

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Judiciary to which was referred House Bill No. 562  
3 entitled “An act relating to parentage proceedings” respectfully reports that it  
4 has considered the same and recommends that the bill be amended by striking  
5 out all after the enacting clause and inserting in lieu thereof the following:

6 Sec. 1. Title 15C is added to read:

7 TITLE 15C. PARENTAGE PROCEEDINGS

8 CHAPTER 1. SHORT TITLE; DEFINITIONS; SCOPE; GENERAL

9 PROVISIONS

10 § 101. SHORT TITLE

11 This title may be cited as the Vermont Parentage Act.

12 § 102. DEFINITIONS

13 As used in this title:

14 (1) “Acknowledged parent” means a person who has established a  
15 parent-child relationship under chapter 3 of this title.

16 (2) “Adjudicated parent” means a person who has been adjudicated by a  
17 court of competent jurisdiction to be a parent of a child.

18 (3) “Alleged genetic parent” means a person who is alleged to be, or  
19 alleges that the person is, a genetic parent or possible genetic parent of a child  
20 whose parentage has not been adjudicated. The term includes an alleged  
21 genetic father and alleged genetic mother. The term does not include:

1           (A) a presumed parent;

2           (B) a person whose parental rights have been terminated or declared  
3 not to exist; or

4           (C) a donor.

5           (4) “Assisted reproduction” means a method of causing pregnancy other  
6 than sexual intercourse and includes:

7           (A) intrauterine, intracervical, or vaginal insemination;

8           (B) donation of gametes;

9           (C) donation of embryos;

10          (D) in vitro fertilization and transfer of embryos; and

11          (E) intracytoplasmic sperm injection.

12          (5) “Birth” includes stillbirth.

13          (6) “Child” means a person of any age whose parentage may be  
14 determined under this title.

15          (7) “Donor” means a person who contributes a gamete or gametes or an  
16 embryo or embryos to another person for assisted reproduction or gestation,  
17 whether or not for consideration. This term does not include:

18               (A) a person who gives birth to a child conceived by assisted  
19 reproduction except as otherwise provided in chapter 8 of this title; or

20               (B) a parent under chapter 7 of this title or an intended parent under  
21 chapter 8 of this title.

1           (8) “Embryo” means a cell or group of cells containing a diploid  
2           complement of chromosomes or a group of such cells, not including a gamete,  
3           that has the potential to develop into a live born human being if transferred into  
4           the body of a woman under conditions in which gestation may be reasonably  
5           expected to occur.

6           (9) “Gamete” means a sperm, egg, or any part of a sperm or egg.

7           (10) “Genetic population group” means, for purposes of genetic testing,  
8           a recognized group that a person identifies as all or part of the person’s  
9           ancestry or that is so identified by other information.

10           (11) “Gestational carrier” means an adult person who is not an intended  
11           parent and who enters into a gestational carrier agreement to bear a child  
12           conceived using the gametes of other persons and not the gestational carrier’s  
13           own, except that a person who carries a child for a family member using the  
14           gestational carrier’s own gametes and who fulfills the requirements of  
15           chapter 8 of this title is a gestational carrier.

16           (12) “Gestational carrier agreement” means a contract between an  
17           intended parent or parents and a gestational carrier intended to result in a live  
18           birth.

19           (13) “Intended parent” means a person, whether married or unmarried,  
20           who manifests the intent to be legally bound as a parent of a child resulting  
21           from assisted reproduction or a gestational carrier agreement.

1           (14) “Marriage” includes civil union and any legal relationship that  
2           provides substantially the same rights, benefits, and responsibilities as  
3           marriage and is recognized as valid in the state or jurisdiction in which it was  
4           entered.

5           (15) “Parent” means a person who has established parentage that meets  
6           the requirements of this title.

7           (16) “Parentage” means the legal relationship between a child and a  
8           parent as established under this title.

9           (17) “Presumed parent” means a person who is recognized as the parent  
10          of a child under section 401 of this title.

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

14          (19) “Sign” means, with the intent to authenticate or adopt a record, to:

15                (A) execute or adopt a tangible symbol; or

16                (B) attach to or logically associate with the record an electronic  
17          symbol, sound, or process.

18          (20) “Signatory” means a person who signs a record and is bound by its  
19          terms.

20          (21) “Spouse” includes a partner in a civil union or a partner in a legal  
21          relationship that provides substantially the same rights, benefits, and

1 responsibilities as marriage and is recognized as valid in the state or  
2 jurisdiction in which it was entered.

3 § 103. SCOPE AND APPLICATION

4 (a) Scope. This title applies to determination of parentage in this State.

5 (b) Choice of law. The court shall apply the law of this State to adjudicate  
6 parentage.

7 (c) Effect on parental rights. This title does not create, enlarge, or diminish  
8 parental rights and responsibilities under other laws of this State or the  
9 equitable powers of the courts, except as provided in this title.

10 § 104. PARENTAGE PROCEEDING

11 (a) Proceeding authorized. A proceeding to adjudicate the parentage of a  
12 child shall be maintained in accordance with this title and with the Vermont  
13 Rules for Family Proceedings, except that proceedings for birth orders under  
14 sections 708 and 804 of this title shall be maintained in accordance with the  
15 Vermont Rules of Probate Procedure.

16 (b) Actions brought by the Office of Child Support. If the complaint is  
17 brought by the Office of Child Support, the complaint shall be accompanied by  
18 an affidavit of the parent whose rights have been assigned. In cases where the  
19 assignor is not a genetic parent or is a genetic parent who refuses to provide an  
20 affidavit, the affidavit may be submitted by the Office of Child Support, but

1 the affidavit alone shall not support a default judgment on the issue of  
2 parentage.

3 (c) Original actions. Original actions to adjudicate parentage may be  
4 commenced in the Family Division of the Superior Court, except that  
5 proceedings for birth orders under sections 708 and 804 of this title shall be  
6 commenced in the Probate Division of the Superior Court.

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

9 (e) Disclosure of Social Security numbers. A person who is a party to a  
10 parentage action shall disclose that person's Social Security number to the  
11 court. The Social Security number of a person subject to a parentage  
12 adjudication shall be placed in the court records relating to the adjudication.  
13 The court shall disclose a person's Social Security number to the Office of  
14 Child Support.

15 § 105. STANDING TO MAINTAIN PROCEEDING

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

18 (1) the child;

19 (2) the person who gave birth to the child unless a court has adjudicated  
20 that the person is not a parent or the person is a gestational carrier who is not a  
21 parent under subdivision 803(1)(A) of this title;

1           (3) a person whose parentage is to be adjudicated;

2           (4) a person who is a parent under this title;

3           (5) the Department for Children and Families, including the Office of  
4 Child Support; or

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

8           § 106. NOTICE OF PROCEEDING

9           (a) A petitioner under this chapter shall give notice of the proceeding to  
10 adjudicate parentage to the following:

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

13           (2) a person 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, in cases in which either party is a  
17 recipient of public assistance benefits from the Economic Services Division  
18 and has assigned the right to child support, or in cases in which either party has  
19 requested the services of the Office of Child Support.

1       (b) A person entitled to notice under subsection (a) of this section and the  
2       Office of Child Support, where the Office is involved pursuant to subdivision  
3       (a)(5), has a right to intervene in the proceeding.

4       (c) Lack of notice required by subsection (a) of this section shall not render  
5       a judgment void. Lack of notice does not preclude a person entitled to notice  
6       under subsection (a) from bringing a proceeding under this title.

7       (d) This section shall not apply to petitions for birth orders under chapters 7  
8       and 8 of this title.

9       § 107. FORM OF NOTICE

10       Notice shall be by first class mail to the person's last known address.

11       § 108. PERSONAL JURISDICTION

12       (a) Personal jurisdiction. A person shall not be adjudicated a parent unless  
13       the court has personal jurisdiction over the person.

14       (b) Personal jurisdiction over nonresident. A court of this State having  
15       jurisdiction to adjudicate parentage may exercise personal jurisdiction over a  
16       nonresident person, or the guardian or conservator of the person, if the  
17       conditions prescribed in Title 15B are fulfilled.

18       (c) Adjudication. Lack of jurisdiction over one person does not preclude  
19       the court from making an adjudication of parentage binding on another person  
20       over whom the court has personal jurisdiction.



1     § 109. VENUE

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

4             (1) the child resides or is present or, for purposes of chapter 7 or 8 of  
5     this title, is or will be born;

6             (2) any parent or intended parent resides;

7             (3) the respondent resides or is present if the child does not reside in this  
8     State;

9             (4) a proceeding for probate or administration of the parent or alleged  
10    parent's estate has been commenced; or

11            (5) a child protection proceeding with respect to the child has been  
12    commenced.

13     § 110. JOINDER OF PROCEEDINGS

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

1        (b) Joinder not permitted. A respondent may not join a proceeding  
2        described in subsection (a) of this section with a proceeding to adjudicate  
3        parentage brought as part of an interstate child support enforcement action  
4        under Title 15B.

5        § 111. ORDERS

6        (a) Interim order for support. In a proceeding under this title, the court may  
7        issue an interim order for support of a child in accordance with the child  
8        support guidelines under 15 V.S.A. § 654 with respect to a person who is:

9            (1) a presumed, acknowledged, or adjudicated parent of the child;

10          (2) petitioning to have parentage adjudicated;

11          (3) identified as the genetic parent through genetic testing under chapter  
12        6 of this title;

13          (4) an alleged genetic parent who has declined to submit to genetic  
14        testing;

15          (5) shown by a preponderance of evidence to be a parent of the child;

16          (6) the person who gave birth to the child, other than a gestational  
17        carrier; or

18          (7) a parent under this chapter.

19        (b) Interim order for parental rights and responsibilities. In a proceeding  
20        under this title, the court may make an interim order regarding parental rights  
21        and responsibilities on a temporary basis.

1        (c) Final orders. Final orders concerning child support or parental rights  
2        and responsibilities shall be governed by Title 15.

3        § 112. ADMISSION OF PARENTAGE AUTHORIZED

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

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

13       § 113. ORDER ON DEFAULT

14       The court may issue an order adjudicating the parentage of a person who is  
15       in default, providing:

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

17            (2) the person is found by the court to be the parent of the child.

18       § 114. ORDER ADJUDICATING PARENTAGE

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

1        (b) Identify child. A final order under subsection (a) of this section shall  
2        identify the child by name and date of birth.

3        (c) Change of name. On request of a party and for good cause shown, the  
4        court may order the name of the child be changed.

5        (d) Amended birth registration. If the final order under subsection (a) of  
6        this section is at variance with the child’s birth certificate, the Department of  
7        Health shall issue an amended birth certificate.

8        § 115. BINDING EFFECT OF DETERMINATION OF PARENTAGE

9        (a) Determination binding. Except as otherwise provided in subsection (b)  
10       of this section, a determination of parentage shall be binding on:

11        (1) all signatories to an acknowledgment of parentage or denial of  
12        parentage as provided in chapter 3 of this title; and

13        (2) all parties to an adjudication by a court acting under circumstances  
14        that satisfy the jurisdictional requirements of section 108 of this title.

15        (b) Adjudication in proceeding to dissolve marriage. In a proceeding to  
16        dissolve a marriage, the court is deemed to have made an adjudication of the  
17        parentage of a child if:

18        (1) the court acts under circumstances that satisfy the jurisdictional  
19        requirements of section 108 of this title; and

20        (2) the final order:

1           (A) expressly identifies a child as a “child of the marriage “ or “issue  
2           of the marriage “ or by similar words indicates that the parties are the parents  
3           of the child; or

4           (B) provides for support of the child by the parent or parents.

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

9           (d) Challenge to adjudication.

10           (1) Challenge by a person who was a party to an adjudication. A party  
11           to an adjudication of parentage may challenge the adjudication only by appeal  
12           or in a manner otherwise consistent with the Vermont Rules for Family  
13           Proceedings.

14           (2) Challenge by a person who was not a party to an adjudication. A  
15           person who has standing under section 105 of this title, but who did not receive  
16           notice of the adjudication of parentage under section 106 of this title and was  
17           not a party to the adjudication may challenge the adjudication within two years  
18           of the effective date of the adjudication. The court, in its discretion, shall  
19           permit the proceeding only if it finds that it is in the best interests of the child.  
20           If the court permits the proceeding, the court shall adjudicate parentage under  
21           section 206 of this title.

1       (e) Child not bound. A child is not bound by a determination of parentage  
2       under this chapter unless:

3           (1) the determination was based on an unrescinded acknowledgment of  
4       parentage and the acknowledgment is consistent with the results of genetic  
5       testing;

6           (2) the determination was based on a finding consistent with the results  
7       of genetic testing;

8           (3) the determination of parentage was made under chapter 7 or 8 of this  
9       title; or

10          (4) the child was a party or was represented by an attorney, guardian ad  
11       litem, or similar person in the proceeding in which the child's parentage was  
12       adjudicated.

### 13       § 116. FULL FAITH AND CREDIT

14          A court of this State shall give full faith and credit to a determination of  
15       parentage to an acknowledgment of parentage from another state if the  
16       determination is valid and effective in accordance with the law of the other  
17       state.

## 18                   CHAPTER 2. ESTABLISHMENT OF PARENTAGE

### 19       § 201. RECOGNIZED PARENTS

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

1           (1) Birth. Giving birth to the child, except as otherwise provided in  
2 chapter 8 of this title.

3           (2) Adoption. Adoption of the child pursuant to Title 15A.

4           (3) Acknowledgment. An effective voluntary acknowledgment of  
5 parentage under chapter 3 of this title.

6           (4) Adjudication. An adjudication based on an admission of parentage  
7 under section 112 of this title.

8           (5) Presumption. An un rebutted presumption of parentage under  
9 chapter 4 of this title.

10          (6) De facto parentage. An adjudication of de facto parentage, under  
11 chapter 5 of this title.

12          (7) Genetic parentage. An adjudication of genetic parentage under  
13 chapter 6 of this title.

14          (8) Assisted reproduction. Consent to assisted reproduction under  
15 chapter 7 of this title.

16          (9) Gestational carrier agreement. Consent to a gestational carrier  
17 agreement by the intended parent or parents under chapter 8 of this title.

18 § 202. NONDISCRIMINATION

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

1     § 203. CONSEQUENCES OF ESTABLISHMENT OF PARENTAGE

2             Unless parentage has been terminated by a court order or an exception has  
3     been stated explicitly in this title, parentage established under this title applies  
4     for all purposes, including the rights and duties of parentage under the law.

5     § 204. DETERMINATION OF MATERNITY AND PATERNITY

6             Provisions of this title relating to determination of paternity may apply to  
7     determination of maternity as needed to determine parentage consistent with  
8     this title.

9     § 205. NO LIMITATION ON CHILD

10            Nothing in this chapter limits the right of a child to bring an action to  
11     adjudicate parentage. Time limitation for others?

12     § 206. ADJUDICATING COMPETING CLAIMS OF PARENTAGE

13            (a) Competing claims of parentage. Except as otherwise provided in  
14     section 616 of this title, in a proceeding to adjudicate competing claims of  
15     parentage or challenges to a child’s parentage by two or more persons, the  
16     court shall adjudicate parentage in the best interests of the child, based on the  
17     following factors:

18            (1) the age of the child;

19            (2) the length of time during which each person assumed the role of  
20     parent of the child;

21            (3) the nature of the relationship between the child and each person;



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

3           (5) the basis for each person’s claim to parentage of the child; and

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

6           (b) Preservation of parent-child relationship. Consistent with the  
7 establishment of parentage under this chapter, a court may determine that a  
8 child has more than two parents if the court finds that it is in the best interests  
9 of the child to do so. A finding of best interests of the child under this  
10 subsection does not require a finding of unfitness of any parent or person  
11 seeking an adjudication of parentage.

12           CHAPTER 3. VOLUNTARY ACKNOWLEDGMENT OF PARENTAGE

13           § 301. ACKNOWLEDGMENT OF PARENTAGE

14           (a) The following persons may sign an acknowledgment of parentage to  
15 establish parentage of a child:

16           (1) a person who gave birth to the child;

17           (2) a person who is the alleged genetic parent of the child;

18           (3) a person who is an intended parent to the child pursuant to chapter 7  
19 or 8 of this title; and

20           (4) a presumed parent pursuant to chapter 4 of this title.

1       (b)(1) The Department of Health shall develop an acknowledgment of  
2       parentage form for execution of parentage under this chapter.

3       (2) The form shall provide notice of the alternatives to, the legal  
4       consequences of, and the rights and responsibilities that arise from signing the  
5       acknowledgment and shall state that:

6               (A) there is no other presumed parent of the child or, if there is  
7               another presumed parent, shall state that parent's full name;

8               (B) there is no other acknowledged parent, adjudicated parent, or  
9               person who is an intended parent under chapter 7 or 8 of this title other than  
10              the person who gave birth to the child; and

11              (C) the signatories understand that the acknowledgment is the  
12              equivalent of a court determination of parentage of the child and that a  
13              challenge to the acknowledgment is permitted only under limited  
14              circumstances within two years after the effective date of the acknowledgment.

15              (c) The acknowledgment shall be signed by both the person who gave birth  
16              to the child and by the person seeking to establish a parent-child relationship  
17              and shall be witnessed and signed by at least one other person.

18       § 302. ACKNOWLEDGMENT OF PARENTAGE VOID

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

1           (1) a person other than the person seeking to establish parentage is a  
2           presumed parent, unless a denial of parentage in a signed record has been filed  
3           with the Department of Health; or

4           (2) a person, other than the person who gave birth, is an acknowledged,  
5           admitted, or adjudicated parent, or an intended parent under chapter 7 or 8 of  
6           this title.

7           § 303. DENIAL OF PARENTAGE

8           A person presumed to be a parent or an alleged genetic parent may sign a  
9           denial of parentage only in the limited circumstances set forth in this section.

10          A denial of parentage shall be valid only if:

11           (1) an acknowledgment of parentage by another person has been filed  
12           pursuant to this chapter;

13           (2) the denial is in a record and is witnessed and signed by at least one  
14           other person; and

15           (3) the person executing the denial has not previously:

16           (A) acknowledged parentage, unless the previous acknowledgment  
17           has been rescinded pursuant to section 307 of this title or successfully  
18           challenged the acknowledgment pursuant to section 308 of this title; or

19           (B) been adjudicated to be the parent of the child.

1     § 304. CONDITIONS FOR ACKNOWLEDGMENT OR DENIAL OF  
2             PARENTAGE

3             (a) Completed forms for acknowledgment of parentage and denial of  
4     parentage shall be filed with the Department of Health.

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

7             (c) An acknowledgment of parentage or denial of parentage takes effect on  
8     the date of the birth of the child or the filing of the document with the  
9     Department of Health, whichever occurs later.

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

12     § 305. EQUIVALENT TO ADJUDICATION; NO RATIFICATION  
13             REQUIRED

14            (a) Acknowledgment. Except as otherwise provided in sections 307 and  
15     308 of this title, a valid acknowledgment of parentage under section 301 of this  
16     title filed with the Department of Health is equivalent to an adjudication of  
17     parentage of a child and confers upon the acknowledged parent all of the rights  
18     and duties of a parent.

19            (b) Ratification. Judicial or administrative ratification is neither permitted  
20     nor required for an unrescinded or unchallenged acknowledgment of  
21     parentage.

1        (c) Denial. Except as otherwise provided in sections 307 and 308 of this  
2        title, a valid denial of parentage under section 303 of this title filed with the  
3        Department of Health in conjunction with a valid acknowledgment of  
4        parentage under section 301 of this title is equivalent to an adjudication of the  
5        nonparentage of the presumed parent or alleged genetic parent and discharges  
6        the presumed parent or alleged genetic parent from all rights and duties of a  
7        parent.

8        § 306. NO FILING FEE

9        The Department of Health shall not charge a fee for filing an  
10       acknowledgment of parentage or denial of parentage.

11       § 307. TIMING OF RESCISSION

12       (a) A person may rescind an acknowledgment of parentage or denial of  
13       parentage under this chapter by any of the following methods:

14           (1) Filing a rescission with the Department of Health within 60 days  
15           after the effective date of the acknowledgment or denial. The signing of the  
16           rescission shall be witnessed and signed by at least one other person.

17           (2) Commencing a court proceeding within 60 days after:

18           (A) the effective date of the acknowledgment or denial, as provided  
19        in section 304; or

1           (B) the date of the first court hearing in a proceeding in which the  
2           person is a party to adjudicate an issue relating to the child, including a  
3           proceeding seeking child support.

4           (b) If an acknowledgment of parentage is rescinded under this section, any  
5           associated denial of parentage becomes invalid, and the Department of Health  
6           shall notify the person who gave birth to the child and any person who signed a  
7           denial of parentage of the child that the acknowledgment of parentage has been  
8           rescinded. Failure to give notice required by this section does not affect the  
9           validity of the rescission.

10           § 308. CHALLENGE TO ACKNOWLEDGMENT AFTER EXPIRATION  
11           OF PERIOD FOR RESCISSION

12           (a) Challenge by signatory. After the period for rescission under section  
13           307 has expired, a signatory of an acknowledgment of parentage or denial of  
14           parentage may commence a proceeding to challenge the acknowledgment or  
15           denial only:

16           (1) on the basis of fraud, duress, coercion, threat of harm, or material  
17           mistake of fact; and

18           (2) within one year after the acknowledgment or denial is effective in  
19           accordance with section 304 of this title.

20           (b) Challenge by person not a signatory. If an acknowledgment of  
21           parentage has been made in accordance with this chapter, a person who is

1 neither the child nor a signatory to the acknowledgment who seeks to  
2 challenge the validity of the acknowledgment and adjudicate parentage shall  
3 commence a proceeding within two years after the effective date of the  
4 acknowledgment unless the person did not know and could not reasonably  
5 have known of the person's potential parentage due to a material  
6 misrepresentation or concealment, in which case the proceeding shall be  
7 commenced within two years after the discovery of the person's potential  
8 parentage.

9 (c) Burden of proof. A person challenging an acknowledgment of  
10 parentage or denial of parentage pursuant to this section has the burden of  
11 proof by clear and convincing evidence.

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

15 § 309. PROCEDURE FOR RESCISSION OR CHALLENGE

16 (a) Every signatory party. Every signatory to an acknowledgment of  
17 parentage and any related denial of parentage shall be made a party to a  
18 proceeding under section 307 or 308 of this title to rescind or challenge the  
19 acknowledgment or denial.

20 (b) Submission to personal jurisdiction. For the purpose of rescission of or  
21 challenge to an acknowledgment of parentage or denial of parentage, a

1 signatory submits to personal jurisdiction of this State by signing the  
2 acknowledgment or denial, effective upon the filing of the document with the  
3 Department of Health pursuant to section 304 of this title.

4 (c) Suspension of legal responsibilities. Except for good cause shown,  
5 during the pendency of a proceeding to rescind or challenge an  
6 acknowledgment of parentage or denial of parentage, the court shall not  
7 suspend the legal responsibilities of a signatory arising from the  
8 acknowledgment, including the duty to pay child support.

9 (d) Proceeding to rescind or challenge. A proceeding to rescind or  
10 challenge an acknowledgment of parentage or denial of parentage shall be  
11 conducted as a proceeding to adjudicate parentage pursuant to chapter 1 of this  
12 title.

13 (e) Amendment to birth record. At the conclusion of a proceeding to  
14 rescind or challenge an acknowledgment of parentage or denial of parentage,  
15 the court shall order the Department of Health to amend the birth record of the  
16 child, if appropriate.

17 **§ 310. FORMS FOR ACKNOWLEDGMENT AND DENIAL OF**

18 **PARENTAGE**

19 To facilitate compliance with this subchapter, the Department of Health  
20 shall prescribe forms for the acknowledgment of parentage and the denial of



1 parentage. A valid acknowledgment of parentage or denial of parentage is not  
2 affected by a later modification of the prescribed form.

3 § 311. RELEASE OF INFORMATION

4 The Department of Health may release information relating to an  
5 acknowledgment of parentage under section 301 of this title as provided in  
6 18 V.S.A. § 5002.

7 § 312. ADOPTION OF RULES

8 The Department of Health may adopt rules to implement this chapter.

9 CHAPTER 4. PRESUMED PARENTAGE

10 § 401. PRESUMPTION OF PARENTAGE

11 (a) Except as otherwise provided in this title, a person is presumed to be a  
12 parent of a child if:

13 (1) the person and the person who gave birth to the child are married to  
14 each other and the child is born during the marriage; or

15 (2) the person and the person who gave birth to the child were married  
16 to each other and the child is born not later than 300 days after the marriage is  
17 terminated by death, annulment, declaration of invalidity, divorce, or  
18 dissolution; or

19 (3) the person and the person who gave birth to the child married each  
20 other after the birth of the child and the person at any time asserted parentage

1 of the child and the person agreed to be and is named as a parent of the child  
2 on the birth certificate of the child; or

3 (4) the person resided in the same household with the child for the first  
4 two years of the life of the child, including periods of temporary absence, and  
5 openly held out the child as the person’s child.

6 (b) A presumption of parentage under this section may be overcome and  
7 competing claims to parentage resolved only by court order or a valid denial of  
8 parentage pursuant to chapter 3 of this title.

9 § 402. CHALLENGE TO PRESUMED PARENT

10 (a) Except as provided in subsection (b) of this section, a proceeding to  
11 challenge the parentage of a person whose parentage is presumed under section  
12 401 of this title shall be commenced within two years after the birth of the  
13 child.

14 (b) A proceeding to challenge the parentage of a person whose parentage is  
15 presumed under section 401 of this title may be commenced two years or more  
16 after the birth of the child in the following circumstances:

17 (1) A presumed parent who is not the genetic parent of a child and who  
18 could not reasonably have known about the birth of the child may commence a  
19 proceeding under this section within two years after learning of the child’s  
20 birth.

1           (2) An alleged genetic parent who did not know of the potential genetic  
2           parentage of a child and who could not reasonably have known on account of  
3           material misrepresentation or concealment may commence a proceeding under  
4           this section within two years after discovering the potential genetic parentage.  
5           If the person is adjudicated to be the genetic parent of the child, the court may  
6           not disestablish a presumed parent. Consistent with section 203 of this title,  
7           the court shall determine parental rights and responsibilities of the parents in  
8           accordance with 15 V.S.A chapter 11. subchapter 3A.

9           § 403. MULTIPLE PRESUMPTIONS

10           If two or more conflicting presumptions arise under this chapter, the court  
11           shall adjudicate parentage and determine parental rights and responsibilities in  
12           accordance with 15 V.S.A. chapter 11, subchapter 3A.

13                           CHAPTER 5. DE FACTO PARENTAGE

14           § 501. STANDARD; ADJUDICATION

15           (a) The court shall adjudicate a person a de facto parent if the court finds by  
16           clear and convincing evidence that the person has fully and completely  
17           undertaken a permanent, unequivocal, committed, and responsible parental role  
18           in the child’s life as evidenced by the fact that:

19                   (1) the person has resided with the child for a significant period of time;

20                   (2) the person has engaged in consistent caretaking of the child;

1           (3) a bonded and dependent relationship has been established between  
2           the child and the person, the relationship was fostered or supported by another  
3           parent of the child, and the person and the other parent have understood,  
4           acknowledged, or accepted that relationship or behaved as though the person  
5           were a parent of the child;

6           (4) the person has accepted full and permanent responsibilities as a  
7           parent of the child without expectation of financial compensation; and

8           (5) the continuing relationship between the person and the child is in the  
9           best interests of the child.

10          (b) Upon adjudicating a person a de facto parent, the court shall determine  
11          parental rights and responsibilities and make appropriate orders for the  
12          financial support for the child in accordance with 15 V.S.A. chapter 11,  
13          subchapter 3A. An order requiring the payment of support to or from a de  
14          facto parent does not relieve any other parent of the obligation to pay child  
15          support unless otherwise ordered by a court.

16          (c) The adjudication of a person as a de facto parent under this chapter does  
17          not disestablish the parentage of any other parent.

18          § 502. PETITION; STANDING

19          (a) A person seeking to be adjudicated a de facto parent of a child shall file  
20          a petition with the Family Division of the Superior Court. The petition shall  
21          include an affidavit alleging facts to support the existence of a de facto parent

1 relationship with the child. The petition and affidavit shall be served on all  
2 parents and legal guardians of the child and any other party to the proceeding.

3 (b) An adverse party, parent, or legal guardian who files a pleading in  
4 response to the petition shall also file an affidavit in response to the petition  
5 and both shall be served with a copy on all parties to the proceeding.

6 (c) The court shall determine on the basis of the pleadings and affidavits  
7 whether the person seeking to be adjudicated a de facto parent has presented  
8 prima facie evidence of de facto parentage and, therefore, has standing to  
9 proceed with a parentage action. The court, in its sole discretion, may hold a  
10 hearing to determine disputed facts that are necessary and material to the issue  
11 of standing.

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

## 15 CHAPTER 6. GENETIC PARENTAGE

### 16 § 601. SCOPE

17 This chapter governs procedures and requirements of genetic testing and  
18 genetic testing results of a person to determine parentage and adjudication of  
19 parentage based on genetic testing, whether the person voluntarily submits to  
20 testing or is tested pursuant to an order of the court. Genetic testing shall not  
21 be used to challenge the parentage of a person who is a parent by operation of

1 law under chapter 7 or 8 of this title or to establish the parentage of a person  
2 who is a donor.

3 § 602. REQUIREMENTS FOR GENETIC TESTING

4 Genetic testing shall be of a type reasonably relied upon by scientific and  
5 medical experts in the field of genetic testing and performed in a testing  
6 laboratory accredited by a national association of blood banks or an accrediting  
7 body designated by the Secretary of the U.S. Department of Health and Human  
8 Services. For the purposes of this chapter, “genetic testing” shall have the  
9 same meaning as provided in 18 V.S.A. § 9331.

10 § 603. COURT ORDER FOR TESTING

11 (a) Order to submit to genetic testing. Except as provided in section 615 of  
12 this title or as otherwise provided in this chapter, upon motion the court may  
13 order a child and other persons to submit to genetic testing.

14 (b) Presumption of genetic parentage. Genetic testing of the person who  
15 gave birth to a child shall not be ordered to prove that such person is the  
16 genetic parent unless there is a reasonable, good faith basis to dispute genetic  
17 parentage.

18 (c) In utero testing. A court shall not order in utero genetic testing.

19 (d) Concurrent or sequential testing. If two or more persons are subject to  
20 court-ordered genetic testing, the testing may be ordered concurrently or  
21 sequentially.

1     § 604. GENETIC TESTING RESULTS

2           (a) A person shall be identified as a genetic parent of a child if the genetic  
3     testing of the person complies with this chapter and the results of testing  
4     disclose that the individual has at least a 99 percent probability of parentage as  
5     determined by the testing laboratory.

6           (b) Identification of a genetic parent through genetic testing does not  
7     establish parentage absent adjudication under this chapter and a court may rely  
8     on nongenetic evidence to determine parentage, including parentage by  
9     acknowledgment pursuant to chapter 3 of this title or by admission pursuant to  
10    section 112 of this title, presumed parentage under chapter 4 of this title, de  
11    facto parentage under chapter 5 of this title, and parentage by intended parents  
12    under chapter 7 or 8 of this title.

13          (c) A person identified under subsection (a) of this section as a genetic  
14    parent of a child may rebut the genetic testing results only by other genetic  
15    testing satisfying the requirements of this chapter that:

16            (1) excludes the person as a genetic parent of the child; or

17            (2) identifies a person other than the person who gave birth to the child  
18    as the possible genetic parent of the child.

1     § 605. REPORT OF GENETIC TESTING

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

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

9     § 606. ADMISSIBILITY OF RESULTS OF GENETIC TESTING

10          (a) Production of results; notice. Unless waived by the parties, a party  
11     intending to rely on the results of genetic testing shall do all of the following:

12            (1) make the test results available to the other parties to the parentage  
13     action at least 15 days prior to any hearing at which the results may be  
14     admitted into evidence;

15            (2) give notice to the court and other parties to the proceeding of the  
16     intent to use the test results at the hearing; and

17            (3) give the other parties notice of this statutory section, including the  
18     need to object in a timely fashion.

19          (b) Objection. Any motion objecting to genetic test results shall be made in  
20     writing to the court and to the party intending to introduce the evidence at least  
21     seven days prior to any hearing at which the results may be introduced into



1 evidence. If no timely objection is made, the written results shall be  
2 admissible as evidence without the need for foundation testimony or other  
3 proof of authenticity or accuracy.

4 (c) Results inadmissible; exceptions. If a child has a presumed parent,  
5 acknowledged parent, or adjudicated parent, the results of genetic testing shall  
6 be admissible to adjudicate parentage only:

7 (1) with the consent of each person who is a parent of the child under  
8 this chapter, unless the court finds that admission of the testing is in the best  
9 interests of the child as provided in subsection 615(b) of this title; or

10 (2) pursuant to an order of the court under section 603 of this title.

11 ~~(d) Copies of bills and records as evidence. Copies of bills and records of~~  
12 ~~expenses paid for prenatal care, childbirth, postnatal care, and genetic testing~~  
13 ~~are admissible as evidence without requiring third party foundation testimony~~  
14 ~~and are prima facie evidence of amounts incurred for those expenses or testing~~  
15 ~~on behalf of the child.~~

16 § 607. ADDITIONAL GENETIC TESTING

17 The court shall order additional genetic testing upon the request of a party  
18 who contests the result of the initial testing. If the initial genetic testing  
19 identified a person as a genetic parent of the child under section 604 of this  
20 title, the court shall not order additional testing unless the party provides  
21 advance payment for the testing.

1     § 608. CONSEQUENCES OF DECLINING GENETIC TESTING

2           (a) If a person whose parentage is being determined under this chapter  
3     declines to submit to genetic testing ordered by the court, the court for that  
4     reason may adjudicate parentage contrary to the position of that person.

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

10    § 609. ADJUDICATION OF PARENTAGE BASED ON GENETIC  
11           TESTING

12           (a)(1) If genetic testing results pursuant to section 604 of this title exclude a  
13     person as the genetic parent of a child, the court shall find that person is not a  
14     genetic parent of the child and may not adjudicate the person as the child's  
15     parent on the basis of genetic testing.

16           (2) If genetic testing results pursuant to section 604 of this title identify  
17     a person as the genetic parent of a child, the court shall find that person to be  
18     the genetic parent and may adjudicate the person as the child's parent, unless  
19     otherwise provided by this title.

1           (3) Subdivisions (1) and (2) of this subsection do not apply if the results  
2           of genetic testing are admitted for the purpose of rebutting results of other  
3           genetic testing.

4           (b) If the court finds that genetic testing pursuant to section 604 of this title  
5           neither identifies nor excludes a person as the genetic parent of a child, the  
6           court shall not dismiss the proceeding. In that event, the results of genetic  
7           testing and other evidence are admissible to adjudicate the issue of parentage.

8           (c) Testimony relating to the sexual conduct of the person who gave birth  
9           to the child is admissible only if it is alleged to have occurred during a time  
10           when conception of the child was probable. (Should this be limited to  
11           subsection (b)?

12           § 610. COSTS OF GENETIC TESTING

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

14           (1) by the Office of Child Support in a proceeding in which the Office is  
15           providing services, if the Office requests such testing;

16           (2) as agreed by the parties or, if the parties cannot agree, by the person  
17           who made the request for genetic testing; or

18           (3) as ordered by the court.

19           (b) Notwithstanding subsection (a) of this section, a person who challenges  
20           a presumption, acknowledgment, or admission of parentage shall bear the cost  
21           for any genetic testing requested by such person.

1        (c) In cases in which the payment for the costs of initial genetic testing is  
2        advanced pursuant to subsection (a) of this section, the Office of Child Support  
3        may seek reimbursement from the genetic parent whose parent-child  
4        relationship is established.

5        § 611. GENETIC TESTING WHEN SPECIMENS NOT AVAILABLE

6        (a) If a genetic testing specimen is not available from an alleged genetic  
7        parent of a child, for good cause the court may order the following persons to  
8        submit specimens for genetic testing:

9                (1) the parents of the alleged genetic parent;

10               (2) a sibling of the alleged genetic parent;

11               (3) another child of the alleged genetic parent and the person who gave  
12        birth to that other child; and

13               (4) another relative of the alleged genetic parent necessary to complete  
14        genetic testing.

15        (b) Prior to issuing an order under subsection (a) of this section, the court  
16        shall make a written finding that the need for genetic testing outweighs the  
17        legitimate interests of the person from whom a genetic sample is requested.

18        § 612. DECEASED PERSON

19        For good cause shown, the court may order genetic testing of a deceased  
20        person.

1     § 613. IDENTICAL SIBLING

2           (a) The court may order genetic testing of a person who is believed to have  
3     an identical sibling if evidence suggests the sibling may be the genetic parent  
4     of the child.

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

8     § 614. CONFIDENTIALITY OF GENETIC TESTING

9           (a) A report of genetic testing for parentage is exempt from public  
10    inspection and copying under the Public Records Act and shall be kept  
11    confidential and released only as provided in this title.

12          (b) A person shall not intentionally release a report of genetic testing or the  
13    genetic material of another person for a purpose not relevant to a parentage  
14    proceeding without a court order or the written permission of the person who  
15    furnished the genetic material. A person who violates this section shall be  
16    imprisoned not more than one year or fined not more than \$1,000.00, or both.

17    § 615. AUTHORITY TO DENY REQUESTED ORDER FOR GENETIC

18            TESTING OR ADMISSION OF TEST RESULTS

19          (a) Grounds for denial. In a proceeding to adjudicate parentage, the court  
20    may deny a motion seeking an order for genetic testing or deny admissibility of  
21    the test results at trial if it determines that:

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

2           (2) it would be an inequitable interference with the relationship between  
3 the child and an acknowledged, adjudicated, de facto, presumed, or intended  
4 parent, or would otherwise be contrary to the best interests of the child.

5           (b) Factors. In determining whether to deny a motion seeking an order for  
6 genetic testing under this title or a request for admission of such test results at  
7 trial, the court shall consider the best interests of the child, including the  
8 following factors, if relevant:

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

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

14           (3) the facts surrounding discovery that genetic parentage is at issue;

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

16           (5) the age of the child;

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

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

1           (8) the extent to which the passage of time reduces the chances of  
2           establishing the parentage of another person and a child support obligation in  
3           favor of the child; and

4           (9) any additional factors that may affect the equities arising from the  
5           disruption of the relationship between the child and the parent or the chance of  
6           an adverse effect on the child.

7           (c) Order. In cases involving an acknowledged or presumed parent, if the  
8           court denies a motion seeking an order for genetic testing, the court shall issue  
9           an order adjudicating the acknowledged or presumed parent to be the parent of  
10          the child.

11          § 616. PRECLUDING ESTABLISHMENT OF PARENTAGE BY  
12          PERPETRATOR OF SEXUAL ASSAULT

13          (a) In a proceeding in which a person is alleged to have committed a sexual  
14          assault that resulted in the birth of a child, the person giving birth may seek to  
15          preclude the establishment of the other person's parentage.

16          (b) This section shall not apply if:

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

19                 (2) after the birth of the child, the person alleged to have committed a  
20                 sexual assault established a bonded and dependent relationship with the child  
21                 that is parental in nature.

1           (c) In a parentage proceeding, the person giving birth shall file a pleading  
2           making an allegation under subsection (a) of this section within two years  
3           following the birth of the child.

4           (d) The standard of proof that a child was conceived as a result of the  
5           person sexually assaulting the person who gave birth to the child may be  
6           proven by the petitioner by either of the following:

7                   (1) clear and convincing evidence that the person was convicted of a  
8                   sexual assault against the person giving birth and that the child was conceived  
9                   as a result of the sexual assault; or

10                   (2) clear and convincing evidence that the person sexually assaulted or  
11                   sexually exploited the person who gave birth to the child and that the child was  
12                   conceived as a result of the sexual assault or sexual exploitation, regardless of  
13                   whether criminal charges were brought against the person.

14           (e) If the court finds that the burden of proof under subsection (d) of this  
15           section is met, the court shall enter an order:

16                   (1) adjudicating that the person alleged to have committed a sexual  
17                   assault is not a parent of the child;

18                   (2) requiring that the Department of Health amend the birth certificate to  
19                   delete the name of the person precluded as a parent; and

20                   (3) requiring that the person alleged to have committed a sexual assault  
21                   to pay child support or birth-related costs, or both, unless the person giving



1 birth requests otherwise and the court determines that granting the request is in  
2 the best interests of the child.

3 (f) As used in this section:

4 (1) “Sexual assault” includes sexual assault as provided in 13 V.S.A.  
5 § 3252(a), (b), (d), and (e), aggravated sexual assault as provided in 13 V.S.A.  
6 § 3253, aggravated sexual assault of a child as provided in 13 V.S.A. § 3253a,  
7 lewd and lascivious conduct with a child as provided in 13 V.S.A. § 2602, and  
8 similar offenses in other jurisdictions.

9 (2) “Sexual exploitation” includes sexual exploitation of an inmate as  
10 provided in 13 V.S.A. § 3257, sexual exploitation of a minor as provided in  
11 13 V.S.A. § 3258, sexual abuse of a vulnerable adult as provided in 13 V.S.A.  
12 § 1379, and similar offenses in other jurisdictions.

## 13 CHAPTER 7. PARENTAGE BY ASSISTED REPRODUCTION

### 14 § 701. SCOPE

15 This chapter does not apply to the birth of a child conceived by sexual  
16 intercourse or assisted reproduction under a surrogacy agreement under chapter  
17 8 of this title.

### 18 § 702. PARENTAL STATUS OF DONOR

19 (a) A donor is not a parent of a child conceived through assisted  
20 reproduction.

21 (b) Notwithstanding subsection (a) of this section:

1           (1) a person who provides a gamete or gametes or an embryo or  
2           embryos to be used for assisted reproduction for the person’s spouse is a parent  
3           of the resulting child; and

4           (2) a person who provides a gamete or an embryo for assisted  
5           reproduction is a parent of the resulting child if the person has a written  
6           agreement or agreements with the person giving birth that the person providing  
7           the gamete or the embryo is intended to be a parent.

8           § 703. PARENTAGE OF CHILD OF ASSISTED REPRODUCTION

9           A person who consents under section 704 of this title to assisted  
10          reproduction by another person with the intent to be a parent of a child  
11          conceived by the assisted reproduction is a parent of the child.

12          § 704. CONSENT TO ASSISTED REPRODUCTION

13          (a)(1) A person who intends to be a parent of a child born through assisted  
14          reproduction shall consent to such in a signed record that is executed by each  
15          intended parent and provides that the signatories consent to the use of assisted  
16          reproduction to conceive a child with the intent to parent the child.

17          (2) Consent pursuant to subdivision (1) of this subsection, executed via  
18          a form made available by the Department of Health, shall be accepted and  
19          relied upon for purposes of issuing a birth record.

1        (b) In the absence of a record pursuant to subsection (a) of this section, a  
2        court may adjudicate a person as the parent of a child if it finds by a  
3        preponderance of the evidence that:

4            (1) prior to conception or birth of the child, the parties entered into an  
5            agreement that they both intended to be the parents of the child; or

6            (2) the person resided with the child after birth and undertook to develop  
7            a parental relationship with the child.

8        § 705. CHALLENGE TO CONSENT BY SPOUSE

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

13            (1) the person commences a proceeding to adjudicate the person's  
14            parentage of the child within two years after the child's birth; and

15            (2) the court finds that the person did not consent to the assisted  
16            reproduction, before, on, or after birth of the child, or that the person withdrew  
17            consent pursuant to section 706 of this title.

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

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

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

3           (3) the spouse never openly held out the child as the spouse’s child.

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

6           § 706. EFFECT OF DISSOLUTION OF MARRIAGE OR WITHDRAWAL  
7           OF CONSENT

8           (a) If a marriage is dissolved before transfer or implantation of gametes or  
9           embryos, the former spouse is not a parent of the resulting child unless the  
10          former spouse consented in a signed record with notice to the other spouse and  
11          the person giving birth that, if assisted reproduction were to occur after a  
12          divorce, the former spouse would be a parent of the child.

13          (b) Consent of a person to assisted reproduction pursuant to section 704 of  
14          this title may be withdrawn by that person in a signed record with notice to the  
15          person giving birth and any other intended parent before transfer or  
16          implantation of gametes or embryos. A person who withdraws consent under  
17          this subsection is not a parent of the resulting child.

18          § 707. PARENTAL STATUS OF DECEASED PERSON

19          (a) If a person who intends to be a parent of a child conceived by assisted  
20          reproduction dies during the period between the transfer of a gamete or embryo  
21          and the birth of the child, the person’s death does not preclude the

1 establishment of the person’s parentage of the child if the person otherwise  
2 would be a parent of the child under this chapter.

3 (b)(1) If a person who consented in a record to assisted reproduction by the  
4 person giving birth to the child dies before transfer or implantation of gametes  
5 or embryos, the deceased person is not a parent of a child conceived by  
6 assisted reproduction unless:

7 (A) the deceased person consented in a record that if assisted  
8 reproduction were to occur after the death of the deceased person, the deceased  
9 person would be a parent of the child; or

10 (B) the deceased person’s intent to be a parent of a child conceived  
11 by assisted reproduction after the person’s death is established by a  
12 preponderance of the evidence.

13 (2) A person is a parent of a child conceived by assisted reproduction  
14 under subdivision (1) of this subsection only if:

15 (A) the embryo is in utero not later than 36 months after the person’s  
16 death; or

17 (B) the child is born not later than 45 months after the person’s death.

18 § 708. BIRTH ORDERS

19 (a) A party consenting to assisted reproduction, a person who is a parent  
20 pursuant to sections 702–704 of this title, an intended parent or parents, or the

1 person giving birth may commence a proceeding in the Probate Division of the  
2 Superior Court to obtain an order:

3 (1) declaring that the intended parent or parents are the parent or parents  
4 of the resulting child and ordering that parental rights and responsibilities vest  
5 exclusively in the intended parent or parents immediately upon the birth of the  
6 child;

7 (2) sealing the record from the public to protect the privacy of the child  
8 and the parties; or

9 (3) for any relief that the court determines necessary and proper.

10 (b) A proceeding under this section may be commenced before or after the  
11 birth of the child.

12 (c) Neither the State nor the Department of Health is a necessary party to a  
13 proceeding under this section.

14 (d) The intended parent or parents and any resulting child shall have access  
15 to the court records relating to the proceeding at any time.

16 § 709. LABORATORY ERROR

17 If due to a laboratory error the child is not genetically related to either of the  
18 intended parents, the intended parents are the parents of the child unless  
19 otherwise determined by the court.

1                    CHAPTER 8. PARENTAGE BY GESTATIONAL CARRIER

2    AGREEMENT

3                    § 801. ELIGIBILITY TO ENTER GESTATIONAL CARRIER

4    AGREEMENT

5                    (a) In order to execute an agreement to act as a gestational carrier, a person  
6 shall:

7    (1) be at least 21 years of age;

8    (2) have completed a medical evaluation that includes a mental health  
9 consultation;

10     (3) have had independent legal representation of the person’s own  
11 choosing and paid for by the intended parent or parents regarding the terms of  
12 the gestational carrier agreement and have been advised of the potential legal  
13 consequences of the gestational carrier agreement; and

14     (4) not have contributed gametes that will ultimately result in an embryo  
15 that the gestational carrier will attempt to carry to term, unless the gestational  
16 carrier is entering into an agreement with a family member.

17                    (b) Prior to executing a gestational carrier agreement, a person or persons  
18 intending to become a parent or parents, whether genetically related to the  
19 child or not, shall:

20     (1) be at least 21 years of age;

1           (2) have completed a medical evaluation and mental health  
2           consultation; and

3           (3) have retained independent legal representation regarding the terms of  
4           the gestational carrier agreement and have been advised of the potential legal  
5           consequences of the gestational carrier agreement.

6           § 802. GESTATIONAL CARRIER AGREEMENT

7           (a) Written agreement. A prospective gestational carrier, that person's  
8           spouse, and the intended parent or parents may enter into a written  
9           agreement that:

10           (1) the prospective gestational carrier agrees to pregnancy by means of  
11           assisted reproduction;

12           (2) the prospective gestational carrier and that person's spouse have no  
13           rights and duties as the parents of a child conceived through assisted  
14           reproduction; and

15           (3) the intended parent or parents will be the parents of any resulting  
16           child.

17           (b) Enforceability. A gestational carrier agreement is enforceable only if it  
18           meets the following requirements:

19           (1) The agreement shall be in writing and signed by all parties.

20           (2) The agreement may not require more than a one-year term to achieve  
21           pregnancy.



1           (3) At least one of the parties shall be a resident of this State.

2           (4) The agreement shall be executed before the commencement of any  
3           medical procedures other than the medical evaluations required by section 801  
4           of this title and, in every instance, before transfer of embryos.

5           (5) The gestational carrier and the intended parent or parents shall meet  
6           the eligibility requirements of section 801 of this title.

7           (6) If any party is married, the party's spouse shall be a party to the  
8           agreement.

9           (7) The gestational carrier and the intended parent or parents shall be  
10          represented by independent legal counsel in all matters concerning the  
11          agreement and each counsel shall affirmatively so state in a written declaration  
12          attached to the agreement. The declarations shall state that the agreement  
13          meets the requirements of this title and shall be solely relied upon by health  
14          care providers and staff at the time of birth and by the Department of Health  
15          for birth registration and certification purposes.

16          (8) The parties to the agreement shall sign a written acknowledgment of  
17          having received a copy of the agreement.

18          (9) The signing of the agreement shall be witnessed and signed by at  
19          least one other person.

20          (10) The agreement shall expressly provide that the gestational carrier:

1           (A) will undergo assisted reproduction and attempt to carry and give  
2 birth to any resulting child;

3           (B) has no claim to parentage of all resulting children to the intended  
4 parent or parents immediately upon the birth of the child or children regardless  
5 of whether a court order has been issued at the time of birth; and

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

8           (11) If the gestational carrier is married, the carrier's spouse:

9           (A) shall acknowledge and agree to abide by the obligations imposed  
10 on the gestational carrier by the terms of the gestational carrier agreement;

11           (B) has no claim to parentage of any resulting children to the  
12 intended parent or parents immediately upon the birth of the children  
13 regardless of whether a court order has been issued at the time of birth; and

14           (C) shall acknowledge the exclusive parentage of the intended parent  
15 or parents of all resulting children.

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

19           (13) The intended parent or parents shall:

20           (A) be the exclusive parent or parents and accept parental rights and  
21 responsibilities of all resulting children immediately upon birth regardless

1 of the number, gender, or mental or physical condition of the child or  
2 children; and

3 (B) assume responsibility for the financial support of all resulting  
4 children immediately upon the birth of the children.

5 (c) Medical evaluations. If requested by a party or the court, a party shall  
6 provide records to the court and other parties related to the medical evaluations  
7 conducted pursuant to section 801 of this title.

8 (d) Reasonable consideration and expenses. Except as provided in section  
9 809 of this title, a gestational carrier agreement may include provisions for  
10 payment of consideration and reasonable expenses to a prospective gestational  
11 carrier, provided they are negotiated in good faith between the parties.

12 (e) Decision of gestational carrier. A gestational agreement shall permit  
13 the gestational carrier to make all health and welfare decisions regarding the  
14 gestational carrier's health and pregnancy, and may not enlarge or diminish the  
15 gestational carrier's right to terminate the pregnancy.

16 § 803. PARENTAGE; PARENTAL RIGHTS AND RESPONSIBILITIES

17 (a)(1) If a gestational carrier agreement satisfies the requirements of this  
18 chapter, the intended parent or parents are the parent or parents of the resulting  
19 child immediately upon the birth of the child, and the resulting child is  
20 considered the child of the intended parent or parents immediately upon the

1 birth of the child. Neither the gestational carrier nor the gestational carrier's  
2 spouse, if any, is the parent of the resulting child.

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

7 (3) Notwithstanding if genetic testing indicates a genetic relationship  
8 between the gestational carrier and the child, parentage shall be determined by  
9 the Family Division of the Superior Court.

10 (b) Parental rights and responsibilities shall vest exclusively in the intended  
11 parent or parents immediately upon the birth of the resulting child.

12 (c) If due to a laboratory error, the resulting child is not genetically related  
13 to either the intended parent or parents or any donor who donated to the  
14 intended parent or parents, the intended parent or parents are considered the  
15 parent or parents of the child.

16 § 804. BIRTH ORDERS

17 (a) Before or after the birth of a resulting child, a party to a gestational  
18 carrier agreement may commence a proceeding in the Probate Division of the  
19 Superior Court to obtain an order doing any of the following:

20 (1) Declaring that the intended parent or parents are the parent or  
21 parents of the resulting child and ordering that parental rights and

1 responsibilities vest exclusively in the intended parent or parents immediately  
2 upon the birth of the child.

3 (2) Designating the contents of the birth certificate and directing the  
4 Department of Health to designate the intended parent or parents as the parent  
5 or parents of the child. The Department of Health may charge a reasonable fee  
6 for the issuance of a birth certificate.

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

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

10 (b) Neither the State nor the Department of Health is a necessary party to a  
11 proceeding under subsection (a) of this section.

12 (c) The intended parent or parents and any resulting child shall have access  
13 to their court records at any time.

14 § 805. EXCLUSIVE, CONTINUING JURISDICTION

15 Subject to the jurisdictional standards of 15 V.S.A. § 1071, the court  
16 conducting a proceeding under this chapter has exclusive, continuing  
17 jurisdiction of all matters arising out of the gestational carrier agreement until a  
18 child born to the gestational carrier during the period governed by the  
19 agreement attains the age of 180 days.

1     § 806. TERMINATION OF GESTATIONAL CARRIER AGREEMENT

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

6           (b) Upon termination of the gestational carrier agreement under subsection  
7     (a) of this section, the parties are released from all obligations recited in the  
8     agreement except that the intended parent or parents remain responsible for all  
9     expenses that are reimbursable under the agreement incurred by the gestational  
10    carrier through the date of termination. The gestational carrier is entitled to  
11    keep all payments received and obtain all payments to which the gestational  
12    carrier is entitled. Neither a prospective gestational carrier nor the gestational  
13    carrier's spouse, if any, is liable to the intended parent or parents for  
14    terminating a gestational carrier agreement.

15    § 807. GESTATIONAL CARRIER AGREEMENT; EFFECT OF

16           SUBSEQUENT CHANGE OF MARITAL STATUS

17           Unless a gestational carrier agreement expressly provides otherwise:

18           (1) the marriage of a gestational carrier or of an intended parent after the  
19    agreement has been signed by all parties does not affect the validity of the  
20    agreement, the gestational carrier's spouse's consent or intended parent's  
21    spouse's consent to the agreement is not required, and the gestational carrier's

1 spouse or intended parent's spouse is not a presumed parent of a child  
2 conceived by assisted reproduction under the agreement; and

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

6 § 808. EFFECT OF NONCOMPLIANCE; STANDARD OF REVIEW;

7 REMEDIES

8 (a) Not enforceable. A gestational carrier agreement that does not meet the  
9 requirements of this chapter is not enforceable.

10 (b) Standard of review. In the event of noncompliance with the  
11 requirements of this chapter or with a gestational carrier agreement, the Family  
12 Division of the Superior Court shall determine the respective rights and  
13 obligations of the parties to the gestational carrier agreement, including  
14 evidence of the intent of the parties at the time of execution.

15 (c) Remedies. Except as expressly provided in a gestational carrier  
16 agreement and in subsection (d) of this section, in the event of a breach of the  
17 gestational carrier agreement by the gestational carrier or the intended parent  
18 or parents, the gestational carrier or the intended parent or parents are entitled  
19 to all remedies available at law or in equity.

20 (d) Genetic testing. If a person alleges that the parentage of a child born to  
21 a gestational carrier is not the result of assisted reproduction, and this question

1 is relevant to the determination of parentage, the court may order genetic  
2 testing.

3 (e) Specific performance. Specific performance is not an available remedy  
4 for a breach by the gestational carrier of any term in a gestational carrier  
5 agreement that requires the gestational carrier to be impregnated or to  
6 terminate a pregnancy. Specific performance is an available remedy for a  
7 breach by the gestational carrier of any term that prevents the intended parent  
8 or parents from exercising the full rights of parentage immediately upon the  
9 birth of the child.

10 § 809. LIABILITY FOR PAYMENT OF GESTATIONAL CARRIER

11 HEALTH CARE COSTS

12 (a) The intended parent or parents are liable for the health care costs of the  
13 gestational carrier that are not paid by insurance. As used in this section,  
14 “health care costs” means the expenses of all health care provided for assisted  
15 reproduction, prenatal care, labor, and delivery.

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



1        (c) This section is not intended to supplant any health insurance coverage  
2        that is otherwise available to the gestational carrier or an intended parent for  
3        the coverage of health care costs. This section does not change the health  
4        insurance coverage of the gestational carrier or the responsibility of the  
5        insurance company to pay benefits under a policy that covers a gestational  
6        carrier.

7        Sec. 2. REPEAL

8        15 V.S.A. chapter 5, subchapter 3A (parentage proceedings) is repealed.

9        Sec. 3. TRANSITIONAL PROVISION

10       This title applies to a pending proceeding to adjudicate parentage  
11       commenced before the effective date of this act for an issue on which a  
12       judgment has not been rendered.

13       Sec. 4. EFFECTIVE DATE

14       This act shall take effect on July 1, 2018.

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1 (Committee vote: \_\_\_\_\_)

2

\_\_\_\_\_

3

Representative \_\_\_\_\_

4

FOR THE COMMITTEE