

2020 -- S 2136 SUBSTITUTE A

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2020

A N A C T

RELATING TO DOMESTIC RELATIONS -- RHODE ISLAND PARENTAGE ACT

Introduced By: Senators Lynch Prata, McCaffrey, Goodwin, Conley, and Nesselbush

Date Introduced: January 22, 2020

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

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2 hereby repealed in its entirety.

3 ~~CHAPTER 15-8~~

4 ~~Uniform Law on Paternity~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2 Evidence relating to paternity may include:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

27 CHAPTER 8.1

28 UNIFORM PARENTAGE ACT

29 Article 1. Definitions, Scope and General Provisions.

30 **5-8.1-101. Short title.**

31 This chapter shall be known and may be cited as the "Rhode Island Uniform Parentage
32 Act."

33 **5-8.1-102. Definitions.**

34 As used in this chapter:

1 (1) "Acknowledged parent" means an individual who has established a parent-child
2 relationship pursuant to article 3 of this chapter.

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

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

9 (i) A presumed parent;

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

11 (iii) A donor.

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

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

15 (ii) Donation of gametes;

16 (iii) Donation of embryos;

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

18 (v) Intracytoplasmic sperm injection.

19 (5) "Birth" includes stillbirth and fetal death.

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

22 (7) "Determination of parentage" means establishment of a parent-child relationship by a
23 judicial or administrative proceeding or signing of a valid acknowledgement of parentage
24 pursuant to article 3 of this chapter.

25 (8) "Donor" means an individual who contributes a gamete or gametes or an embryo or
26 embryos to another individual intended for assisted reproduction or gestation, whether or not for
27 consideration. This term does not include:

28 (i) An individual who gives birth to a child conceived by assisted reproduction except as
29 otherwise provided in article 8 of this chapter; or

30 (ii) A parent pursuant to article 7 of this chapter or an intended parent pursuant to article
31 8 of this chapter.

32 (9) "Embryo" means a cell or group of cells containing a diploid complement of
33 chromosomes or a group of such cells, not including a gamete, that has the potential to develop
34 into a live born human being if transferred into the body of a person under conditions in which

1 gestation may be reasonably expected to occur.

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

3 (11) "Gestational carrier" means an adult individual who is not an intended parent and
4 who enters into a gestational carrier agreement to bear a child conceived using the gametes of
5 another individual and not the gestational carrier's own, except that an individual who carries a
6 child for a family member using the gestational carrier's own gametes and who fulfills the
7 requirements of article 8 of this chapter is a gestational carrier.

8 (12) "Gestational carrier agreement" means a contract between an intended parent or
9 parents and a gestational carrier intended to result in a live birth.

10 (13) "Intended parent" means an individual, whether married or unmarried, who
11 manifests an intent to be legally bound as a parent of a child conceived through assisted
12 reproduction or a gestational carrier agreement.

13 (14) "Marriage" means and includes civil union and any legal relationship that provides
14 substantially the same rights, benefits, and responsibilities as marriage and is recognized as valid
15 in the state or jurisdiction in which it was entered.

16 (15) "Parent" means an individual who has established parentage that meets the
17 requirements of this chapter.

18 (16) "Parentage" means the legal relationship between a child and a parent as established
19 under this chapter.

20 (17) "Presumed parent" means a person who is presumed to be the parent of a child under
21 §15-8.1-401, unless the presumption is overcome in a judicial proceeding, a valid denial of
22 parentage is made under article 3 of this chapter, or a court adjudicates the individual to be a
23 parent.

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

26 (19) "Sign" means, with the intent to authenticate or adopt a record, to:

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

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

30 (20) "Signatory" means an individual who signs a record.

31 (21) "Spouse" includes a partner in a civil union or a partner in a legal relationship that
32 provides substantially the same rights, benefits, and responsibilities as marriage and is recognized
33 as valid in the state or jurisdiction in which it was entered.

34 (22) "Transfer" means a procedure for assisted reproduction by which an embryo or

1 sperm is placed in the body of the individual who will give birth to the child.

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

4 **5-8.1-103. Scope and application.**

5 (a) This chapter applies to an adjudication and determination of parentage in the state of
6 Rhode Island.

7 (b) The court shall apply the law of the state of Rhode Island to adjudicate parentage.

8 (c) This chapter does not create, enlarge, or diminish parental rights or responsibilities
9 under other laws of the state of Rhode Island or the equitable powers of the courts, except as
10 provided in this chapter.

11 **5-8.1-104. Parentage proceeding.**

12 (a) A proceeding to adjudicate the parentage of a child shall be maintained in accordance
13 with this chapter and with the family court rules of domestic relations procedure and/or the rules
14 of juvenile proceedings, except that proceedings for orders of parentage, pursuant to § 15-8.1-
15 804, may be maintained in accordance with the superior court rules of civil procedure.

16 (b) If a complaint is brought by the office of child support services, the complaint shall be
17 accompanied by an affidavit of the parent whose rights have been assigned. In cases where the
18 assignor is not a genetic parent or is a genetic parent who refuses to provide an affidavit, the
19 affidavit may be submitted by the office of child support services, but the affidavit alone shall not
20 support a default judgment on the issue of parentage.

21 (c) Original actions to adjudicate parentage may be commenced in the family court,
22 except that proceedings for orders of parentage under § 15-8.1-804, may be commenced in either
23 the family court or the superior court.

24 (d) There shall be no right to a jury trial in an action to determine parentage.

25 (e) An individual who is a party to a parentage action shall disclose that individual's
26 social security number to the court. The social security number of an individual subject to a
27 parentage adjudication shall be placed in the court records relating to the adjudication. The court
28 shall disclose an individual's social security number to the office of child support.

29 **5-8.1-105. Standing to maintain proceeding.**

30 Subject to other provisions of this chapter, a proceeding to adjudicate parentage may be
31 maintained by:

32 (1) The child;

33 (2) The individual who gave birth to the child unless a court has adjudicated that the
34 individual is not a parent or the individual is a gestational carrier who is not a parent under article

1 8 of this chapter;

2 (3) An individual whose parentage is to be adjudicated;

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

4 (5) The office of child support services; or

5 (6) A representative authorized by law to act for an individual who would otherwise be
6 entitled to maintain a proceeding but who is deceased, incapacitated, or a minor.

7 **5-8.1-106. Notice of proceeding.**

8 (a) Except as provided in subsections (d) and (e) of this section, an individual filing a
9 proceeding to adjudicate parentage pursuant to this chapter shall give notice of the proceeding to
10 adjudicate parentage to the following:

11 (1) The individual who gave birth to the child unless a court has adjudicated that the
12 individual is not a parent;

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

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

15 (4) A person whose parentage of the child is to be adjudicated; and

16 (5) The office of child support services, in cases in which either party is a recipient of
17 public assistance benefits from the department of human services and has assigned the right to
18 child support, or in cases in which either party has requested the services of the office of child
19 support services.

20 (b) An individual entitled to notice under subsection (a) of this section and the office of
21 child support services, where the office is involved pursuant to subsection (a)(5) of this section,
22 has a right to intervene in the proceeding.

23 (c) Lack of notice required under subsection (a) of this section shall not render a
24 judgment void. Lack of notice shall not preclude an individual entitled to notice under subsection
25 (a) of this section from bringing a proceeding pursuant to this chapter.

26 (d) Notice of complaints for orders of parentage under § 15-8.1-804 shall be as required
27 in § 15-8.1-804.

28 (e) Donors, as defined in § 15-8.1-102, are not entitled to notice.

29 **5-8.1-107. Personal jurisdiction.**

30 (a) An individual shall not be adjudicated a parent unless the court has personal
31 jurisdiction over the individual.

32 (b) A court having jurisdiction to adjudicate parentage may exercise personal jurisdiction
33 over a nonresident individual, or the guardian or conservator of the individual, if the conditions
34 prescribed for actions regarding interstate child support, pursuant to § 15-23.1-201 of the

1 Uniform Interstate Family Support Act, are fulfilled.

2 (c) Lack of jurisdiction over one person does not preclude the court from making an
3 adjudication of parentage binding on another individual over whom the court has personal
4 jurisdiction.

5 **5-8.1-108. Venue.**

6 Venue for a proceeding to adjudicate parentage shall be in the county in which:

7 (1) The child resides or is present or, for purposes of article 7 or 8 of this chapter, is or
8 will be born;

9 (2) Any parent or intended parent resides;

10 (3) The respondent resides or is present if the child does not reside in this state;

11 (4) A proceeding for probate or administration of the parent or alleged parent's estate has
12 been commenced; or

13 (5) A child protection proceeding with respect to the child has been commenced.

14 **5-8.1-109. Joinder of proceedings.**

15 (a) Except as otherwise provided in subsection (b) of this section, a proceeding to
16 adjudicate parentage may be joined with a proceeding for parental rights and responsibilities,
17 parent-child contact, child support, child protection, termination of parental rights, divorce,
18 annulment, legal separation, guardianship, probate or administration of an estate or other
19 appropriate proceeding, or a challenge or rescission of acknowledgment of parentage. Such
20 proceedings shall be in the family court.

21 (b) A respondent may not join a proceeding set forth in subsection (a) of this section with
22 a proceeding to adjudicate parentage brought as part of an interstate child support enforcement
23 action under § 15-23.1-201 of the Uniform Interstate Family Support Act.

24 **5-8.1-110. Orders.**

25 (a) In a proceeding under this chapter, the court may issue an interim order for support of
26 a child in accordance with the child support guidelines under § 15-5-16.2 and as established by
27 the family court with respect to an individual who is:

28 (1) A presumed, acknowledged, or adjudicated parent of the child;

29 (2) Petitioning to have parentage adjudicated;

30 (3) Identified as the genetic parent through genetic testing under article 6 of this chapter;

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

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

33 (6) The individual who gave birth to the child, other than a gestational carrier; or

34 (7) A parent under this chapter.

1 (b) In a proceeding under this chapter, the court may make an interim order regarding
2 parental rights and responsibilities on a temporary basis.

3 (c) Final orders concerning child support or parent rights and responsibilities shall be
4 governed by title 15.

5 **5-8.1-111. Admission of parentage authorized.**

6 (a) A respondent in a proceeding to adjudicate parentage may admit parentage of a child
7 when making an appearance or during a hearing in a proceeding involving the child or by filing a
8 pleading to such effect. An admission of parentage pursuant to this section is different from an
9 acknowledgment of parentage, as provided in article 3 of this chapter.

10 (b) If the court finds an admission to be consistent with the provisions of this chapter and
11 rejects any objection filed by another party, the court may issue an order adjudicated the child to
12 be the child of the individual admitting parentage.

13 **5-8.1-112. Order on default.**

14 The court may issue an order adjudicating the parentage of an individual who is in
15 default, provided that:

16 (1) The individual was served with notice of the proceeding; and

17 (2) The individual is found by the court to be the parent of the child based on a
18 preponderance of the evidence.

19 **5-8.1-113. Order adjudicating parentage.**

20 (a) In a proceeding under this chapter, the court shall issue a final order adjudicating
21 whether a person alleged or claiming to be a parent is the parent of a child.

22 (b) A final order under subsection (a) of this section, shall identify the child by name and
23 date of birth.

24 (c) On request of a party and for good cause shown, the court may order that the name of
25 the child be changed.

26 (d) If the final order under subsection (a) of this section, is at variance with the child's
27 birth certificate, the department of health, division of vital statistics, shall issue an amended birth
28 certificate.

29 **5-8.1-114. Binding effect of determination of parentage.**

30 (a) Except as otherwise provided in subsection (b) of this section, a determination of
31 parentage shall be binding on:

32 (1) All signatories to an acknowledgment form of parentage or denial of parentage, as
33 provided in article 3 of this chapter; and

34 (2) All parties to an adjudication by a court acting under circumstances that satisfy the

1 jurisdictional requirements of § 15-8.1-107.

2 (b) In a proceeding to dissolve a marriage, the court is deemed to have made an
3 adjudication of the parentage of a child if:

4 (1) The court acts under circumstances that satisfy the jurisdictional requirements of §
5 15-8.1-107; and

6 (2) The final order:

7 (i) Expressly identified a child as a "child of the marriage" or "issue of the marriage" or
8 by similar words indicates that the parties are the parents of the child; or

9 (ii) Provides for support of the child by the parent or parents.

10 (c) Except as otherwise provided in this chapter, a determination of parentage shall be a
11 defense in a subsequent proceeding seeking to adjudicate parentage by a person who was not a
12 party to the earlier proceeding.

13 (d) Appeal of adjudication.

14 (1) A party to an adjudication of parentage or a party who received notice under § 15-8.1-
15 106, may challenge the adjudication only by appeal or in a manner otherwise consistent with the
16 rules governing a collateral attack on a judgment.

17 (2) An individual who has standing under § 15-8.1-105, but who did not receive notice of
18 the adjudication of parentage under § 15-8.1-106, and was not a party to the adjudication, may
19 challenge the adjudication within two (2) years after the effective date of the adjudication. The
20 court, in its discretion, shall permit the proceeding only if it finds that it is in the best interests of
21 the child. If the court permits the proceeding, the court shall adjudicate parentage under § 15-8.1-
22 206.

23 (e) An appeal of an acknowledgment by a nonsignatory shall be provided in article 3 of
24 this chapter.

25 (f) A child shall not be bound by a determination of parentage under this chapter unless:

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

28 (2) The determination was based on a finding consistent with the results of genetic
29 testing;

30 (3) The determination of parentage was made under article 7 or 8 of this chapter; or

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

33 **5-8.1-115. Full faith and credit.**

34 This state shall give full faith and credit to a determination of parentage and to an

1 acknowledgment of parentage from another state if the determination or acknowledgment is valid
2 and effective in accordance with the law of the other state.

3 **Article 2. Establishment of Parentage.**

4 **5-8.1-201. Recognized parents.**

5 A person may establish parentage by any of the following:

6 (1) Giving birth to the child, except as otherwise provided in article 8 of this chapter;

7 (2) Adoption of the child pursuant to chapter 7 of title 15;

8 (3) An effective voluntary acknowledgment of parentage under article 3 of this chapter;

9 (4) An adjudication of parentage under this chapter, including adjudications based on an
10 admission of parentage under § 15-8.1-111;

11 (5) A presumption of parentage under article 4 of this chapter, unless the presumption is
12 overcome in a judicial proceeding or a valid denial of parentage is made under article 3 of this
13 chapter.

14 (6) An adjudication of de facto parentage under article 5 of this chapter;

15 (7) An adjudication that an alleged genetic parent is a parent under article 6 of this
16 chapter;

17 (8) Consent to assisted reproduction under article 7 of this chapter; or

18 (9) Establishment of parentage under article 8 of this chapter.

19 **5-8.1-202. Nondiscrimination.**

20 Every child has the same rights under law as any other child without regard to the marital
21 status or gender of the parents or the circumstances of the birth of the child.

22 **5-8.1-203. Consequences of establishment of parentage.**

23 Unless parentage has been terminated by a court order or an exception has been stated
24 explicitly in this chapter, parentage established under this chapter applies for all purposes,
25 including the rights and duties of parentage under the law.

26 **5-8.1-204. Determination of maternity and paternity.**

27 Provisions of this chapter relating to determination of paternity may apply to
28 determination of maternity as needed to determine parentage consistent with this chapter.

29 **5-8.1-205. No limitation on child.**

30 Nothing in this chapter limits the right of a child to bring an action to adjudicate
31 parentage.

32 **5-8.1-206. Adjudicating competing claims of parentage.**

33 (a) In a proceeding to adjudicate competing claims of parentage or challenges to a child's
34 parentage by two (2) or more persons, the court shall adjudicate parentage in the best interests of

1 the child, based on the following factors:
2 (1) The age of the child;
3 (2) The length of time during which each individual assumed the role of parent of the
4 child;
5 (3) The nature of the relationship between the child and each individual;
6 (4) The harm to the child if the relationship between the child and each individual is not
7 recognized;
8 (5) The basis for each individual's claim to parentage of the child;
9 (6) Other considerations arising from the disruption of the relationship between the child
10 and each individual or the likelihood of other harm to the child; and
11 (7) Other equitable factors that the court deems relevant to the child's best interests.
12 (b) If a person challenges parentage based on the results of genetic testing, in addition to
13 the factors listed in subsection (a) of this section, the court shall consider:
14 (1) The facts surrounding the discovery the individual might not be the genetic parent of
15 the child; and
16 (2) The length of time between that of the time the individual was placed on notice that
17 the individual might not be a genetic parent and the commencement of the proceeding.
18 (c) Consistent with the establishment of parentage under this chapter, a court may
19 determine that a child has more than two (2) parents if the court finds that the failure to recognize
20 more than two (2) parents would be detrimental to the child. A finding of detriment to the child
21 does not require a finding of unfitness of any parent or individual seeking an adjudication of
22 parentage. In determining detriment to the child, the court shall consider all relevant factors
23 including the harm if the child is removed from a stable placement with an individual who has
24 fulfilled the child's physical needs and psychological needs for care and affect and has assumed
25 the role for a substantial period.

Article 3. Voluntary Acknowledgment of Parentage.

15-8.1-301. Acknowledgment of parentage.

28 (a) The following individuals may sign an acknowledgment of parentage to establish
29 parentage of a child:
30 (1) An individual who gave birth to the child;
31 (2) An individual who is the alleged genetic parent of the child;
32 (3) An individual who is an intended parent of the child under § 15-8.1-703; and
33 (4) A presumed parent under article 4 of this chapter.
34 (b) The acknowledgment shall be signed by both the individual who gave birth to the

1 child and by the individual seeking to establish a parent-child relationship and shall be witnessed
2 and signed by at least one other individual.

3 **15-8.1-302. Acknowledgment of parentage void.**

4 An acknowledgment of parentage shall be void if, at the time of signing:

5 (1) An individual other than the individual seeking to establish parentage is a presumed
6 parent, unless a denial of parentage in a signed record has been filed with the state registrar for
7 vital records; or

8 (2) An individual, other than the individual who gave birth, is an acknowledged or
9 adjudicated parent, or an intended parent under article 7 or 8 of this chapter.

10 **15-8.1-303. Denial of Parentage.**

11 (a) An individual presumed to be a parent or an alleged genetic parent may sign a denial
12 of parentage only in the limited circumstances set forth in this section.

13 (b) A denial of parentage shall be valid only if:

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

16 (2) The denial is in a record and is witnessed and signed by at least one other individual;
17 and

18 (3) The presumed or alleged genetic parent executing the denial has not previously:

19 (i) Acknowledged parentage, unless the previous acknowledgment has been rescinded
20 pursuant to § 15-8.1-307, or successfully challenged the acknowledgment pursuant to § 15-8.1-
21 308; or

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

23 **15-8.1-304. Conditions for acknowledgment or denial of parentage.**

24 (a) Completed forms for acknowledgment of parentage and denial of parentage shall be
25 filed with the state registrar for vital records.

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

28 (c) An acknowledgment of parentage or denial of parentage takes effect on the date of the
29 birth of the child or the filing of the document with the department of vital records, whichever
30 occurs later.

31 (d) An acknowledgment of parentage or denial of parentage signed by a minor shall be
32 valid provided it is otherwise in compliance with this chapter.

33 **15-8.1-305. Equivalent to adjudication, no ratification required.**

34 (a) Except as otherwise provided in §§ 15-8.1-307 and 15-8.1-308, a valid

1 acknowledgment of parentage under § 15-8.1-301, filed with the department of vital records, is
2 equivalent to an adjudication of parentage of a child and confers upon the acknowledged parent
3 all of the rights and duties of a parent.

4 (b) Judicial or administrative ratification is neither permitted nor required for an
5 unrescinded or unchallenged acknowledgment of parentage.

6 (c) Except as otherwise provided in §§ 15-8.1-307 and 15-8.1-308, a valid denial of
7 parentage under § 15-8.1-303, filed with the department of vital records, in conjunction with a
8 valid acknowledgment of parentage under § 15-8.1-301, is equivalent to an adjudication of the
9 non-parentage of the presumed parent or alleged genetic parent and discharges the presumed
10 parent or alleged genetic parent from all rights and duties of a parent.

11 (d) A signatory of an acknowledgment of parentage may rescind or challenge the
12 acknowledgment in accordance with §§ 15-8.1-307 through 15-8.1-309.

13 **15-8.1-306. Waiver of filing Fee.**

14 If an acknowledgment of parentage or denial of parentage is filed at a hospital,
15 contemporaneously with birth, the department of health shall not charge a filing fee.

16 **15-8.1-307. Timing of rescission.**

17 (a) A signatory may rescind an acknowledgment of parentage or denial of parentage
18 under this chapter, for any reason, by either of the following methods:

19 (1) Filing a rescission with the department of vital records in a signed record, which shall
20 be notarized, before the earlier of:

21 (i) Sixty (60) days after the effective date of the acknowledgment or denial, as provided
22 in § 15-8.1-304; or (ii) The date of the first hearing before a court in a proceeding, to which the
23 signatory is a party, to adjudicate an issue relating to the child, including a proceeding that
24 establishes support.

25 (2) Commencing a court proceeding before the earlier of:

26 (i) Sixty (60) days after the effective date of the acknowledgment or denial, as provided
27 in § 15-8.1-304; or (ii) The date of the first hearing before a court in a proceeding, to which the
28 signatory is a party, to adjudicate an issue relating to the child, including a proceeding that
29 establishes child support.

30 (b) If an acknowledgment of parentage is rescinded under this section, any associated
31 denial of parentage becomes invalid, and the department of human services shall notify:

32 (1) The individual who gave birth to the child;

33 (2) Any individual who signed a denial of parentage of the child; and

34 (3) The department of vital records that the acknowledgment of parentage has been

1 rescinded. Failure to provide notice as required by this section does not affect the validity of the
2 rescission.

3 **15-8.1-308. Challenge to acknowledgment after expiration of period for rescission.**

4 (a) After the period for rescission under § 15-8.1-307 has expired, a signatory of an
5 acknowledgment of parentage or denial of parentage may commence a proceeding to challenge
6 the acknowledgment or denial only:

7 (1) On the basis of fraud, duress, coercion, threat of harm, or material mistake of fact; and

8 (2) Within two (2) years after the acknowledgment or denial is effective in accordance
9 with § 15-8.1-304.

10 (b) If an acknowledgment of parentage has been made in accordance with this chapter, an
11 individual who is neither the child nor a signatory to the acknowledgment who seeks to challenge
12 the validity of the acknowledgment and adjudicate parentage shall commence a proceeding within
13 two (2) years after the effective date of the acknowledgment unless the individual did not know
14 and could not reasonably have known of the individual's potential parentage due to a material
15 misrepresentation or concealment, in which case the proceeding shall be commenced within two
16 (2) years after the discovery of the individual's potential parentage. An individual under this
17 section who seeks to challenge the validity of an acknowledgment and adjudicate parentage must
18 have standing under § 15-8.1-105. The court may permit the proceeding only if the court finds
19 that the proceeding is in the best interests of the child. If the court permits the proceeding, the
20 court shall adjudicate parentage under § 15-8.1-206.

21 (c) An individual challenging an acknowledgment of parentage or denial of parentage
22 pursuant to this section has the burden of proof by clear and convincing evidence.

23 (d) A court proceeding in which the validity of an acknowledgment of parentage is
24 challenged shall be consolidated with any other pending court actions regarding the child.

25 **15-8.1-309. Procedure for rescission or challenge.**

26 (a) Every signatory to an acknowledgment of parentage and any related denial of
27 parentage shall be made a party to a proceeding to judicially rescind an acknowledgment under §
28 15-8.1-307(a)(2) or a challenge to the acknowledgment or denial under § 15-8.1-308.

29 (b) For the purposes of a judicial rescission under § 15-8.1-307(a)(2) or a challenge to an
30 acknowledgment of parentage or denial of parentage under § 15-8.1-308, a signatory submits to
31 personal jurisdiction of this state by signing the acknowledgment or denial, effective upon the
32 filing of the document with the department of vital records pursuant to § 15-8.1-304.

33 (c) Except for good cause shown, during the pendency of a proceeding to judicially
34 rescind under § 15-8.1-307(a)(2) or challenge an acknowledgment of parentage or denial of

1 parentage under § 15-8.1-308, the court shall not suspend the legal responsibilities of a signatory
2 arising from the acknowledgment, including the duty to pay child support.

3 (d) A proceeding to challenge an acknowledgment of parentage or denial of parentage
4 under § 15-8.1-308 shall be conducted as a proceeding to adjudicate parentage pursuant to article
5 1 of this chapter.

6 (e) At the conclusion of a proceeding to rescind or challenge an acknowledgment of
7 parentage or denial of parentage, the court shall order the department of vital records to amend
8 the birth record of the child, if appropriate.

9 **15-8.1-310. Forms for acknowledgment and denial of parentage.**

10 (a) The department of vital records shall develop an acknowledgment of parentage form
11 and denial of parentage form for execution of parentage under this chapter.

12 (b) The acknowledgment of parentage form shall provide notice of the alternatives to, the
13 legal consequences of, and the rights and responsibilities that arise from signing the
14 acknowledgment and shall state that:

15 (1) There is no other presumed parent of the child or, if there is another presumed parent,
16 shall state that parent's full name;

17 (2) There is no other acknowledged parent, adjudicated parent, or individual who is an
18 intended parent under articles 7 or 8 of this chapter other than the individual who gave birth to the
19 child; and

20 (3) The signatories understand that the acknowledgment is the equivalent of a court
21 adjudication of parentage of the child and that a challenge to the acknowledgment is permitted
22 only under limited circumstances.

23 (c) A valid acknowledgment of parentage or denial of parentage is not affected by a later
24 modification of the prescribed form.

25 **15-8.1-311. Release of information.**

26 The department of health may release information relating to an acknowledgment of
27 parentage under § 15-8.1-301, as set forth in § 23-3-23.

28 **15-8.1-312. Adoption of rules.**

29 The department of health shall promulgate rules and regulation to implement this
30 chapter.

31 **Article 4. Presumed Parentage.**

32 **15-8.1-401. Presumption of parentage.**

33 (a) Except as otherwise provided in this chapter, an individual is presumed to be a parent
34 of a child if:

1 (1) The individual and the individual who gave birth to the child are married to each other
2 and the child is born during the marriage;

3 (2) The individual and the individual who gave birth to the child were married to each
4 other and the child is born not later than three hundred (300) days after the marriage is terminated
5 by death, annulment, declaration of invalidity, divorce, or dissolution;

6 (3) The individual and the individual who gave birth to the child married each other after
7 the birth of the child and the individual at any time asserted parentage of the child and the
8 individual agreed to be and is named as a parent of the child on the birth certificate of the child;
9 or

10 (4) The individual resided in the same household with the child, and the individual and
11 another parent of the child openly held out the child as that person's own from the time the child
12 was born or adopted and for a period of two (2) years thereafter, including periods of temporary
13 absence, and assumed personal, financial or custodial responsibilities for the child.

14 (b) A presumption of parentage shall be rebuttable and may be overcome, and competing
15 claims to parentage resolved only by court order under this chapter or a valid denial of parentage
16 pursuant to article 3 of this chapter.

17 **15-8.1-402. Challenge to presumed parent.**

18 (a) Except as provided in subsection (b) of this section, a proceeding to challenge the
19 parentage of an individual whose parentage is presumed under § 15-8.1-401, shall be commenced
20 within two (2) years after the birth of the child.

21 (b) A proceeding to challenge the parentage of an individual whose parentage is
22 presumed under § 15-8.1-401, may be commenced two (2) years or more after the birth of the
23 child in the following circumstances:

24 (1) A presumed parent who is not the genetic parent of a child and who could not
25 reasonably have known about the birth of the child may commence a proceeding under this
26 section within two (2) years after learning of the child's birth.

27 (2) An alleged genetic parent who did not know of the potential genetic parentage of a
28 child and who could not reasonably have known on account of material misrepresentation or
29 concealment may commence a proceeding under this section within two (2) years after
30 discovering the potential genetic parentage.

31 If the person is adjudicated to be the genetic parent of the child, the court may not
32 disestablish a presumed parent.

33 (3) Regarding a presumption under § 15-8.1-401(a)(4), another parent of the child may
34 challenge a presumption of parentage if that parent openly held out the child as the presumptive

1 parent's child due to duress, coercion, or threat of harm. Evidence of duress, coercion, or threat
2 of harm may include whether within the prior ten (10) years, the person presumed to be a parent
3 pursuant to § 15-8.1-401(a)(4), has been convicted of domestic assault, sexual assault, or sexual
4 exploitation of the child or another parent of the child, was subject to a final abuse protection
5 order pursuant to chapter 15 of title 15, because the person was found to have committed abuse
6 against the child or another parent of the child, or was substantiated for abuse against the child or
7 another parent of the child pursuant to § 11-9-5.3.

8 (c) Challenges under this subsection shall be addressed pursuant to §15-8.1-206.

9 **15-8.1-403. Multiple presumptions or conflicting claims.**

10 (a) If two (2) or more conflicting presumptions arise under this chapter, the court shall
11 adjudicate parentage pursuant to § 15-8.1-206.

12 (b) If in a proceeding to adjudicate a presumed parent's parentage of a child, another
13 individual, in addition to the individual who gave birth to the child, asserts a claim to parentage of
14 the child, the court shall adjudicate parentage pursuant to § 15-8.1-206.

15 **Article 5. De Facto Parentage**

16 **15-8.1-501. Adjudication.**

17 (a)(1) In a proceeding to adjudicate the parentage of an individual who claims to be a de
18 facto parent of the child, if there is only one other individual who is a parent or has a claim to
19 parentage of the child, the court shall adjudicate the individual who claims to be a de facto parent
20 to be a parent of the child if the individual demonstrates by clear and convincing evidence that:

21 (i) The individual resided with the child as a regular member of the child's household for
22 a significant period of time;

23 (ii) The individual engaged in consistent caretaking of the child;

24 (iii) The individual undertook full and permanent responsibilities of a parent of the child
25 without expectation of financial compensation;

26 (iv) The individual held out the child as the person's child;

27 (v) The individual established a bonded and dependent relationship with the child which
28 is parental in nature;

29 (vi) The individual and another parent of the child fostered or supported the bonded and
30 dependent relationship required under subsection (a)(1)(v) of this section; and

31 (vii) Continuing the relationship between the individual and the child is in the best
32 interests of the child.

33 (2) A parent of the child may use evidence of duress, coercion, or threat of harm to
34 contest an allegation that the parent fostered or supported a bonded and dependent relationship as

1 provided in subsection (a)(1)(vi) of this section.

2 Such evidence may include whether within the prior ten (10) years, the individual seeking
3 to be adjudicated a de facto parent has been convicted of domestic assault, sexual assault, or
4 sexual exploitation of the child or another parent of the child, was subject to a final abuse
5 protection order pursuant to chapter 15 of title 15, because the individual was found to have
6 committed abuse against the child or another parent of the child, or was substantiated for abuse
7 against the child or another parent of the child pursuant to chapter 11 of title 40.

8 (b) In a proceeding to adjudicate the parentage of an individual who claims to be a de
9 facto parent of the child, if there is more than one other individual who is a parent or has a claim
10 to parentage of the child and the court determines that the requirements of subsection (a) of this
11 section are met by clear and convincing evidence, the court shall adjudicate parentage under § 15-
12 8.1-206, subject to other applicable limitations in this chapter.

13 (c) The adjudication of an individual as a de facto parent under this chapter does not
14 disestablish the parentage of any other parent.

15 **15-8.1-502. Complaint.**

16 (a) An individual seeking to be adjudicated a de facto parent of a child shall file a
17 complaint with the family court before the child reaches eighteen (18) years of age. Both the
18 individual seeking to be adjudicated a de facto parent and the child must be alive at the time of
19 the filing. The complaint shall include a verified affidavit alleging facts to support the existence
20 of a de facto parent relationship with the child. The complaint and affidavit shall be served on all
21 parents and legal guardians of the child and any other party to the proceeding.

22 (b) An adverse party, parent, or legal guardian may file a pleading and verified affidavit
23 in response to the petition that shall be served on all parties to the proceeding.

24 (c) The court shall determine on the basis of the pleadings and affidavits whether the
25 person seeking to be adjudicated a de facto parent has presented prima facie evidence of the
26 criteria for de facto parentage as provided in § 15-8.1-501(a) and, therefore, has standing to
27 proceed with a parentage action. The court, in its sole discretion, may hold a hearing to
28 determine disputed facts that are necessary and material to the issue of standing.

29 (d) The court may enter an interim order concerning contact between the child and an
30 individual with standing seeking adjudication under this chapter as a de facto parent of the child.

31 **Article 6. Genetic Parentage**

32 **15-8.1-601. Scope.**

33 This chapter governs procedures and requirements of genetic testing and genetic testing
34 results of an individual to determine parentage and adjudication of parentage based on genetic

1 testing, whether the individual voluntarily submits to testing or is tested pursuant to an order of
2 the court or an administrative agency.

3 Genetic testing shall not be used to challenge the parentage of an individual who is a
4 parent under articles 7 or 8 of this chapter or to establish the parentage of an individual who is a
5 donor.

6 **15-8.1-602. Requirements for genetic testing.**

7 Genetic testing shall be of a type reasonably relied upon by scientific and medical
8 experts in the field of genetic testing and performed in a testing laboratory accredited by a
9 national association of blood banks or an accrediting body designated by the secretary of the U.S.
10 Department of Health and Human Services (HHS).

11 **15-8.1-603. Authority to order or deny genetic testing.**

12 (a) Except as otherwise provided in this chapter, in a proceeding pursuant to this chapter
13 to determine parentage, the court shall order the child and any other individual to submit to
14 genetic testing if a request for testing is supported by the sworn statement of a party:

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

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

18 (b) Prior to a proceeding to establish genetic parentage and/or support in conformance
19 with the state's obligations under Chapter IV, Part D of the federal Social Security Act, 42 U.S.C.
20 § 651 et seq., if the alleged genetic parent in response to a complaint supported by a sworn
21 affidavit, filed by the office of child support services, denies parentage, the office of child support
22 services shall have the authority to administratively order the parties to undergo genetic testing as
23 described above, without the necessity of making application to the court, and the parties shall
24 attend and submit to genetic testing under penalty of default.

25 (c) The office of child support services may order genetic testing only if there is no
26 presumed, acknowledged, or adjudicated parent of a child other than the individual who gave
27 birth to the child.

28 (d) The court or office of child support services shall not order in utero genetic testing.

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

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

1 being adjudicated.

2 (g) In a proceeding to adjudicate parentage of a child having an acknowledged,
3 adjudicated, de facto, presumed parent or intended parent, the court may deny a motion seeking
4 an order for genetic testing or deny admissibility of the test results at trial if it determines that:

5 (1) The conduct of the parties estops a party from denying parentage; or

6 (2) It would be an inequitable interference with the relationship between the child and an
7 acknowledged, adjudicated, de facto, presumed, or intended parent, or would otherwise be
8 contrary to the best interests of the child as provided in subsection (h) of this section.

9 (h) In determining whether to deny a motion seeking an order for genetic testing under
10 this chapter or a request for admission of such test results at trial, the court shall consider the best
11 interests of the child, including the following factors, if relevant:

12 (1) The length of time between the proceeding to adjudicate parentage and the time that a
13 parent was placed on notice that genetic parentage is at issue;

14 (2) The length of time during which the parent has assumed a parental role for the child;

15 (3) The facts surrounding discovery that genetic parentage is at issue;

16 (4) The nature of the relationship between the child and the parent;

17 (5) The age of the child;

18 (6) Any adverse effect on the child that may result if parentage is successfully disproved;

19 (7) The nature of the relationship between the child and any alleged parent;

20 (8) The extent to which the passage of time reduces the chances of establishing the
21 parentage of another individual and a child support obligation in favor of the child; and

22 (9) Any additional factors that may affect the equities arising from the disruption of the
23 relationship between the child and the parent or the chance of an adverse effect on the child.

24 **15-8.1-604. Genetic testing results.**

25 (a) An individual shall be identified as a genetic parent of a child if the genetic testing of
26 the individual complies with this chapter and the results of testing disclose that the individual has
27 at least a ninety-nine percent (99%) probability of parentage as determined by the testing
28 laboratory.

29 (b) Identification of a genetic parent through genetic testing does not establish parentage
30 absent adjudication under this chapter and a court may rely on nongenetic evidence to determine
31 parentage, including parentage by acknowledgment pursuant to article 3 of this chapter or by
32 admission pursuant to § 15-8.1-111, presumed parentage under article 4 of this chapter, de facto
33 parentage under article 5 of this chapter, and parentage by intended parents under articles 7 or 8
34 of this chapter.

1 (c) An individual identified under subsection (a) of this section as a genetic parent of a
2 child may rebut the genetic testing results only by other genetic testing satisfying the
3 requirements of this chapter that:

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

5 (2) Identifies an individual, other than the individual who gave birth to the child, as a
6 possible genetic parent of the child.

7 **15-8.1-605. Report of genetic testing.**

8 (a) A report of genetic testing shall be in a record and signed under the penalty of perjury
9 by a designee of the testing laboratory. A report made under the requirements of this chapter is
10 self-authenticating.

11 (b) A party in possession of results of genetic testing shall provide such results to all
12 other parties to the parentage action upon receipt of the results and not later than fifteen (15) days
13 before any hearing at which the results may be admitted into evidence.

14 **15-8.1-606. Admissibility of results of genetic testing.**

15 (a) Unless waived by the parties, a party intending to rely on the results of genetic testing
16 shall do all of the following:

17 (1) Make the test results available to the other parties to the parentage action at least
18 fifteen (15) days prior to any hearing at which the results may be admitted into evidence;

19 (2) Provide notice to the court and other parties to the proceeding of the intent to use the
20 test results at the hearing; and

21 (3) Provide the other parties notice of this statutory section, including the need to object
22 in a timely fashion.

23 (b) Any motion objecting to genetic test results shall be made in writing to the court and
24 to the party intending to introduce the evidence at least seven (7) days prior to any hearing at
25 which the results may be introduced into evidence. If no timely objection is made, the written
26 results shall be admissible as evidence without the need for foundation testimony or other proof
27 of authenticity or accuracy.

28 (c) If a child has a presumed parent, acknowledged parent, de facto parent, or adjudicated
29 parent, the results of genetic testing shall be admissible to adjudicate parentage only:

30 (1) With the consent of each individual who is a parent of the child under this chapter,
31 unless the court finds that admission of the testing is in the best interests of the child as provided
32 in § 15-8.1-603(h); or

33 (2) Pursuant to an order of the court under § 15-8.1-603.

34 **15-8.1-607. Additional genetic testing.**

1 The court shall order additional genetic testing upon the request of a party who contests
2 the result of the initial testing. If the initial genetic testing identified an individual as a genetic
3 parent of the child under § 15-8.1-604, the court shall not order additional testing unless the party
4 provides advance payment for the testing.

5 **15-8.1-608. Adjudication of parentage of child with alleged genetic parent.**

6 (a)(1) If genetic testing results, pursuant to § 15-8.1-604, exclude an individual as the
7 genetic parent of a child, the court shall find that individual is not a genetic parent of the child and
8 may not adjudicate the individual as the child's parent on the basis of genetic testing.

9 (2) If genetic testing results, pursuant to § 15-8.1-604, identify an individual as the
10 genetic parent of a child and the only other individual with a claim to parentage of the child is the
11 individual who gave birth to the child, the court shall find that individual to be the genetic parent
12 and may adjudicate the individual as the child's parent if the alleged genetic parent:

13 (i) Is identified under § 15-8.1-604 as a genetic parent of the child and the identification
14 is not successfully rebutted under § 15-8.1-604;

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

18 (iii) Declines to submit to genetic testing ordered by the court or the office of child
19 support services, in which case the court may adjudicate the alleged genetic parent to be a parent
20 of the child even if the alleged genetic parent denies a genetic relationship with the child;

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

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

25 (3) Subject to other limitations in this chapter, if in a proceeding involving an alleged
26 genetic parent, at least one other individual in addition to the individual who gave birth to the
27 child has a claim of parentage of the child, the court shall adjudicate parentage under § 15-8.1-
28 206.

29 **15-8.1-609. Costs of genetic testing.**

30 (a) The costs of initial genetic testing shall be paid:

31 (1) By the office of child support services in a proceeding in which the office is providing
32 services, if the office requests such testing;

33 (2) As agreed by the parties or, if the parties cannot agree, by the individual who made
34 the request for genetic testing; or

1 (3) As ordered by the court.

2 (b) Notwithstanding subsection (a) of this section, an individual who challenges a
3 presumption, acknowledgment, or admission of parentage shall bear the cost for any genetic
4 testing requested by such individual.

5 (c) In cases in which the payment for the costs of initial genetic testing is advanced
6 pursuant to subsection (a) of this section, the office of child support services may seek
7 reimbursement from the genetic parent whose parent-child relationship is established.

8 **15-8.1-610. Deceased individual.**

9 For good cause shown, the court may order genetic testing of a deceased individual.

10 **15-8.1-611. Confidentiality of genetic testing.**

11 (a) A report of genetic testing for parentage is exempt from public inspection and
12 copying pursuant to chapter 2 of title 38 ("access to public records act"), and shall be kept
13 confidential and released only as provided in this chapter.

14 (b) An individual shall not intentionally release a report of genetic testing or the genetic
15 material of another individual for a purpose not relevant to a parentage proceeding without the
16 written permission of the individual who furnished the genetic material. An individual who
17 violates this section shall be imprisoned not more than one year, or fined not more than one
18 thousand dollars (\$1,000), or both.

19 **15-8.1-612. Past liabilities.**

20 (a) For the purpose of this article, an action to determine the existence of a genetic parent
21 and child relationship is not barred until four (4) years after the child reaches the age of majority.

22 (b) A genetic parent's liability for past education and necessary support and maintenance
23 are limited to a period of six (6) years next, preceding the commencement of an action under this
24 article.

25 **Article 7. Parentage by Assisted Reproduction.**

26 **15-8.1-701. Scope.**

27 This article does not apply to the birth of a child conceived by sexual intercourse or
28 assisted reproduction under a surrogacy agreement under article 8 of this chapter.

29 **15-8.1-702. Parental status of donor.**

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

31 **15-8.1-703. Parentage of child of assisted reproduction.**

32 An individual who consents under § 15-8.1-704 to assisted reproduction by another
33 individual with the intent to be a parent of a child conceived by the assisted reproduction is a
34 parent of the child.

1 **15-8.1-704. Consent to assisted reproduction.**

2 (a) Except as otherwise provided in subsection (b) of this section, the consent described
3 in § 15-8.1-703, must be in a record signed by the individual giving birth to a child conceived by
4 assisted reproduction and the individual who intends to be a parent of the child.

5 (b) In the absence of a record pursuant to subsection (a) of this section, before, on, or
6 after the birth of the child, a court may adjudicate an individual as the parent of a child, if it finds
7 by a preponderance of the evidence that:

8 (1) Prior to conception or birth of the child, the parties entered into an agreement that
9 they both intended to be the parents of the child; or

10 (2) The individual resided with the child after birth and undertook to develop a parental
11 relationship with the child.

12 **15-8.1-705. Limitation on spouse's dispute of parentage.**

13 (a) Except as otherwise provided in subsection (b) of this section, a spouse may
14 commence a proceeding to challenge his or her parentage of a child born by assisted reproduction
15 during the marriage within two (2) years after the birth of the child if the court finds that the
16 spouse did not consent to the assisted reproduction before, on, or after the birth of the child or that
17 the spouse withdrew consent pursuant to § 15-8.1-706.

18 (b) A spouse or the individual who gave birth to the child may commence a proceeding to
19 challenge the spouse's parentage of a child born by assisted reproduction at any time if the court
20 determines:

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

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

24 (3) The spouse never openly held out the child as his or her child.

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

27 **15-8.1-706. Effect of dissolution of marriage or withdrawal of consent.**

28 (a) If a marriage is dissolved by final decree of divorce before transfer or implantation of
29 gametes or embryos, the former spouse is not a parent of the resulting child unless the former
30 spouse consented in a signed record, with notice to the other spouse and the individual giving
31 birth, that, if assisted reproduction were to occur after a divorce, the former spouse would be a
32 parent of the child.

33 (b) Consent of an individual to assisted reproduction, pursuant to § 15-8.1-704, may be
34 withdrawn by that person in a signed record, with notice to the individual giving birth and any

1 other intended parent, before transfer or implantation of gametes or embryos. An individual who
2 withdraws consent under this subsection is not a parent of the resulting child.

3 **15-8.1-707. Parental status of a deceased individual.**

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

8 (b)(1) If an individual who consented in a record to assisted reproduction by the
9 individual giving birth to the child dies before transfer or implantation of gametes or embryos, the
10 deceased individual is not a parent of a child conceived by assisted reproduction unless:

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

14 (ii) The deceased individual's intent to be a parent of a child conceived by assisted
15 reproduction after the individual's death is established by a preponderance of the evidence.

16 (2) An individual is a parent of a child conceived by assisted reproduction under
17 subsection (b)(1) of this section, only if:

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

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

21 **15-8.1-708. Parentage orders of children born of assisted reproduction.**

22 (a) An individual consenting to assisted reproduction consistent with this article, an
23 individual who is a parent pursuant to §§ 15-8.1-703 and 15-8.1-704, or the individual giving
24 birth, may commence a proceeding in the family court, before, on, or after birth of a resulting
25 child, to obtain a parentage order or determination of parentage:

26 (1) Declaring that the intended parent or parents are the parent or parents of the resulting
27 child and ordering that parental rights and responsibilities vest exclusively in the intended parent
28 or parents immediately upon the birth of the child;

29 (2) Sealing the record from the public to protect the privacy of the child and the parties;

30 (3) Designating the contents of the birth certificate and directing the department of health
31 to designate the intended parent or parents as the parent or parents of the child; or

32 (4) For any relief that the court determines necessary and proper.

33 (b) A proceeding under this section may be commenced before, on, or after the birth of
34 the child.

1 (c) Neither the donor, the state, nor the department of health is a necessary party to a
2 proceeding under this section.

3 (d) The family court shall forward a certified copy of the order issued pursuant to this
4 section to the department of health and to the intended parents or their representative.

5 (e) The intended parent or parents and any resulting child shall have access to the court
6 records relating to the proceeding at any time.

7 **15-8.1-709. Laboratory error.**

8 If due to a laboratory or clinical error, the child is not genetically related to either the
9 intended parent or parents or any donor who donated to the intended parent or parents, the
10 intended parent or parents are the parents of the child unless otherwise determined by the court.

11 **Article 8. Parentage by Gestational Carrier Agreement.**

12 **15-8.1-801. Eligibility to enter gestational carrier agreement.**

13 (a) In order to execute an agreement to act as a gestational carrier, an individual shall:

14 (1) Be at least twenty-one (21) years of age;

15 (2) Have completed a medical evaluation;

16 (3) Have completed a mental health consultation by a licensed professional who is
17 independent of the facility or providers that undertake the assisted reproduction procedures;

18 (4) Have had independent legal representation of the individual's own choosing, and paid
19 for by the intended parent or parents regarding the terms of the gestational carrier agreement, and
20 have been advised of the potential legal consequences of the gestational carrier agreement; and

21 (5) Not have contributed gametes that will ultimately result in an embryo that the
22 gestational carrier will attempt to carry to term, unless the gestational carrier is entering into an
23 agreement with a family member.

24 (b) Prior to executing a gestational carrier agreement, an individual or individuals
25 intending to become a parent or parents, whether genetically related to the child or not, shall:

26 (1) Be at least twenty-one (21) years of age;

27 (2) Have completed a medical evaluation and a mental health consultation; and

28 (3) Have retained independent legal representation regarding the terms of the gestational
29 carrier agreement and have been advised of the potential legal consequences of the gestational
30 carrier agreement.

31 **15-8.1-802. Gestational carrier agreement.**

32 (a) A prospective gestational carrier, that individual's spouse, if any, and the intended
33 parent or parents may enter into a written agreement that:

34 (1) The prospective gestational carrier agrees to pregnancy by means of assisted

1 reproduction;
2 (2) The prospective gestational carrier and that individual's spouse, if any, have no rights
3 and duties as the parents of a child conceived through assisted reproduction; and
4 (3) The intended parent or parents will be the parents of any resulting child.
5 (b) A gestational carrier agreement is enforceable only if it meets the following
6 requirements:
7 (1) The agreement shall be in writing and signed by all parties.
8 (2) The agreement shall not require more than a one-year term to achieve pregnancy.
9 (3) At least one of the parties shall be a resident of this state.
10 (4) The agreement shall be executed before the commencement of any medical
11 procedures, other than the medical evaluations required by § 15-8.1-801 and, in every instance,
12 before transfer of embryos or gametes.
13 (5) The gestational carrier and the intended parent or parents shall meet the eligibility
14 requirements of § 15-8.1-801.
15 (6) If any party is married, the party's spouse shall be a party to the agreement.
16 (7) The gestational carrier and the intended parent or parents shall be represented by
17 independent legal counsel in all matters concerning the agreement and each counsel shall
18 affirmatively so state in a written declaration attached to the agreement. The declarations shall
19 state that the agreement meets the requirements of this chapter and shall be solely relied upon by
20 health care providers and staff at the time of birth and by the department of health for birth
21 registration and certification purposes in the absence of a court order to the contrary.
22 (8) The parties to the agreement shall sign a written acknowledgment of having received
23 a copy of the agreement.
24 (9) The signing of the agreement shall be witnessed and signed by at least one other
25 individual.
26 (10) The agreement shall expressly provide that the gestational carrier:
27 (i) Shall undergo assisted reproduction and attempt to carry and give birth to any
28 resulting child;
29 (ii) Has no claim to parentage of any resulting children and all rights of parentage shall
30 vest in the intended parent or parents immediately upon the birth of the children, regardless of
31 whether a court order has been issued at the time of birth; and
32 (iii) Shall acknowledge the exclusive parentage of the intended parent or parents of all
33 resulting children.
34 (11) If the gestational carrier is married, the carrier's spouse:

1 (i) Shall acknowledge and agree to abide by the obligations imposed on the gestational
2 carrier by the terms of the gestational carrier agreement;

3 (ii) Has no claim to parentage of any resulting children and all rights of parentage shall
4 vest in the intended parent or parents immediately upon the birth of the children, regardless of
5 whether a court order has been issued at the time of birth; and

6 (iii) Shall acknowledge the exclusive parentage of the intended parent or parents of all
7 resulting children.

8 (12) The gestational carrier shall have the right to use the services of a health care
9 provider or providers of the gestational carrier's choosing to provide care during the pregnancy.

10 (13) The agreement should provide for the disposition of embryos, if any, in the event of
11 termination of the agreement, the death of an intended parent or parents, or of the divorce of the
12 intended parents before transfer or implantation.

13 (14) The intended parent or parents shall:

14 (i) Be the exclusive parent or parents and accept parental rights and responsibilities of all
15 resulting children immediately upon birth regardless of the number, gender, or mental or physical
16 condition of the child or children; and

17 (ii) Assume responsibility for the financial support of all resulting children immediately
18 upon the birth of the children.

19 (c) Except as provided in § 15-8.1-809, a gestational carrier agreement may include
20 provisions for payment of consideration and reasonable expenses to a prospective gestational
21 carrier, provided they are negotiated in good faith between the parties.

22 (d) A gestational carrier agreement shall permit the individual acting as a gestational
23 carrier to make all health and welfare decisions regarding the gestational carrier's health and
24 pregnancy, including, but not limited to, whether to consent to a caesarean section or multiple
25 embryo transfer, and shall not enlarge or diminish the gestational carrier's right to terminate the
26 pregnancy. Except as otherwise provided by law, any written or verbal agreement purporting to
27 waive or limit these rights is void against public policy.

28 **15-8.1-803. Parental rights and responsibilities.**

29 (a)(1) If a gestational carrier agreement satisfies the requirements of this article, the
30 intended parent or parents are the parent or parents of the resulting child and parental rights and
31 responsibilities shall vest exclusively in the intended parent or parents immediately upon the birth
32 of the child, and the resulting child is considered the child of the intended parent or parents
33 immediately upon the birth of the child. Neither the gestational carrier nor the gestational
34 carrier's spouse, if any, is the parent of the resulting child.

1 (2) An individual who is determined to be a parent of the resulting child is obligated to
2 support the child. The breach of the gestational carrier agreement by the intended parent or
3 parents does not relieve the intended parent or parents of the obligation to support the resulting
4 child.

5 (3) Notwithstanding subsections (a)(1) and (a)(2) of this section, if genetic testing
6 indicates a genetic relationship between the gestational carrier and the child and the child was not
7 conceived pursuant to a gestational carrier agreement with a family member, then parentage shall
8 be determined by the family court pursuant to articles 1 through 6 of this chapter.

9 (b) If, due to a laboratory or clinical error, the resulting child is not genetically related to
10 either the intended parent or parents or any donor who donated to the intended parent or parents,
11 the intended parent or parents are considered the parent or parents of the child and not the
12 gestational carrier and the carrier's spouse, if any, subject to any other claim of parentage.

13 **15-8.1-804. Parentage orders.**

14 (a) Before, on, or after the birth of a resulting child, a party to a gestational carrier
15 agreement may commence a proceeding in the family court or the superior court to obtain an
16 order doing any of the following:

17 (1) Declaring that the intended parent or parents are the parent or parents of the resulting
18 child and ordering that parental rights and responsibilities vest exclusively in the intended parent
19 or parents immediately upon the birth of the child.

20 (2) Designating the contents of the birth certificate and directing the department of health
21 to designate the intended parent or parents as the parent or parents of the child. The department
22 of health may charge a reasonable fee for the issuance of a birth certificate.

23 (3) Sealing the record from the public to protect the privacy of the child and the parties.

24 (4) Providing any relief the court determines necessary and proper.

25 (b) Neither the state nor the department of health is a necessary party to a proceeding
26 under subsection (a) of this section. Any party to the gestational carrier agreement not joining in
27 the complaint must be served with notice of the proceeding.

28 (c) A complaint for an order of parentage under this section must be verified and include
29 the following:

30 (1) A certification from the attorney representing the intended parent or parents and the
31 attorney representing the person acting as a gestational carrier that the requirements of §§ 15-8.1-
32 801 and 15-8.1-802 have been met; and

33 (2) A statement from all parties to the gestational carrier agreement that they entered into
34 the agreement knowingly and voluntarily.

1 (d) Where a complaint satisfies subsection (c) of this section, the court shall issue an
2 order of parentage, without additional proceedings or documentation:

3 (1) Declaring, that upon the birth of the child born during the term of the gestational
4 carrier agreement, the intended parent or parents is/are the legal parent or parents of the child;

5 (2) Declaring, that upon birth of the child born during the term of the gestational carrier
6 agreement, the individual acting as the gestational carrier, and the spouse of the individual acting
7 as the gestational carrier, if any, is not the legal parent of the child;

8 (3) Ordering the individual acting as a gestational carrier and the spouse of the individual
9 acting as a gestational carrier, if any, to transfer the child to the intended parent or parents if this
10 has not already occurred;

11 (4) Ordering the intended parent or parents to assume responsibility for the maintenance
12 and support of the child immediately upon the birth of the child if this has not already occurred;
13 and

14 (5) Designating the contents of the birth certificate and directing the department of health
15 to designate the intended parent or parents as the parent or parents of the child.

16 (e) The court shall forward a certified copy of the order issued pursuant to this section to
17 the department of health and the intended parents or their representative.

18 (f) The intended parent or parents and any resulting child shall have access to their court
19 records at any time.

20 **15-8.1-805. Jurisdiction.**

21 Subject to the jurisdictional standards of chapter 10 of title 8, the court conducting a
22 proceeding under this chapter has exclusive, continuing jurisdiction of all matters arising out of
23 the gestational carrier agreement until a child born to the gestational carrier during the period
24 governed by the agreement attains the age of one hundred eighty (180) days.

25 **15-8.1-806. Termination of gestational carrier agreement.**

26 (a) A party to a gestational carrier agreement may withdraw consent to any medical
27 procedure and may terminate the gestational carrier agreement at any time prior to any embryo
28 transfer or implantation by giving written notice of termination to all other parties.

29 (b) Upon termination of the gestational carrier agreement under subsection (a) of this
30 section, and unless a gestational carrier agreement provides otherwise, the parties are released
31 from all obligations recited in the agreement except that the intended parent or parents remain
32 responsible for all expenses that are reimbursable under the agreement and incurred by the
33 gestational carrier through the date of termination. The gestational carrier is entitled to keep all
34 payments received and obtain all payments to which the gestational carrier is entitled through the

1 date of termination. Except in a case involving fraud, neither a prospective gestational carrier nor
2 the gestational carrier's spouse, if any, is liable to the intended parent or parents for terminating a
3 gestational carrier agreement under this section.

4 **15-8.1-807. Termination of gestational carrier agreement.**

5 Unless a gestational carrier agreement expressly provides otherwise:

6 (1) The marriage of a gestational carrier or of an intended parent after the agreement has
7 been signed by all parties does not affect the validity of the agreement, the gestational carrier's
8 spouse's consent or intended parent's spouse's consent to the agreement is not required, and the
9 gestational carrier's spouse or intended parent's spouse is not a presumed parent of a child
10 conceived by assisted reproduction under the agreement; and

11 (2) The divorce, dissolution, annulment, or legal separation of the gestational carrier or of
12 an intended parent after the agreement has been signed by all parties does not affect the validity
13 of the agreement.

14 **15-8.1-808. Effect of noncompliance, standard of review, remedies.**

15 (a) A gestational carrier agreement that does not substantially comply with the
16 requirements of this article is not enforceable.

17 (b) In the event that a gestational carrier agreement does not substantially comply with
18 the requirements of this article, the family court or the superior court shall determine parentage
19 based on the intent of the parties, including evidence of the intent of the parties at the time of
20 execution.

21 (c) Except as expressly provided in a gestational carrier agreement and in subsection (d)
22 of this section, in the event of a breach of the gestational carrier agreement by the gestational
23 carrier or the intended parent or parents, the gestational carrier or the intended parent or parents
24 are entitled to all remedies available at law or in equity.

25 (d) If an individual alleges that the parentage of a child born to a gestational carrier is not
26 the result of assisted reproduction, and this question is relevant to the determination of parentage,
27 the court may order genetic testing.

28 (e) Specific performance is not an available remedy for a breach by the gestational carrier
29 of any term in a gestational carrier agreement that requires the gestational carrier to be
30 impregnated or to terminate a pregnancy. Specific performance is an available remedy for a
31 breach by the gestational carrier of any term that prevents the intended parent or parents from
32 exercising the full rights of parentage immediately upon the birth of the child.

33 **15-8.1-809. Liability for payment of gestational carrier health care costs.**

34 (a) The intended parent or parents are liable for the health care costs of the gestational

1 carrier that are not paid by insurance. As used in this section, "health care costs" means the
2 expenses of all health care provided for assisted reproduction, prenatal care, labor, and delivery.

3 (b) A gestational carrier agreement shall explicitly detail how the health care costs of the
4 gestational carrier are paid. The breach of a gestational carrier agreement by a party to the
5 agreement does not relieve the intended parent or parents of the liability for health care costs
6 imposed by subsection (a) of this section.

7 (c) This section is not intended to supplant any health insurance coverage that is
8 otherwise available to the gestational carrier or an intended parent for the coverage of health care
9 costs. This section does not change the health insurance coverage of the gestational carrier or the
10 responsibility of the insurance company to pay benefits under a policy that covers a gestational
11 carrier.

12 Article 9. Information about Donor.

13 **15-8.1-901. Definitions.**

14 As used in this article:

15 (1) "Identifying information" means:

16 (i) The full name of a donor;

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

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

20 (2) "Medical history" means information regarding any of the following:

21 (i) Present illness of a donor;

22 (ii) Past illness of the donor; and

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

24 **15-8.1-902. Applicability.**

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

26 **15-8.1-903. Collection of information about donor.**

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

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

33 (c) A gamete bank or fertility clinic licensed in this state shall disclose the information
34 collected under subsections (a) and (b) of this section as provided under § 15-8.1-905.

1 **15-8.1-904. Declaration regarding identity disclosure.**

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

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

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

7 (b) A gamete bank or fertility clinic licensed in this state shall give a donor the choice to
8 sign a notarized declaration that either:

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

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

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

17 **15-8.1-905. Disclosure of identifying information and medical history.**

18 (a) On request of a child conceived by assisted reproduction who attains eighteen (18)
19 years of age, a gamete bank or fertility clinic licensed in this state which collected the gametes
20 used in the assisted reproduction shall make a good-faith effort to provide the child with
21 identifying information of the donor who provided the gametes, unless the donor signed and did
22 not withdraw a declaration under §15-8.1-904(b)(2). If the donor signed and did not withdraw the
23 declaration, the gamete bank or fertility clinic shall make a good-faith effort to notify the donor,
24 who may elect under §15-8.1-904(c) to withdraw the donor's declaration.

25 (b) Regardless, whether a donor signed a declaration under §15-8.1-904(b)(2), on request
26 by a child conceived by assisted reproduction who attains eighteen (18) years of age, or, if the
27 child is a minor, by a parent or guardian of the child, a gamete bank or fertility clinic licensed in
28 this state which collected the gametes used in the assisted reproduction shall make a good-faith
29 effort to provide the child or, if the child is a minor, the parent or guardian of the child, access to
30 nonidentifying medical history of the donor.

31 (c) On request of a child conceived by assisted reproduction who attains eighteen (18)
32 years of age, a gamete bank or fertility clinic licensed in this state which received the gametes
33 used in the assisted reproduction from another gamete bank or fertility clinic shall disclose the
34 name, address, telephone number, and electronic mail address of the gamete bank or fertility

1 clinic from which it received the gametes.

2 **15-8.1-906. Recordkeeping.**

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

8 (b) A gamete bank or fertility clinic licensed in this state that receives gametes from
9 another gamete bank or fertility clinic shall maintain the name, address, telephone number, and
10 electronic mail address of the gamete bank or fertility clinic from which it received the gametes.

11 **Article 10. Applicability.**

12 **15-8.1-1001. Uniformity of Application and construction.**

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

15 **15-8.1-1002. Relation to electronic signatures in global and national commerce act.**

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

20 **15-8.1-1003. Transitional provision.**

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

23 **15-8.1-1004. Severability.**

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

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

30 **23-3-10. Birth registration.**

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

34 (b) When a birth occurs in an institution, the person in charge of the institution, or his or

1 her designated representative, shall obtain the personal data; prepare the certificate; secure the
2 signatures required by the certificate; and file it with the state registrar of vital records, or as
3 otherwise directed by the state registrar. The physician and/or midwife in attendance, or his or her
4 authorized designee as defined in department regulations, shall certify to the facts of birth and
5 provide the medical information required by the certificate within three (3) days after the birth.

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

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

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

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

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

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

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

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

28 SECTION 4. This act shall take effect on July 1, 2021.

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LC003601/SUB A
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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 uniform parentage act that provides procedures establishing parentage, genetic testing, surrogacy
3 agreements and assisted reproduction.

4 This act would take effect on July 1, 2021.

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LC003601/SUB A
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