

UNIFORM PARENTAGE ACT

(Last Amended or Revised in 2002)

drafted by the

NATIONAL CONFERENCE OF COMMISSIONERS
ON UNIFORM STATE LAWS

and by it

APPROVED AND RECOMMENDED FOR ENACTMENT

at its

ANNUAL CONFERENCE
MEETING IN ITS ONE-HUNDRED-AND-NINTH YEAR
ST. AUGUSTINE, FLORIDA

JULY 28 – AUGUST 4, 2000

WITHOUT PREFATORY NOTE AND COMMENTS

Approved by the American Bar Association
Seattle, Washington, February 10, 2003

December 2002

Uniform Parentage Act (ULPA)

Drafted by:

National Conference of Commissioners on Uniform State Laws (NCCUSL)
211 E. Ontario Street, Suite 1300, Chicago, IL 60611
312-915-0195, www.nccusl.org

Brief description of act:

The 2002 **Uniform Parentage Act** (UPA) augments and streamlines the original 1973 UPA, which removed the legal status of illegitimacy from the law of the U.S. and provided a first modern civil paternity action. It includes the basic paternity or parentage action with expanded standing to bring such an action, but provides for a non-judicial acknowledgment of paternity procedure that is the equivalent of an adjudication of paternity in a court, providing that there is no presumed father of the child. The presumption of fatherhood is based on the relationship between a man and woman with respect to a child. The most common presumed father is the man married to the birth mother of the child at the time of conception. The acknowledgment proceeding is predicated on the availability of the precise genetic testing that has developed since 1973. A paternity registry is provided in the 2002 UPA. There is a specific, separate judicial proceeding for ordering genetic testing. The 2002 UPA provides specific standards for genetic testing. Only genetic tests that identify another man as a father or exclude the presumed father may be used to rebut the presumption of fatherhood in a paternity action. Also included in the 2002 UPA are rules for determining the parents of children whose conception is not the result of sexual intercourse. Included kinds of assisted conception are artificial insemination and in vitro fertilization. The 2002 UPA also incorporates sections on gestational agreements, but as optional sections because of state law differences on these kinds of contracts.

Questions about UPA?

For further information contact the following persons:

Harry L. Tindall, Chair of the UPA drafting committee: htindall@tindallfoster.com

John J. Sampson, Reporter for the UPA drafting committee: jsampson@utexas.edu

Michael Kerr, NCCUSL Deputy Legislative Director: 312-915-0195, michael.kerr@nccusl.org

Notes about NCCUSL Acts:

For information on the specific drafting rules used by NCCUSL, the Conference *Procedural and Drafting Manual* is available online at www.nccusl.org.

Because these are uniform acts, it is important to keep the numbering sequence intact while drafting.

In general, the use of bracketed language in NCCUSL acts indicates that a choice must be made between alternate bracketed language, or that specific language must be inserted into the empty brackets. For example: "An athlete agent who violates Section 14 is guilty of a [misdemeanor] [felony] and, upon conviction, is punishable by []."

A word, number, or phrase, or even an entire section, may be placed in brackets to indicate that the bracketed language is suggested but may be changed to conform to state usage or requirements, or to indicate that the entire section is optional. For example: "An applicant for registration shall submit an application for registration to the [Secretary of State] in a form prescribed by the [Secretary of State]. [An application filed under this section is a public record.] The application must be in the name of an individual, and, except as otherwise provided in subsection (b), signed or otherwise authenticated by the applicant under penalty of perjury."

The sponsor may need to be consulted when dealing with bracketed language.

UNIFORM PARENTAGE ACT

ARTICLE 1

GENERAL PROVISIONS

A word about a drafting convention of the Conference that appears throughout this Act. Brackets in the statutory text are inserted to warn legislative draftsmen in the several states that the suggested language is likely to be subject to local variation. For example, a State may not refer to UPA(2000) as an “[Act],” but may label it as a “chapter,” “title,” etc. Often times the brackets flag terminology that is known to vary greatly, e.g., [petition], or is clearly subject to local option, e.g., [30 days].

SECTION 101. SHORT TITLE. This [Act] may be cited as the Uniform Parentage Act (2000).

SECTION 102. DEFINITIONS. In this [Act]:

(1) “Acknowledged father” means a man who has established a father-child relationship under [Article] 3.

(2) “Adjudicated father” means a man who has been adjudicated by a court of competent jurisdiction to be the father of a child.

(3) “Alleged father” means a man who alleges himself to be, or is alleged to be, the genetic father or a possible genetic father of a child, but whose paternity has not been determined. The term does not include:

- (A) a presumed father;
- (B) a man whose parental rights have been terminated or declared not to exist; or
- (C) a male donor.

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

- (A) intrauterine insemination;
- (B) donation of eggs;
- (C) donation of embryos;
- (D) in-vitro fertilization and transfer of embryos; and
- (E) intracytoplasmic sperm injection.

(5) "Child" means an individual of any age whose parentage may be determined under this [Act].

(6) "Commence" means to file the initial pleading seeking an adjudication of parentage in [the appropriate court] of this State.

(7) "Determination of parentage" means the establishment of the parent-child relationship by the signing of a valid acknowledgment of paternity under [Article] 3 or adjudication by the court.

(8) "Donor" means an individual who produces eggs or sperm used for assisted reproduction, whether or not for consideration. The term does not include:

- (A) a husband who provides sperm, or a wife who provides eggs, to be used for assisted reproduction by the wife;
- (B) a woman who gives birth to a child by means of assisted reproduction [, except as otherwise provided in [Article] 8]; or
- (C) a parent under Article 7 [or an intended parent under Article 8].

(9) "Ethnic or racial group" means, for purposes of genetic testing, a recognized group that an individual identifies as all or part of the individual's ancestry or that is so identified by other information.

(10) "Genetic testing" means an analysis of genetic markers to exclude or identify a man as the father or a woman as the mother of a child. The term includes an analysis of one or a combination of the following:

- (A) deoxyribonucleic acid; and
- (B) blood-group antigens, red-cell antigens, human-leukocyte antigens, serum enzymes, serum proteins, or red-cell enzymes.

[(11) "Gestational mother" means an adult woman who gives birth to a child under a gestational agreement.]

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

(13) "Parent" means an individual who has established a parent-child relationship under Section 201.

(14) "Parent-child relationship" means the legal relationship between a child and a parent of the child. The term includes the mother-child relationship and the father-child relationship.

(15) "Paternity index" means the likelihood of paternity calculated by computing the ratio between:

(A) the likelihood that the tested man is the father, based on the genetic markers of the tested man, mother, and child, conditioned on the hypothesis that the tested man is the father of the child; and

(B) the likelihood that the tested man is not the father, based on the genetic markers of the tested man, mother, and child, conditioned on the hypothesis that the tested man is not the father of the child and that the father is of the same ethnic or racial group as the tested man.

(16) "Presumed father" means a man who, by operation of law under Section 204, is recognized as the father of a child until that status is rebutted or confirmed in a judicial proceeding.

(17) "Probability of paternity" means the measure, for the ethnic or racial group to which the alleged father belongs, of the probability that the man in question is the father of the child, compared with a random, unrelated man of the same ethnic or racial group, expressed as a percentage incorporating the paternity index and a prior probability.

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

(19) "Signatory" means an individual who authenticates a record and is bound by its terms.

(20) "State" means a State of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(21) "Support-enforcement agency" means a public official or agency authorized to seek:

(A) enforcement of support orders or laws relating to the duty of support;

(B) establishment or modification of child support;

(C) determination of parentage; or

(D) location of child-support obligors and their income and assets.

SECTION 103. SCOPE OF [ACT]; CHOICE OF LAW.

(a) This [Act] applies to determination of parentage in this State.

(b) The court shall apply the law of this State to adjudicate the parent-child relationship. The applicable law does not depend on:

- (1) the place of birth of the child; or
- (2) the past or present residence of the child.

(c) This [Act] does not create, enlarge, or diminish parental rights or duties under other law of this State.

(d) This [Act] does not authorize or prohibit an agreement between a woman and a man and another woman in which the woman relinquishes all rights as a parent of a child conceived by means of assisted reproduction, and which provides that the man and other woman become the parents of the child. If a birth results under such an agreement and the agreement is unenforceable under [the law of this State], the parent-child relationship is determined as provided in [Article] 2.]

SECTION 104. COURT OF THIS STATE. The [designate] court is authorized to adjudicate parentage under this [Act].

SECTION 105. PROTECTION OF PARTICIPANTS. Proceedings under this [Act] are subject to other law of this State governing the health, safety, privacy, and liberty of a child or other individual who could be jeopardized by disclosure of identifying information, including address, telephone number, place of employment, social security number, and the child's day-care facility and school.

SECTION 106. DETERMINATION OF MATERNITY. Provisions of this [Act] relating to determination of paternity apply to determinations of maternity.

ARTICLE 2

PARENT-CHILD RELATIONSHIP

SECTION 201. ESTABLISHMENT OF PARENT-CHILD RELATIONSHIP.

(a) The mother-child relationship is established between a woman and a child by:

(1) the woman's having given birth to the child [, except as otherwise provided in [Article] 8];

(2) an adjudication of the woman's maternity; [or]

(3) adoption of the child by the woman [; or]

(4) an adjudication confirming the woman as a parent of a child born to a gestational mother if the agreement was validated under [Article] 8 or is enforceable under other law].

(b) The father-child relationship is established between a man and a child by:

(1) an unrebutted presumption of the man's paternity of the child under Section 204;

(2) an effective acknowledgment of paternity by the man under [Article] 3, unless the acknowledgment has been rescinded or successfully challenged;

(3) an adjudication of the man's paternity;

(4) adoption of the child by the man; [or]

(5) the man's having consented to assisted reproduction by a woman under [Article] 7 which resulted in the birth of the child [; or

(6) an adjudication confirming the man as a parent of a child born to a gestational mother if the agreement was validated under [Article] 8 or is enforceable under other law].

SECTION 202. NO DISCRIMINATION BASED ON MARITAL STATUS. A child born to parents who are not married to each other has the same rights under the law as a child born to parents who are married to each other.

SECTION 203. CONSEQUENCES OF ESTABLISHMENT OF PARENTAGE. Unless parental rights are terminated, a parent-child relationship established under this [Act] applies for all purposes, except as otherwise specifically provided by other law of this State.

SECTION 204. PRESUMPTION OF PATERNITY.

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

(1) he and the mother of the child are married to each other and the child is born during the marriage;

(2) he and the mother of the child were married to each other and the child is born within 300 days after the marriage is terminated by death, annulment, declaration of invalidity, or divorce [, or after a decree of separation];

(3) before the birth of the child, he and the mother of the child married each other in apparent compliance with law, even if the attempted marriage is or could be declared invalid, and the child is born during the invalid marriage or within 300 days after its termination by death, annulment, declaration of invalidity, or divorce [, or after a decree of separation];

(4) after the birth of the child, he and the mother of the child married each other in apparent compliance with law, whether or not the marriage is or could be declared invalid, and he voluntarily asserted his paternity of the child, and:

- (A) the assertion is in a record filed with [state agency maintaining birth records];
 - (B) he agreed to be and is named as the child's father on the child's birth certificate; or
 - (C) he promised in a record to support the child as his own; or
- (5) for the first two years of the child's life, he resided in the same household with the child and openly held out the child as his own.

(b) A presumption of paternity established under this section may be rebutted only by an adjudication under [Article] 6.

ARTICLE 3

VOLUNTARY ACKNOWLEDGMENT OF PATERNITY

SECTION 301. ACKNOWLEDGMENT OF PATERNITY. The mother of a child and a man claiming to be the genetic father of the child may sign an acknowledgment of paternity with intent to establish the man's paternity.

SECTION 302. EXECUTION OF ACKNOWLEDGMENT OF PATERNITY.

(a) An acknowledgment of paternity must:

(1) be in a record;

(2) be signed, or otherwise authenticated, under penalty of perjury by

the mother and by the man seeking to establish his paternity;

(3) state that the child whose paternity is being acknowledged:

(A) does not have a presumed father, or has a presumed father

whose full name is stated; and

(B) does not have another acknowledged or adjudicated father;

(4) state whether there has been genetic testing and, if so, that the

acknowledging man's claim of paternity is consistent with the results of the testing; and

(5) state that the signatories understand that the acknowledgment is the

equivalent of a judicial adjudication of paternity of the child and that a challenge to the

acknowledgment is permitted only under limited circumstances and is barred after two years.

(b) An acknowledgment of paternity is void if it:

(1) states that another man is a presumed father, unless a denial of paternity signed or otherwise authenticated by the presumed father is filed with the [agency maintaining birth records];

(2) states that another man is an acknowledged or adjudicated father;

or

(3) falsely denies the existence of a presumed, acknowledged, or adjudicated father of the child.

(c) A presumed father may sign or otherwise authenticate an acknowledgment of paternity.

SECTION 303. DENIAL OF PATERNITY. A presumed father may sign a denial of his paternity. The denial is valid only if:

(1) an acknowledgment of paternity signed, or otherwise authenticated, by another man is filed pursuant to Section 305;

(2) the denial is in a record, and is signed, or otherwise authenticated, under penalty of perjury; and

(3) the presumed father has not previously:

(A) acknowledged his paternity, unless the previous acknowledgment has been rescinded pursuant to Section 307 or successfully challenged pursuant to Section 308; or

(B) been adjudicated to be the father of the child.

SECTION 304. RULES FOR ACKNOWLEDGMENT AND DENIAL OF PATERNITY.

(a) An acknowledgment of paternity and a denial of paternity may be contained in a single document or may be signed in counterparts, and may be filed separately or simultaneously. If the acknowledgement and denial are both necessary, neither is valid until both are filed.

(b) An acknowledgment of paternity or a denial of paternity may be signed before the birth of the child.

(c) Subject to subsection (a), an acknowledgment of paternity or denial of paternity takes effect on the birth of the child or the filing of the document with the [agency maintaining birth records], whichever occurs later.

(d) An acknowledgment of paternity or denial of paternity signed by a minor is valid if it is otherwise in compliance with this [Act].

SECTION 305. EFFECT OF ACKNOWLEDGMENT OR DENIAL OF PATERNITY.

(a) Except as otherwise provided in Sections 307 and 308, a valid acknowledgment of paternity filed with the [agency maintaining birth records] is equivalent to an adjudication of paternity of a child and confers upon the acknowledged father all of the rights and duties of a parent.

(b) Except as otherwise provided in Sections 307 and 308, a valid denial of paternity by a presumed father filed with the [agency maintaining birth records] in conjunction with a valid acknowledgment of paternity is equivalent to an adjudication of the nonpaternity of the presumed father and discharges the presumed father from all rights and duties of a parent.

SECTION 306. NO FILING FEE. The [agency maintaining birth records] may not charge for filing an acknowledgment of paternity or denial of paternity.

SECTION 307. PROCEEDING FOR RESCISSION. A signatory may rescind an acknowledgment of paternity or denial of paternity by commencing a proceeding to rescind before the earlier of:

- (1) 60 days after the effective date of the acknowledgment or denial, as provided in Section 304; or
- (2) the date of the first hearing, in a proceeding to which the signatory is a party, before a court to adjudicate an issue relating to the child, including a proceeding that establishes support.

SECTION 308. CHALLENGE AFTER EXPIRATION OF PERIOD FOR RESCISSION.

- (a) After the period for rescission under Section 307 has expired, a signatory of an acknowledgment of paternity or denial of paternity may commence a proceeding to challenge the acknowledgment or denial only:
 - (1) on the basis of fraud, duress, or material mistake of fact; and
 - (2) within two years after the acknowledgment or denial is filed with the [agency maintaining birth records].

- (b) A party challenging an acknowledgment of paternity or denial of paternity has the burden of proof.

SECTION 309. PROCEDURE FOR RESCISSION OR CHALLENGE.

- (a) Every signatory to an acknowledgment of paternity and any related denial of paternity must be made a party to a proceeding to rescind or challenge the acknowledgment or denial.
- (b) For the purpose of rescission of, or challenge to, an acknowledgment of paternity or denial of paternity, a signatory submits to personal jurisdiction of this State by signing the acknowledgment or denial, effective upon the filing of the document with the [agency maintaining birth records].

(c) Except for good cause shown, during the pendency of a proceeding to rescind or challenge an acknowledgment of paternity or denial of paternity, the court may not suspend the legal responsibilities of a signatory arising from the acknowledgment, including the duty to pay child support.

(d) A proceeding to rescind or to challenge an acknowledgment of paternity or denial of paternity must be conducted in the same manner as a proceeding to adjudicate parentage under [Article] 6.

(e) At the conclusion of a proceeding to rescind or challenge an acknowledgment of paternity or denial of paternity, the court shall order the [agency maintaining birth records] to amend the birth record of the child, if appropriate.

SECTION 310. RATIFICATION BARRED. A court or administrative agency conducting a judicial or administrative proceeding is not required or permitted to ratify an unchallenged acknowledgment of paternity.

SECTION 311. FULL FAITH AND CREDIT. A court of this State shall give full faith and credit to an acknowledgment of paternity or denial of paternity effective in another State if the acknowledgment or denial has been signed and is otherwise in compliance with the law of the other State.

SECTION 312. FORMS FOR ACKNOWLEDGMENT AND DENIAL OF PATERNITY.

(a) To facilitate compliance with this [article], the [agency maintaining birth records] shall prescribe forms for the acknowledgment of paternity and the denial of paternity.

(b) A valid acknowledgment of paternity or denial of paternity is not affected by a later modification of the prescribed form.

SECTION 313. RELEASE OF INFORMATION. The [agency maintaining birth records] may release information relating to the acknowledgment of paternity or denial of paternity to a signatory of the acknowledgment or denial and to courts and [appropriate state or federal agencies] of this or another State.

SECTION 314. ADOPTION OF RULES. The [agency maintaining birth records] may adopt rules to implement this [article].]

ARTICLE 4
REGISTRY OF PATERNITY

PART 1

GENERAL PROVISIONS

SECTION 401. ESTABLISHMENT OF REGISTRY. A registry of paternity is established in the [agency maintaining the registry].

SECTION 402. REGISTRATION FOR NOTIFICATION.

(a) Except as otherwise provided in subsection (b) or Section 405, a man who desires to be notified of a proceeding for adoption of, or termination of parental rights regarding, a child that he may have fathered must register in the registry of paternity before the birth of the child or within 30 days after the birth.

(b) A man is not required to register if [:

(1)] a father-child relationship between the man and the child has been established under this [Act] or other law [; or

(2) the man commences a proceeding to adjudicate his paternity before the court has terminated his parental rights].

(c) A registrant shall promptly notify the registry in a record of any change in the information registered. The [agency maintaining the registry] shall incorporate all new information received into its records but need not affirmatively seek to obtain current information for incorporation in the registry.

SECTION 403. NOTICE OF PROCEEDING. Notice of a proceeding for the adoption of, or termination of parental rights regarding, a child must be given to a registrant

who has timely registered. Notice must be given in a manner prescribed for service of process in a civil action.

SECTION 404. TERMINATION OF PARENTAL RIGHTS: CHILD UNDER ONE YEAR OF AGE. The parental rights of a man who may be the father of a child may be terminated without notice if:

- (1) the child has not attained one year of age at the time of the termination of parental rights;
 - (2) the man did not register timely with the [agency maintaining the registry];
- and
- (3) the man is not exempt from registration under Section 402.

SECTION 405. TERMINATION OF PARENTAL RIGHTS: CHILD AT LEAST ONE YEAR OF AGE.

- (a) If a child has attained one year of age, notice of a proceeding for adoption of, or termination of parental rights regarding, the child must be given to every alleged father of the child, whether or not he has registered with the [agency maintaining the registry].
- (b) Notice must be given in a manner prescribed for service of process in a civil action.

PART 2

OPERATION OF REGISTRY

SECTION 411. REQUIRED FORM. The [agency maintaining the registry] shall prepare a form for registering with the agency. The form must require the signature of the registrant. The form must state that the form is signed under penalty of perjury. The form must also state that:

(1) a timely registration entitles the registrant to notice of a proceeding for adoption of the child or termination of the registrant's parental rights;

(2) a timely registration does not commence a proceeding to establish paternity;

(3) the information disclosed on the form may be used against the registrant to establish paternity;

(4) services to assist in establishing paternity are available to the registrant through the support-enforcement agency;

(5) the registrant should also register in another State if conception or birth of the child occurred in the other State;

(6) information on registries of other States is available from [appropriate state agency or agencies]; and

(7) procedures exist to rescind the registration of a claim of paternity.

SECTION 412. FURNISHING OF INFORMATION; CONFIDENTIALITY.

(a) The [agency maintaining the registry] need not seek to locate the mother of a child who is the subject of a registration, but the [agency maintaining the registry] shall send a copy of the notice of registration to a mother if she has provided an address.

(b) Information contained in the registry is confidential and may be released on request only to:

(1) a court or a person designated by the court;

(2) the mother of the child who is the subject of the registration;

(3) an agency authorized by other law to receive the information;

(4) a licensed child-placing agency;

(5) a support-enforcement agency;

(6) a party or the party's attorney of record in a proceeding under this [Act] or in a proceeding for adoption of, or for termination of parental rights regarding, a child who is the subject of the registration; and

(7) the registry of paternity in another State.

SECTION 413. PENALTY FOR RELEASING INFORMATION. An individual commits a [appropriate level misdemeanor] if the individual intentionally releases information from the registry to another individual or agency not authorized to receive the information under Section 412.

SECTION 414. RESCISSION OF REGISTRATION. A registrant may rescind his registration at any time by sending to the registry a rescission in a record signed or otherwise authenticated by him, and witnessed or notarized.

SECTION 415. UNTIMELY REGISTRATION. If a man registers more than 30 days after the birth of the child, the [agency] shall notify the registrant that on its face his registration was not filed timely.

SECTION 416. FEES FOR REGISTRY.

(a) A fee may not be charged for filing a registration or a rescission of registration.

(b) [Except as otherwise provided in subsection (c), the] [The] [agency maintaining the registry] may charge a reasonable fee for making a search of the registry and for furnishing a certificate.

[(c) A support-enforcement agency [is] [and other appropriate agencies, if any, are] not required to pay a fee authorized by subsection (b).]

PART 3

SEARCH OF REGISTRIES

SECTION 421. SEARCH OF APPROPRIATE REGISTRY.

(a) If a father-child relationship has not been established under this [Act] for a child under one year of age, a [petitioner] for adoption of, or termination of parental rights regarding, the child, must obtain a certificate of search of the registry of paternity.

(b) If a [petitioner] for adoption of, or termination of parental rights regarding, a child has reason to believe that the conception or birth of the child may have occurred in another State, the [petitioner] must also obtain a certificate of search from the registry of paternity, if any, in that State.

SECTION 422. CERTIFICATE OF SEARCH OF REGISTRY.

(a) The [agency maintaining the registry] shall furnish to the requester a certificate of search of the registry on request of an individual, court, or agency identified in Section 412.

(b) A certificate provided by the [agency maintaining the registry] must be signed on behalf of the [agency] and state that:

(1) a search has been made of the registry; and
(2) a registration containing the information required to identify the registrant:

(A) has been found and is attached to the certificate of search;
or
(B) has not been found.

(c) A [petitioner] must file the certificate of search with the court before a proceeding for adoption of, or termination of parental rights regarding, a child may be concluded.

SECTION 423. ADMISSIBILITY OF REGISTERED INFORMATION. A certificate of search of the registry of paternity in this or another State is admissible in a proceeding for adoption of, or termination of parental rights regarding, a child and, if relevant, in other legal proceedings.

ARTICLE 5

GENETIC TESTING

SECTION 501. SCOPE OF ARTICLE. This [article] governs genetic testing of an individual to determine parentage, whether the individual:

- (1) voluntarily submits to testing; or
- (2) is tested pursuant to an order of the court or a support-enforcement agency.

SECTION 502. ORDER FOR TESTING.

(a) Except as otherwise provided in this [article] and [Article] 6, the court shall order the child and other designated individuals to submit to genetic testing if the request for testing is supported by the sworn statement of a party to the proceeding:

- (1) alleging paternity and stating facts establishing a reasonable probability of the requisite sexual contact between the individuals; or
- (2) denying paternity and stating facts establishing a possibility that sexual contact between the individuals, if any, did not result in the conception of the child.

(b) A support-enforcement agency may order genetic testing only if there is no presumed, acknowledged, or adjudicated father.

(c) If a request for genetic testing of a child is made before birth, the court or support-enforcement agency may not order in-utero testing.

(d) If two or more men are subject to court-ordered genetic testing, the testing may be ordered concurrently or sequentially.

SECTION 503. REQUIREMENTS FOR GENETIC TESTING.

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

(1) the American Association of Blood Banks, or a successor to its functions;

(2) the American Society for Histocompatibility and Immunogenetics, or a successor to its functions; or

(3) an accrediting body designated by the federal Secretary of Health and Human Services.

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

(c) Based on the ethnic or racial group of an individual, the testing laboratory shall determine the databases from which to select frequencies for use in calculation of the probability of paternity. If there is disagreement as to the testing laboratory's choice, the following rules apply:

(1) The individual objecting may require the testing laboratory, within 30 days after receipt of the report of the test, to recalculate the probability of paternity using an ethnic or racial group different from that used by the laboratory.

(2) The individual objecting to the testing laboratory's initial choice shall:

(A) if the frequencies are not available to the testing laboratory for the ethnic or racial group requested, provide the requested frequencies compiled in a manner recognized by accrediting bodies; or

(B) engage another testing laboratory to perform the calculations.

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

(d) If, after recalculation using a different ethnic or racial group, genetic testing does not rebuttably identify a man as the father of a child under Section 505, an individual who has been tested may be required to submit to additional genetic testing.

SECTION 504. REPORT OF GENETIC TESTING.

(a) A report of genetic testing must be in a record and signed under penalty of perjury by a designee of the testing laboratory. A report made under the requirements of this [article] is self-authenticating.

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

(1) the names and photographs of the individuals whose specimens have been taken;

(2) the names of the individuals who collected the specimens;

(3) the places and dates the specimens were collected;

(4) the names of the individuals who received the specimens in the testing laboratory; and

(5) the dates the specimens were received.

SECTION 505. GENETIC TESTING RESULTS; REBUTTAL.

(a) Under this [Act], a man is rebuttably identified as the father of a child if the genetic testing complies with this [article] and the results disclose that:

(1) the man has at least a 99 percent probability of paternity, using a prior probability of 0.50, as calculated by using the combined paternity index obtained in the testing; and

(2) a combined paternity index of at least 100 to 1.

(b) A man identified under subsection (a) as the father of the child may rebut the genetic testing results only by other genetic testing satisfying the requirements of this [article] which:

(1) excludes the man as a genetic father of the child; or

(2) identifies another man as the possible father of the child.

(c) Except as otherwise provided in Section 510, if more than one man is identified by genetic testing as the possible father of the child, the court shall order them to submit to further genetic testing to identify the genetic father.

SECTION 506. COSTS OF GENETIC TESTING.

(a) Subject to assessment of costs under [Article] 6, the cost of initial genetic testing must be advanced:

- (1) by a support-enforcement agency in a proceeding in which the support-enforcement agency is providing services;
- (2) by the individual who made the request;
- (3) as agreed by the parties; or
- (4) as ordered by the court.

(b) In cases in which the cost is advanced by the support-enforcement agency, the agency may seek reimbursement from a man who is rebuttably identified as the father.

SECTION 507. ADDITIONAL GENETIC TESTING. The court or the support-enforcement agency shall order additional genetic testing upon the request of a party who

contests the result of the original testing. If the previous genetic testing identified a man as the father of the child under Section 505, the court or agency may not order additional testing unless the party provides advance payment for the testing.

SECTION 508. GENETIC TESTING WHEN SPECIMENS NOT AVAILABLE.

(a) Subject to subsection (b), if a genetic-testing specimen is not available from a man who may be the father of a child, for good cause and under circumstances the court considers to be just, the court may order the following individuals to submit specimens for genetic testing:

- (1) the parents of the man;
- (2) brothers and sisters of the man;
- (3) other children of the man and their mothers; and
- (4) other relatives of the man necessary to complete genetic testing.

(b) Issuance of an order under this section requires a finding that a need for genetic testing outweighs the legitimate interests of the individual sought to be tested.

SECTION 509. DECEASED INDIVIDUAL. For good cause shown, the court may order genetic testing of a deceased individual.

SECTION 510. IDENTICAL BROTHERS.

(a) The court may order genetic testing of a brother of a man identified as the father of a child if the man is commonly believed to have an identical brother and evidence suggests that the brother may be the genetic father of the child.

(b) If each brother satisfies the requirements as the identified father of the child under Section 505 without consideration of another identical brother being identified as the father of the child, the court may rely on nongenetic evidence to adjudicate which brother is the father of the child.

SECTION 511. CONFIDENTIALITY OF GENETIC TESTING.

(a) Release of the report of genetic testing for parentage is controlled by [applicable state law].

(b) An individual who intentionally releases an identifiable specimen of another individual for any purpose other than that relevant to the proceeding regarding parentage without a court order or the written permission of the individual who furnished the specimen commits a [appropriate level misdemeanor].

ARTICLE 6

PROCEEDING TO ADJUDICATE PARENTAGE

PART 1

NATURE OF PROCEEDING

SECTION 601. PROCEEDING AUTHORIZED. A civil proceeding may be maintained to adjudicate the parentage of a child. The proceeding is governed by the [rules of civil procedure].

SECTION 602. STANDING TO MAINTAIN PROCEEDING. Subject to [Article] 3 and Sections 607 and 609, a proceeding to adjudicate parentage may be maintained by:

- (1) the child;
- (2) the mother of the child;
- (3) a man whose paternity of the child is to be adjudicated;
- (4) the support-enforcement agency [or other governmental agency authorized by other law];
- (5) an authorized adoption agency or licensed child-placing agency; [or]
- (6) a representative authorized by law to act for an individual who would otherwise be entitled to maintain a proceeding but who is deceased, incapacitated, or a minor [<; or
- (7) an intended parent under [Article] 8].

SECTION 603. PARTIES TO PROCEEDING. The following individuals must be joined as parties in a proceeding to adjudicate parentage:

- (1) the mother of the child; and
- (2) a man whose paternity of the child is to be adjudicated.

SECTION 604. PERSONAL JURISDICTION.

- (a) An individual may not be adjudicated to be a parent unless the court has personal jurisdiction over the individual.
- (b) A court of this State having jurisdiction to adjudicate parentage may exercise personal jurisdiction over a nonresident individual, or the guardian or conservator of the individual, if the conditions prescribed in [Section 201 of the Uniform Interstate Family Support Act] are fulfilled.
- (c) Lack of jurisdiction over one individual does not preclude the court from making an adjudication of parentage binding on another individual over whom the court has personal jurisdiction.

SECTION 605. VENUE. Venue for a proceeding to adjudicate parentage is in the [county] of this State in which:

- (1) the child resides or is found;
- (2) the [respondent] resides or is found if the child does not reside in this State; or
- (3) a proceeding for probate or administration of the presumed or alleged father's estate has been commenced.

SECTION 606. NO LIMITATION: CHILD HAVING NO PRESUMED, ACKNOWLEDGED, OR ADJUDICATED FATHER. A proceeding to adjudicate the parentage of a child having no presumed, acknowledged, or adjudicated father may be commenced at any time, even after:

- (1) the child becomes an adult, but only if the child initiates the proceeding; or

(2) an earlier proceeding to adjudicate paternity has been dismissed based on the application of a statute of limitation then in effect.

SECTION 607. LIMITATION: CHILD HAVING PRESUMED FATHER.

(a) Except as otherwise provided in subsection (b), a proceeding brought by a presumed father, the mother, or another individual to adjudicate the parentage of a child having a presumed father must be commenced not later than two years after the birth of the child.

(b) A proceeding seeking to disprove the father-child relationship between a child and the child's presumed father may be maintained at any time if the court determines that:

(1) the presumed father and the mother of the child neither cohabited nor engaged in sexual intercourse with each other during the probable time of conception; and

(2) the presumed father never openly held out the child as his own.

SECTION 608. AUTHORITY TO DENY MOTION FOR GENETIC TESTING.

(a) In a proceeding to adjudicate the parentage of a child having a presumed father or to challenge the paternity of a child having an acknowledged father, the court may deny a motion seeking an order for genetic testing of the mother, the child, and the presumed or acknowledged father if the court determines that:

(1) the conduct of the mother or the presumed or acknowledged father estops that party from denying parentage; and

(2) it would be inequitable to disprove the father-child relationship between the child and the presumed or acknowledged father.

(b) In determining whether to deny a motion seeking an order for genetic testing under this section, the court shall consider the best interest of the child, including the following factors:

(1) the length of time between the proceeding to adjudicate parentage and the time that the presumed or acknowledged father was placed on notice that he might not be the genetic father;

(2) the length of time during which the presumed or acknowledged father has assumed the role of father of the child;

(3) the facts surrounding the presumed or acknowledged father's discovery of his possible nonpaternity;

(4) the nature of the relationship between the child and the presumed or acknowledged father;

(5) the age of the child;

(6) the harm that may result to the child if presumed or acknowledged paternity is successfully disproved;

(7) the nature of the relationship between the child and any alleged father;

(8) the extent to which the passage of time reduces the chances of establishing the paternity of another man and a child-support obligation in favor of the child; and

(9) other factors that may affect the equities arising from the disruption of the father-child relationship between the child and the presumed or acknowledged father or the chance of other harm to the child.

(c) In a proceeding involving the application of this section, a minor or incapacitated child must be represented by a guardian ad litem.

(d) Denial of a motion seeking an order for genetic testing must be based on clear and convincing evidence.

(e) If the court denies a motion seeking an order for genetic testing, it shall issue an order adjudicating the presumed or acknowledged father to be the father of the child.

SECTION 609. LIMITATION: CHILD HAVING ACKNOWLEDGED OR ADJUDICATED FATHER.

(a) If a child has an acknowledged father, a signatory to the acknowledgment of paternity or denial of paternity may commence a proceeding seeking to rescind the acknowledgement or denial or challenge the paternity of the child only within the time allowed under Section 307 or 308.

(b) If a child has an acknowledged father or an adjudicated father, an individual, other than the child, who is neither a signatory to the acknowledgment of paternity nor a party to the adjudication and who seeks an adjudication of paternity of the child must commence a proceeding not later than two years after the effective date of the acknowledgment or adjudication.

(c) A proceeding under this section is subject to the application of the principles of estoppel established in Section 608.

SECTION 610. JOINDER OF PROCEEDINGS.

(a) Except as otherwise provided in subsection (b), a proceeding to adjudicate parentage may be joined with a proceeding for adoption, termination of parental rights, child custody or visitation, child support, divorce, annulment, [legal separation or separate maintenance,] probate or administration of an estate, or other appropriate proceeding.

(b) A [respondent] may not join a proceeding described in subsection (a) with a proceeding to adjudicate parentage brought under [the Uniform Interstate Family Support Act].

SECTION 611. PROCEEDING BEFORE BIRTH. A proceeding to determine parentage may be commenced before the birth of the child, but may not be concluded until after the birth of the child. The following actions may be taken before the birth of the child:

- (1) service of process;
- (2) discovery; and
- (3) except as prohibited by Section 502, collection of specimens for genetic testing.

SECTION 612. CHILD AS PARTY; REPRESENTATION.

(a) A minor child is a permissible party, but is not a necessary party to a proceeding under this [article].

(b) The court shall appoint an [attorney ad litem] to represent a minor or incapacitated child if the child is a party or the court finds that the interests of the child are not adequately represented.

PART 2

SPECIAL RULES FOR PROCEEDING TO ADJUDICATE PARENTAGE

SECTION 621. ADMISSIBILITY OF RESULTS OF GENETIC TESTING; EXPENSES.

(a) Except as otherwise provided in subsection (c), a record of a genetic-testing expert is admissible as evidence of the truth of the facts asserted in the report unless a

party objects to its admission within [14] days after its receipt by the objecting party and cites specific grounds for exclusion. The admissibility of the report is not affected by whether the testing was performed:

(1) voluntarily or pursuant to an order of the court or a support-enforcement agency; or

(2) before or after the commencement of the proceeding.

(b) A party objecting to the results of genetic testing may call one or more genetic-testing experts to testify in person or by telephone, videoconference, deposition, or another method approved by the court. Unless otherwise ordered by the court, the party offering the testimony bears the expense for the expert testifying.

(c) If a child has a presumed, acknowledged, or adjudicated father, the results of genetic testing are inadmissible to adjudicate parentage unless performed:

(1) with the consent of both the mother and the presumed, acknowledged, or adjudicated father; or

(2) pursuant to an order of the court under Section 502.

(d) Copies of bills for genetic testing and for prenatal and postnatal health care for the mother and child which are furnished to the adverse party not less than 10 days before the date of a hearing are admissible to establish:

(1) the amount of the charges billed; and

(2) that the charges were reasonable, necessary, and customary.

SECTION 622. CONSEQUENCES OF DECLINING GENETIC TESTING.

(a) An order for genetic testing is enforceable by contempt.

(b) If an individual whose paternity is being determined declines to submit to genetic testing ordered by the court, the court for that reason may adjudicate parentage contrary to the position of that individual.

(c) Genetic testing of the mother of a child is not a condition precedent to testing the child and a man whose paternity is being determined. If the mother is unavailable or declines to submit to genetic testing, the court may order the testing of the child and every man whose paternity is being adjudicated.

SECTION 623. ADMISSION OF PATERNITY AUTHORIZED.

(a) A [respondent] in a proceeding to adjudicate parentage may admit to the paternity of a child by filing a pleading to that effect or by admitting paternity under penalty of perjury when making an appearance or during a hearing.

(b) If the court finds that the admission of paternity satisfies the requirements of this section and finds that there is no reason to question the admission, the court shall issue an order adjudicating the child to be the child of the man admitting paternity.

SECTION 624. TEMPORARY ORDER.

(a) In a proceeding under this [article], the court shall issue a temporary order for support of a child if the order is appropriate and the individual ordered to pay support is:

- (1) a presumed father of the child;
- (2) petitioning to have his paternity adjudicated;
- (3) identified as the father through genetic testing under Section 505;
- (4) an alleged father who has declined to submit to genetic testing;
- (5) shown by clear and convincing evidence to be the father of the child; or
- (6) the mother of the child.

(b) A temporary order may include provisions for custody and visitation as provided by other law of this State.

PART 3

HEARINGS AND ADJUDICATION

SECTION 631. RULES FOR ADJUDICATION OF PATERNITY. The court shall apply the following rules to adjudicate the paternity of a child:

(1) The paternity of a child having a presumed, acknowledged, or adjudicated father may be disproved only by admissible results of genetic testing excluding that man as the father of the child or identifying another man as the father of the child.

(2) Unless the results of genetic testing are admitted to rebut other results of genetic testing, a man identified as the father of a child under Section 505 must be adjudicated the father of the child.

(3) If the court finds that genetic testing under Section 505 neither identifies nor excludes a man as the father of a child, the court may not dismiss the proceeding. In that event, the results of genetic testing, and other evidence, are admissible to adjudicate the issue of paternity.

(4) Unless the results of genetic testing are admitted to rebut other results of genetic testing, a man excluded as the father of a child by genetic testing must be adjudicated not to be the father of the child.

SECTION 632. JURY PROHIBITED. The court, without a jury, shall adjudicate paternity of a child.

SECTION 633. HEARINGS; INSPECTION OF RECORDS.

(a) On request of a party and for good cause shown, the court may close a proceeding under this [article].

(b) A final order in a proceeding under this [article] is available for public inspection. Other papers and records are available only with the consent of the parties or on order of the court for good cause.

SECTION 634. ORDER ON DEFAULT. The court shall issue an order adjudicating the paternity of a man who:

- (1) after service of process, is in default; and
- (2) is found by the court to be the father of a child.

SECTION 635. DISMISSAL FOR WANT OF PROSECUTION. The court may issue an order dismissing a proceeding commenced under this [Act] for want of prosecution only without prejudice. An order of dismissal for want of prosecution purportedly with prejudice is void and has only the effect of a dismissal without prejudice.

SECTION 636. ORDER ADJUDICATING PARENTAGE.

(a) The court shall issue an order adjudicating whether a man alleged or claiming to be the father is the parent of the child.

(b) An order adjudicating parentage must identify the child by name and date of birth.

(c) Except as otherwise provided in subsection (d), the court may assess filing fees, reasonable attorney's fees, fees for genetic testing, other costs, and necessary travel and other reasonable expenses incurred in a proceeding under this [article]. The court may award attorney's fees, which may be paid directly to the attorney, who may enforce the order in the attorney's own name.

(d) The court may not assess fees, costs, or expenses against the support-enforcement agency of this State or another State, except as provided by other law.

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

(f) If the order of the court is at variance with the child's birth certificate, the court shall order [agency maintaining birth records] to issue an amended birth registration.

SECTION 637. BINDING EFFECT OF DETERMINATION OF PARENTAGE.

(a) Except as otherwise provided in subsection (b), a determination of parentage is binding on:

(1) all signatories to an acknowledgement or denial of paternity as provided in [Article] 3; and

(2) all parties to an adjudication by a court acting under circumstances that satisfy the jurisdictional requirements of [Section 201 of the Uniform Interstate Family Support Act].

(b) A child is not bound by a determination of parentage under this [Act] unless:

(1) the determination was based on an unrescinded acknowledgment of paternity and the acknowledgement is consistent with the results of genetic testing;

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

(3) the child was a party or was represented in the proceeding determining parentage by an [attorney ad litem].

(c) In a proceeding to dissolve a marriage, the court is deemed to have made an adjudication of the parentage of a child if the court acts under circumstances that satisfy the jurisdictional requirements of [Section 201 of the Uniform Interstate Family Support Act], and the final order:

- (1) expressly identifies a child as a “child of the marriage,” “issue of the marriage,” or similar words indicating that the husband is the father of the child; or
- (2) provides for support of the child by the husband unless paternity is specifically disclaimed in the order.

(d) Except as otherwise provided in subsection (b), a determination of parentage may be a defense in a subsequent proceeding seeking to adjudicate parentage by an individual who was not a party to the earlier proceeding.

(e) A party to an adjudication of paternity may challenge the adjudication only under law of this State relating to appeal, vacation of judgments, or other judicial review.

ARTICLE 7

CHILD OF ASSISTED REPRODUCTION

SECTION 701. SCOPE OF ARTICLE. This [article] does not apply to the birth of a child conceived by means of sexual intercourse [, or as the result of a gestational agreement as provided in [Article] 8].

SECTION 702. PARENTAL STATUS OF DONOR. A donor is not a parent of a child conceived by means of assisted reproduction.

SECTION 703. PATERNITY OF CHILD OF ASSISTED REPRODUCTION. A man who provides sperm for, or consents to, assisted reproduction by a woman as provided in Section 704 with the intent to be the parent of her child, is a parent of the resulting child.

SECTION 704. CONSENT TO ASSISTED REPRODUCTION.

(a) Consent by a woman, and a man who intends to be a parent of a child born to the woman by assisted reproduction must be in a record signed by the woman and the man. This requirement does not apply to a donor.

(b) Failure a man to sign a consent required by subsection (a), before or after birth of the child, does not preclude a finding of paternity if the woman and the man, during the first two years of the child's life resided together in the same household with the child and openly held out the child as their own.

SECTION 705. LIMITATION ON HUSBAND'S DISPUTE OF PATERNITY.

(a) Except as otherwise provided in subsection (b), the husband of a wife who gives birth to a child by means of assisted reproduction may not challenge his paternity of the child unless:

(1) within two years after learning of the birth of the child he commences a proceeding to adjudicate his paternity; and

(2) the court finds that he did not consent to the assisted reproduction, before or after birth of the child.

(b) A proceeding to adjudicate paternity may be maintained at any time if the court determines that:

- (1) the husband did not provide sperm for, or before or after the birth of the child consent to, assisted reproduction by his wife;
- (2) the husband and the mother of the child have not cohabited since the probable time of assisted reproduction; and
- (3) the husband never openly held out the child as his own.

(c) The limitation provided in this section applies to a marriage declared invalid after assisted reproduction.

SECTION 706. EFFECT OF DISSOLUTION OF MARRIAGE OR WITHDRAWAL OF CONSENT.

(a) If a marriage is dissolved before placement of eggs, sperm, or embryos, the former spouse is not a parent of the resulting child unless the former spouse consented in a record that if assisted reproduction were to occur after a divorce, the former spouse would be a parent of the child.

(b) The consent of a woman or a man to assisted reproduction may be withdrawn by that individual in a record at any time before placement of eggs, sperm, or embryos. An individual who withdraws consent under this section is not a parent of the resulting child.

SECTION 707. PARENTAL STATUS OF DECEASED INDIVIDUAL. If an individual who consented in a record to be a parent by assisted reproduction dies before placement of eggs, sperm, or embryos, the deceased individual is not a parent of the resulting child unless the deceased spouse consented in a record that if assisted reproduction were to occur after death, the deceased individual would be a parent of the child.

ARTICLE 8

GESTATIONAL AGREEMENT

SECTION 801. GESTATIONAL AGREEMENT AUTHORIZED.

(a) A prospective gestational mother, her husband if she is married, a donor or the donors, and the intended parents may enter into a written agreement providing that:

(1) the prospective gestational mother agrees to pregnancy by means of assisted reproduction;

(2) the prospective gestational mother, her husband if she is married, and the donors relinquish all rights and duties as the parents of a child conceived through assisted reproduction; and

(3) the intended parents become the parents of the child.

(b) The man and the woman who are the intended parents must both be parties to the gestational agreement.

(c) A gestational agreement is enforceable only if validated as provided in Section 803.

(d) A gestational agreement does not apply to the birth of a child conceived by means of sexual intercourse.

(e) A gestational agreement may provide for payment of consideration.

(f) A gestational agreement may not limit the right of the gestational mother to make decisions to safeguard her health or that of the embryos or fetus.

SECTION 802. REQUIREMENTS OF PETITION.

(a) The intended parents and the prospective gestational mother may commence a proceeding in the [appropriate court] to validate a gestational agreement.

(b) A proceeding to validate a gestational agreement may not be maintained unless:

- (1) the mother or the intended parents have been residents of this State for at least 90 days;
- (2) the prospective gestational mother's husband, if she is married, is joined in the proceeding; and
- (3) a copy of the gestational agreement is attached to the [petition].

SECTION 803. HEARING TO VALIDATE GESTATIONAL AGREEMENT.

(a) If the requirements of subsection (b) are satisfied, a court may issue an order validating the gestational agreement and declaring that the intended parents will be the parents of a child born during the term of the of the agreement.

(b) The court may issue an order under subsection (a) only on finding that:

(1) the residence requirements of Section 802 have been satisfied and the parties have submitted to the jurisdiction of the court under the jurisdictional standards of this [Act];

(2) unless waived by the court, the [relevant child-welfare agency] has made a home study of the intended parents and the intended parents meet the standards of suitability applicable to adoptive parents;

(3) all parties have voluntarily entered into the agreement and understand its terms;

(4) adequate provision has been made for all reasonable health-care expense associated with the gestational agreement until the birth of the child, including responsibility for those expenses if the agreement is terminated; and

(5) the consideration, if any, paid to the prospective gestational mother is reasonable.

SECTION 804. INSPECTION OF RECORDS. The proceedings, records, and identities of the individual parties to a gestational agreement under this [article] are subject to inspection under the standards of confidentiality applicable to adoptions as provided under other law of this State.

SECTION 805. EXCLUSIVE, CONTINUING JURISDICTION. Subject to the jurisdictional standards of [Section 201 of the Uniform Child Custody Jurisdiction and Enforcement Act], the court conducting a proceeding under this [article] has exclusive, continuing jurisdiction of all matters arising out of the gestational agreement until a child born to the gestational mother during the period governed by the agreement attains the age of 180 days.

SECTION 806. TERMINATION OF GESTATIONAL AGREEMENT.

(a) After issuance of an order under this [article], but before the prospective gestational mother becomes pregnant by means of assisted reproduction, the prospective gestational mother, her husband, or either of the intended parents may terminate the gestational agreement by giving written notice of termination to all other parties.

(b) The court for good cause shown may terminate the gestational agreement.

(c) An individual who terminates a gestational agreement shall file notice of the termination with the court. On receipt of the notice, the court shall vacate the order issued under this [article]. An individual who does not notify the court of the termination of the agreement is subject to appropriate sanctions.

(d) Neither a prospective gestational mother nor her husband, if any, is liable to the intended parents for terminating a gestational agreement pursuant to this section.

SECTION 807. PARENTAGE UNDER VALIDATED GESTATIONAL AGREEMENT.

(a) Upon birth of a child to a gestational mother, the intended parents shall file notice with the court that a child has been born to the gestational mother within 300 days after assisted reproduction. Thereupon, the court shall issue an order:

- (1) confirming that the intended parents are the parents of the child ;
- (2) if necessary, ordering that the child be surrendered to the intended parents; and
- (3) directing the [agency maintaining birth records] to issue a birth certificate naming the intended parents as parents of the child.

(b) If the parentage of a child born to a gestational mother is alleged not to be the result of assisted reproduction, the court shall order genetic testing to determine the parentage of the child.

(c) If the intended parents fail to file notice required under subsection (a), the gestational mother or the appropriate State agency may file notice with the court that a child has been born to the gestational mother within 300 days after assisted reproduction. Upon proof of a court order issued pursuant to Section 803 validating the gestational agreement, the court shall order the intended parents are the parents of the child and are financially responsible for the child.

SECTION 808. GESTATIONAL AGREEMENT: EFFECT OF SUBSEQUENT MARRIAGE.

After the issuance of an order under this [article], subsequent marriage of the gestational mother does not affect the validity of a gestational agreement, her husband's consent to the agreement is not required, and her husband is not a presumed father of the resulting child.

**SECTION 809. EFFECT OF NONVALIDATED GESTATIONAL
AGREEMENT.**

(a) A gestational agreement, whether in a record or not, that is not judicially validated is not enforceable.

(b) If a birth results under a gestational agreement that is not judicially validated as provided in this [article], the parent-child relationship is determined as provided in [Article] 2.

(c) Individuals who are parties to a nonvalidated gestational agreement as intended parents may be held liable for support of the resulting child, even if the agreement is otherwise unenforceable. The liability under this subsection includes assessing all expenses and fees as provided in Section 636.]

ARTICLE 9

MISCELLANEOUS PROVISIONS

SECTION 901. UNIFORMITY OF APPLICATION AND CONSTRUCTION. In applying and construing this Uniform Act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among States that enact it.

SECTION 902. SEVERABILITY CLAUSE. If any provision of this [Act] or its application to an individual or circumstance is held invalid, the invalidity does not affect other provisions or applications of this [Act] which can be given effect without the invalid provision or application, and to this end the provisions of this [Act] are severable.

SECTION 903. TIME OF TAKING EFFECT. This [Act] takes effect on _____.

SECTION 904. REPEAL. The following acts and parts of acts are repealed:

- (1) [Uniform Act on Paternity, 1960]
- (2) [Uniform Parentage Act, 1973]
- (3) [Uniform Putative and Unknown Fathers Act, 1988]
- (4) [Uniform Status of Children of Assisted Conception Act, 1988]
- (5) [other inconsistent statutes]

SECTION 905. TRANSITIONAL PROVISION. A proceeding to adjudicate parentage which was commenced before the effective date of this [Act] is governed by the law in effect at the time the proceeding was commenced.

APPENDIX

FEDERAL IV-D STATUTE RELATING TO PARENTAGE

42 U. S. C. § 666. Requirement of Statutorily Prescribed Procedures To Improve Effectiveness of Child Support Enforcement.

(a) Types of procedures required. In order to satisfy section 654(20)(A) of this title, each State must have in effect laws requiring the use of the following procedures, consistent with this section and with regulations of the Secretary, to increase the effectiveness of the program which the State administers under this part:

* * *

(5) Procedures concerning paternity establishment.

(A) Establishment process available from birth until age 18.

(i) Procedures which permit the establishment of the paternity of a child at any time before the child attains 18 years of age.

(ii) As of August 16, 1984, clause (i) shall also apply to a child for whom paternity has not been established or for whom a paternity action was brought but dismissed because a statute of limitations of less than 18 years was then in effect in the State.

(B) Procedures concerning genetic testing.

(i) Genetic testing required in certain contested cases. Procedures under which the State is required, in a contested paternity case (unless otherwise barred by State law) to require the child and all other parties (other than individuals found under section 654(29) of this title to have good cause and other exceptions for refusing to cooperate) to submit to genetic tests upon the request of any such party, if the request is supported by a sworn statement by the party:

(I) alleging paternity, and setting forth facts establishing a reasonable possibility of the requisite sexual contact between the parties; or

(II) denying paternity, and setting forth facts establishing a reasonable possibility of the nonexistence of sexual contact between the parties.

(ii) Other requirements. Procedures which require the State agency, in any case in which the agency orders genetic testing:

(I) to pay costs of such tests, subject to recoupment (if the State so elects) from the alleged father if paternity is established; and

(II) to obtain additional testing in any case if an original test result is contested, upon request and advance payment by the contestant.

(C) Voluntary paternity acknowledgment.

(i) Simple civil process. Procedures for a simple civil process for voluntarily acknowledging paternity under which the State must provide that, before a mother and a putative father can sign an acknowledgment of paternity, the mother and the putative father must be given notice, orally or through the use of audio or video equipment and in writing, of the alternatives to, the legal consequences of, and the rights (including, if 1 parent is a minor, any rights afforded due to minority status) and responsibilities that arise from, signing the acknowledgment.

(ii) Hospital-based program. Such procedures must include a hospital-based program for the voluntary acknowledgment of paternity focusing on the period immediately before or after the birth of a child.

(iii) Paternity establishment services.

(I) State-offered services. Such procedures must require the State agency responsible for maintaining birth records to offer voluntary paternity establishment services.

(II) Regulations.

(aa) Services offered by hospitals and birth record agencies. The Secretary shall prescribe regulations governing voluntary paternity establishment services offered by hospitals and birth record agencies.

(bb) Services offered by other entities. The Secretary shall prescribe regulations specifying the types of other entities that may offer voluntary paternity establishment services, and governing the provision of such services, which shall include a requirement that such an entity must use the same notice provisions used by, use the same materials used by, provide the personnel providing such services with the same training provided by, and evaluate the provision of such services in the same manner as the provision of such services is evaluated by, voluntary paternity establishment programs of hospitals and birth record agencies.

(iv) Use of paternity acknowledgment affidavit. Such procedures must require the State to develop and use an affidavit for the voluntary acknowledgment of paternity which includes the minimum requirements of the affidavit specified by the Secretary under section 652(a)(7) of this title for the voluntary acknowledgment of paternity, and to give full faith and credit to such an affidavit signed in any other State according to its procedures.

(D) Status of signed paternity acknowledgment.

(i) Inclusion in birth records. Procedures under which the name of the father shall be included on the record of birth of the child of unmarried parents only if:

(I) the father and mother have signed a voluntary acknowledgment of paternity; or

(II) a court or an administrative agency of competent jurisdiction has issued an adjudication of paternity.

Nothing in this clause shall preclude a State agency from obtaining an admission of paternity from the father for submission in a judicial or administrative proceeding, or prohibit the issuance of an order in a judicial or administrative proceeding which bases a legal finding of paternity on an admission of paternity by the father and any other additional showing required by State law.

(ii) Legal finding of paternity. Procedures under which a signed voluntary acknowledgment of paternity is considered a legal finding of paternity, subject to the right of any signatory to rescind the acknowledgment within the earlier of:

(I) 60 days; or

(II) the date of an administrative or judicial proceeding relating to the child (including a proceeding to establish a support order) in which the signatory is a party.

(iii) Contest. Procedures under which, after the 60-day period referred to in clause (ii), a signed voluntary acknowledgment of paternity may be challenged in court only on the basis of fraud, duress, or material mistake of fact, with the burden of proof upon the challenger, and under which the legal responsibilities (including child support obligations) of

any signatory arising from the acknowledgment may not be suspended during the challenge, except for good cause shown.

(E) Bar on acknowledgment ratification proceedings. Procedures under which judicial or administrative proceedings are not required or permitted to ratify an unchallenged acknowledgment of paternity.

(F) Admissibility of genetic testing results. Procedures:

(i) requiring the admission into evidence, for purposes of establishing paternity, of the results of any genetic test that is:

(I) of a type generally acknowledged as reliable by accreditation bodies designated by the Secretary; and

(II) performed by a laboratory approved by such an accreditation body;

(ii) requiring an objection to genetic testing results to be made in writing not later than a specified number of days before any hearing at which the results may be introduced into evidence (or, at State option, not later than a specified number of days after receipt of the results); and

(iii) making the test results admissible as evidence of paternity without the need for foundation testimony or other proof of authenticity or accuracy, unless objection is made.

(G) Presumption of paternity in certain cases. Procedures which create a rebuttable or, at the option of the State, conclusive presumption of paternity upon genetic testing results indicating a threshold probability that the alleged father is the father of the child.

(H) Default orders. Procedures requiring a default order to be entered in a paternity case upon a showing of service of process on the defendant and any additional showing required by State law.

(I) No right to jury trial. Procedures providing that the parties to an action to establish paternity are not entitled to a trial by jury.

(J) Temporary support order based on probable paternity in contested cases. Procedures which require that a temporary order be issued, upon motion by a party, requiring the provision of child support pending an administrative or judicial determination of parentage, if there is clear and convincing evidence of paternity (on the basis of genetic tests or other evidence).

(K) Proof of certain support and paternity establishment costs. Procedures under which bills for pregnancy, childbirth, and genetic testing are admissible as evidence without requiring third-party foundation testimony, and shall constitute *prima facie* evidence of amounts incurred for such services or for testing on behalf of the child.

(L) Standing of putative fathers. Procedures ensuring that the putative father has a reasonable opportunity to initiate a paternity action.

(M) Filing of acknowledgments and adjudications in State registry of birth records. Procedures under which voluntary acknowledgments and adjudications of paternity by judicial or administrative processes are filed with the State registry of birth records for comparison with information in the State case registry.