) Sworn affidavits of the parties and the assisted reproductive physician demonstrating
26 there exists an agreement in substantial compliance with §§ 15-8.1-68, 15-8.1-69 and 15-8.1-70,
27 the intent of the parties for the intended parent(s) to be the sole legal parent(s) of the child, and
28 that the child was born pursuant to assisted reproduction shall be sufficient to permit such a
29 finding, and a hearing shall not be required unless the court requires additional information which
30 cannot reasonably be ascertained without a hearing.

31 (e) The court shall, within thirty (30) days of the filing of the petition, grant the petition
32 upon a finding that the intent of the parties was for the intended parent(s) to be the sole legal
33 parent(s) of the child and that the child was conceived through assisted reproduction pursuant to a
34 gestational surrogacy agreement. Such parentage orders issued under this section shall

1 conclusively establish or affirm, where applicable, the parent-child relationship.

2 **15-8.1-78. Effect of gestational surrogacy agreement.**

3 (a) A gestational surrogacy agreement that substantially complies with §§ 15-8.1-68, 15-
4 8.1-69 and 15-8.1-70 is enforceable.

5 (b) If a child was conceived by assisted reproduction under a gestational surrogacy
6 agreement that does not substantially comply with §§ 15-8.1-68, 15-8.1-69 and 15-8.1-70, the
7 court shall determine the rights and duties of the parties to the agreement consistent with the
8 intent of the parties at the time of execution of the agreement. Each party to the agreement and
9 any individual who at the time of the execution of the agreement was a spouse of a party to the
10 agreement has standing to maintain a proceeding to adjudicate an issue related to the enforcement
11 of the agreement.

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

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

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

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

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

25 **15-8.1-79. Requirements to validate genetic surrogacy agreement.**

26 (a) Except as otherwise provided in § 15-8.1-82, to be enforceable, a genetic surrogacy
27 agreement must be validated by the family court. A proceeding to validate the agreement must be
28 commenced before assisted reproduction related to the surrogacy agreement.

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

31 (1) There has been substantial compliance with §§ 15-8.1-68, 15-8.1-69 and 15-8.1-70;
32 and

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

34 (c) An individual who terminates a genetic surrogacy agreement, pursuant to § 15-8.1-80,

1 shall file notice of the termination with the court. On receipt of the notice, the court shall vacate
2 any order issued under subsection (b) of this section. An individual who does not notify the court
3 of the termination of the agreement is subject to sanctions.

4 **15-8.1-80. Termination of genetic surrogacy agreement.**

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

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

11 (2) A genetic surrogate who is a party to the agreement may withdraw consent to the
12 agreement any time before seventy-two (72) hours after the birth of a child conceived by assisted
13 reproduction under the agreement. To withdraw consent, the genetic surrogate must execute a
14 notice of termination in a record stating the surrogate's intent to terminate the agreement. The
15 notice of termination must be attested by a notary or witnessed and be delivered to each intended
16 parent any time before seventy-two (72) hours after the birth of the child.

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

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

26 **15-8.1-81. Parentage under validated genetic surrogacy agreement.**

27 (a) Unless a genetic surrogate exercises the right under § 15-8.1-80 to terminate a genetic
28 surrogacy agreement, each intended parent is a parent of a child conceived by assisted
29 reproduction under an agreement validated under § 15-8.1-79.

30 (b) Unless a genetic surrogate exercises the right under § 15-8.1-80 to terminate the
31 genetic surrogacy agreement, on proof of a court order issued under § 15-8.1-79 validating the
32 agreement, the court shall make an order:

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

1 each intended parent:

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

4 (3) Designating the contents of the birth certificate in accordance with § 23-3-10 and
5 directing the department of health to designate each intended parent as a parent of the child;

6 (4) To protect the privacy of the child and the parties, declaring that the court record is
7 not open to inspection except as authorized under § 15-8.1-72;

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

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

10 (c) If a genetic surrogate terminates under § 15-8.1-78(a)(2) a genetic surrogacy
11 agreement, parentage of the child conceived by assisted reproduction under the agreement must
12 be determined pursuant to the provisions in §§ 15-8.1-1 through 15-8.1-58.

13 (d) If a child born to a genetic surrogate is alleged not to have been conceived by assisted
14 reproduction, the court shall order genetic testing to determine the genetic parentage of the child.
15 If the child was not conceived by assisted reproduction, parentage must be determined pursuant to
16 the provisions in §§ 15-8.1-1 through 15-8.1-58. Unless the genetic surrogacy agreement provides
17 otherwise, if the child was not conceived by assisted reproduction the surrogate is not entitled to
18 any non-expense related compensation paid for serving as a surrogate.

19 (e) Unless a genetic surrogate exercises the right under § 15-8.1-80 to terminate the
20 genetic surrogacy agreement, if an intended parent fails to file notice required, the genetic
21 surrogate or department of health may file with the court, not later than sixty (60) days after the
22 birth of a child conceived by assisted reproduction under the agreement, notice that the child has
23 been born to the genetic surrogate. Unless the genetic surrogate has properly exercised the right
24 under § 15-8.1-80 to withdraw consent to the agreement, on proof of a court order validating the
25 agreement, the court shall order issued pursuant to § 15-8.1-79 that each intended parent is a
26 parent of the child.

27 **15-8.1-82. Effect of nonvalidated genetic surrogacy agreement.**

28 (a) A genetic surrogacy agreement, whether or not in a record, that is not validated under
29 § 15-8.1-79 is enforceable only to the extent provided in this section and § 15-8.1-84.

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

33 (c) If a child conceived by assisted reproduction under a genetic surrogacy agreement that
34 is not validated under § 15-8.1-79 is born and the genetic surrogate, consistent with § 15-8.1-80

1 (a)(2), withdraws her consent to the agreement before seventy-two (72) hours after the birth of the
2 child, the court shall adjudicate the parentage of the child under this chapter.

3 (d) If a child conceived by assisted reproduction under a genetic surrogacy agreement
4 that is not validated under § 15-8.1-79 is born and a genetic surrogate does not withdraw her
5 consent to the agreement, consistent with § 15-8.1-80 (a)(2), before seventy-two (72) hours after
6 the birth of the child, the genetic surrogate is not automatically a parent and the court shall
7 adjudicate parentage of the child based on the best interest of the child, taking into account the
8 factors in § 15-8.1-50(a) and the intent of the parties at the time of the execution of the
9 agreement.

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

12 **15-8.1-83. Genetic surrogacy agreement: Parentage of deceased intended parent.**

13 (a) Except as otherwise provided in §§ 15-8.1-81 or 15-8.1-82 on birth of a child
14 conceived by assisted reproduction under a genetic surrogacy agreement, each intended parent is,
15 by operation of law, a parent of the child, notwithstanding the death of an intended parent during
16 the period between the transfer of a gamete or embryo and the birth of the child.

17 (b) Except as otherwise provided in §§ 15-8.1-81 or 15-8.1-82, an intended parent is not a
18 parent of a child conceived by assisted reproduction under a genetic surrogacy agreement if the
19 intended parent dies before the transfer of a gamete or embryo unless:

20 (1) The agreement provides otherwise; and

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

24 **15-8.1-84. Breach of genetic surrogacy agreement.**

25 (a) Subject to § 15-8.1-80, if a genetic surrogacy agreement is breached by a genetic
26 surrogate or one or more intended parents, the non-breaching party is entitled to the remedies
27 available at law or in equity.

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

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

33 (1) Breach of a validated genetic surrogacy agreement by a genetic surrogate of a
34 requirement which prevents an intended parent from exercising the full rights of parentage

1 seventy-two (72) hours after the birth of the child; or

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

4 **15-8.1-85. Uniformity of application and construction.**

5 In applying and construing this chapter, consideration must be given to the need to
6 promote uniformity of the law with respect to its subject matter among states that enact it.

7 **15-8.1-86. Transitional provision.**

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

10 **15-8.1-87. Severability.**

11 If any provision of this chapter or its application to any person or circumstances is held
12 invalid, the invalidity does not affect other provisions or applications of this chapter which can be
13 given effect without the invalid provision or application, and to this end the provisions of this
14 chapter are severable.

15 SECTION 3. Section 23-3-10 of the General Laws in Chapter 23-3 entitled "Vital
16 Records" is hereby amended to read as follows:

17 **23-3-10. Birth registration.**

18 (a) A certificate of birth for each live birth which occurs in this state shall be filed with
19 the state registrar of vital records, or as otherwise directed by the state registrar, within four (4)
20 days after that birth.

21 (b) When a birth occurs in an institution, the person in charge of the institution, or his or
22 her designated representative, shall obtain the personal data; prepare the certificate; secure the
23 signatures required by the certificate; and file it with the state registrar of vital records, or as
24 otherwise directed by the state registrar. The physician and/or midwife in attendance, or his or her
25 authorized designee as defined in department regulations, shall certify to the facts of birth and
26 provide the medical information required by the certificate within three (3) days after the birth.

27 (c) When a birth occurs outside an institution, the certificate shall be prepared and filed
28 by one of the following in the indicated order of priority:

29 (1) The physician in attendance at, or immediately after, the birth, or in the absence of a
30 physician;

31 (2) Any other person in attendance at, or immediately after, the birth, or in the absence of
32 any person in attendance at or immediately after the birth;

33 (3) The father, the mother, or, in the absence of the father and the inability of the mother,
34 the person in charge of the premises where the birth occurred.

1 (4) When a birth occurs in a moving conveyance, the place of birth shall be that address
2 in the city or town where the child is first removed from the conveyance.

3 (d)(1) If the mother was married either at the time of conception or birth, the name of the
4 husband shall be entered on the certificate as the father of the child unless paternity has been
5 determined otherwise by a court of competent jurisdiction, in which case the name of the father as
6 determined by the court shall be entered.

7 (2) ~~If the mother was not married either at the time of conception or birth, the child shall
8 bear the mother's surname and the name of the father shall not be entered on the certificate of
9 birth without the written consent of the mother and the person to be named as the father unless a
10 determination of paternity has been made by a court of competent jurisdiction, in which case the
11 name of the father as determined by the court shall be entered on the birth certificate.~~

12 (e) The state registrar shall not decline to register and/or issue any birth certificate or
13 certified copy of any birth certificate on the grounds that medical or health information collected
14 for statistical purposes has not been supplied.

15 SECTION 4. This act shall take effect on July 1, 2020.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO DOMESTIC RELATIONS -- RHODE ISLAND PARENTAGE ACT

1 This act would repeal current state law regarding paternity and would replace it with a
2 more comprehensive parentage act that provides procedures establishing parentage, genetic
3 testing, surrogacy agreements and assisted reproduction.

4 This act would take effect on July 1, 2020.

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LC001507
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