

1 H.562

2 Introduced by Representative Grad of Moretown

3 Referred to Committee on

4 Date:

5 Subject: Domestic relations; parentage

6 Statement of purpose of bill as introduced: This bill proposes to repeal
7 Vermont's parentage laws and replace them with a more comprehensive
8 parentage title that includes de facto parentage, genetic parentage, parentage by
9 assisted reproductive technology, and parentage by gestational carrier
10 agreement.

11 An act relating to parentage proceedings

12 It is hereby enacted by the General Assembly of the State of Vermont:

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

14 TITLE 15C. PARENTAGE PROCEEDINGS

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

16 PROVISIONS

17 § 101. SHORT TITLE

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

19 § 102. DEFINITIONS

20 As used in this title:

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

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

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

9 (A) a presumed parent;

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

12 (C) a donor.

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

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

16 (B) donation of gametes;

17 (C) donation of embryos;

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

19 (E) intracytoplasmic sperm injection.

20 (5) “Birth” includes stillbirth.

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

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

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

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

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

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

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

19 (11) “Gestational carrier” means an adult person who is not an intended
20 parent and who enters into a gestational carrier agreement to bear a child
21 conceived using the gametes of other persons and not the gestational carrier’s

1 own, except that a person who carries a child for a family member using the
2 gestational carrier's own gametes and who fulfills the requirements of
3 chapter 8 of this title is a gestational carrier.

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

7 (13) "Intended parent" means a person, whether married or unmarried,
8 who manifests the intent to be legally bound as a parent of a child resulting
9 from assisted reproduction or a gestational carrier agreement.

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

14 (15) "Parent" means a person who has established parentage that meets
15 the requirements of this title.

16 (16) "Parentage" means the legal relationship between a child and a
17 parent as established under this title.

18 (17) "Presumed parent" means a person who is recognized as the parent
19 of a child under section 401 of this title.

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

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

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

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

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

10 (21) “Spouse” includes a partner in a civil union or a partner in a legal
11 relationship that provides substantially the same rights, benefits, and
12 responsibilities as marriage and is recognized as valid in the state or
13 jurisdiction in which it was entered.

14 § 103. SCOPE AND APPLICATION

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

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

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

1 § 104. PARENTAGE PROCEEDING

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

7 (b) Actions brought by the Office of Child Support. If the complaint is
8 brought by the Office of Child Support, the complaint shall be accompanied by
9 an affidavit of the parent whose rights have been assigned. In cases where the
10 assignor is not a genetic parent or is a genetic parent who refuses to provide an
11 affidavit, the affidavit may be submitted by the Office of Child Support, but
12 the affidavit alone shall not support a default judgment on the issue of
13 parentage.

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

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

20 (e) Disclosure of Social Security numbers. A person who is a party to a
21 parentage action shall disclose that person's Social Security number to the

1 court. The Social Security number of a person subject to a parentage
2 adjudication shall be placed in the court records relating to the adjudication.
3 The court shall disclose a person's Social Security number to the Office of
4 Child Support.

5 § 105. STANDING TO MAINTAIN PROCEEDING

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

8 (1) the child;

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

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

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

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

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

19 § 106. NOTICE OF PROCEEDING

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

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

3 (2) a person who is a parent of the child under this chapter;

4 (3) a presumed, acknowledged, or adjudicated parent of the child;

5 (4) a person whose parentage of the child is to be adjudicated; and

6 (5) the Office of Child Support, in cases in which either party is a
7 recipient of public assistance benefits from the Economic Services Division
8 and has assigned the right to child support, or in cases in which either party has
9 requested the services of the Office of Child Support.

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

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

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

18 § 107. FORM OF NOTICE

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

1 § 108. PERSONAL JURISDICTION

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

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

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

11 § 109. VENUE

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

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

16 (2) any parent or intended parent resides;

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

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

1 (5) a child protection proceeding with respect to the child has been
2 commenced.

3 § 110. JOINDER OF PROCEEDINGS

4 (a) Joinder permitted. Except as otherwise provided in subsection (b) of
5 this section, a proceeding to adjudicate parentage may be joined with a
6 proceeding for parental rights and responsibilities, parent-child contact, child
7 support, child protection, termination of parental rights, divorce, annulment,
8 legal separation, guardianship, probate or administration of an estate or other
9 appropriate proceeding, or a challenge or rescission of acknowledgment of
10 parentage.

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

15 § 111. ORDERS

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

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

20 (2) petitioning to have parentage adjudicated;

1 (3) identified as the genetic parent through genetic testing under chapter
2 6 of this title;

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

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

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

8 (7) a parent under this chapter.

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

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

14 § 112. ADMISSION OF PARENTAGE AUTHORIZED

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

20 (b) Order adjudicating parentage. If the court finds an admission to be
21 consistent with the provisions of this chapter and rejects any objection filed by

1 another party, the court may issue an order adjudicating the child to be the
2 child of the person admitting parentage.

3 § 113. ORDER ON DEFAULT

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

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

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

8 § 114. ORDER ADJUDICATING PARENTAGE

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

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

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

16 (d) Amended birth registration. If the final order under subsection (a) of
17 this section is at variance with the child's birth certificate, the Department of
18 Health shall issue an amended birth certificate.

19 § 115. BINDING EFFECT OF DETERMINATION OF PARENTAGE

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

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

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

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

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

10 (2) the final order:

11 (A) expressly identifies a child as a “child of the marriage “ or “issue
12 of the marriage “ or by similar words indicates that the parties are the parents
13 of the child; or

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

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

19 (d) Challenge to adjudication.

20 (1) Challenge by a person who was a party to an adjudication. A party
21 to an adjudication of parentage may challenge the adjudication only by appeal

1 or in a manner otherwise consistent with the Vermont Rules for Family
2 Proceedings.

3 (2) Challenge by a person who was not a party to an adjudication. A
4 person who has standing under section 105 of this title, but who did not receive
5 notice of the adjudication of parentage under section 106 of this title and was
6 not a party to the adjudication may challenge the adjudication of within two
7 years of the effective date of the adjudication. The court, in its discretion, shall
8 permit the proceeding only if it finds that it is in the best interests of the child.
9 If the court permits the proceeding, the court shall adjudicate parentage under
10 section 206 of this title.

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

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

16 (2) the determination was based on a finding consistent with the results
17 of genetic testing, and the court makes a finding that;

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

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

4 § 116. FULL FAITH AND CREDIT

5 A court of this State shall give full faith and credit to a determination of
6 parentage to an acknowledgment of parentage from another state if the
7 determination is valid and effective in accordance with the law of the other
8 state.

9 CHAPTER 2. ESTABLISHMENT OF PARENTAGE

10 § 201. RECOGNIZED PARENTS

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

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

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

15 (3) Acknowledgment. An effective voluntary acknowledgment of
16 parentage under chapter 3 of this title.

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

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

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

3 (7) Genetic parentage. An adjudication of genetic parentage under
4 chapter 6 of this title.

5 (8) Assisted reproduction. Consent to assisted reproduction under
6 chapter 7 of this title.

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

9 § 202. NONDISCRIMINATION

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

13 § 203. CONSEQUENCES OF ESTABLISHMENT OF PARENTAGE

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

17 § 204. DETERMINATION OF MATERNITY AND PATERNITY

18 Provisions of this title relating to determination of paternity may apply to
19 determination of maternity as needed to determine parentage consistent with
20 this title.

1 § 205. NO LIMITATION ON CHILD

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

4 § 206. ADJUDICATING COMPETING CLAIMS OF PARENTAGE

5 (a) Competing claims of parentage. Except as otherwise provided in
6 section 616 of this title, in a proceeding to adjudicate competing claims of
7 parentage or challenges to a child's parentage by two or more persons, the
8 court shall adjudicate parentage in the best interests of the child, based on the
9 following factors:

10 (1) the age of the child;

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

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

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

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

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

19 (b) Preservation of parent-child relationship. Consistent with the
20 establishment of parentage under this chapter, a court may determine that a
21 child has more than two parents if the court finds that it is in the best interests

1 of the child to do so. A finding of best interests of the child under this
2 subsection does not require a finding of unfitness of any parent or person
3 seeking an adjudication of parentage.

4 CHAPTER 3. VOLUNTARY ACKNOWLEDGMENT OF PARENTAGE

5 § 301. ACKNOWLEDGMENT OF PARENTAGE

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

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

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

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

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

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

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

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

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

4 (C) the signatories understand that the acknowledgment is the
5 equivalent of a court determination of parentage of the child and that a
6 challenge to the acknowledgment is permitted only under limited
7 circumstances within two years after the effective date of the acknowledgment.

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

11 § 302. ACKNOWLEDGMENT OF PARENTAGE VOID

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

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

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

1 § 303. DENIAL OF PARENTAGE

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

4 A denial of parentage shall be valid only if:

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

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

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

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

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

14 § 304. CONDITIONS FOR ACKNOWLEDGMENT OR DENIAL OF
15 PARENTAGE

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

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

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

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

6 § 305. EQUIVALENT TO ADJUDICATION; NO RATIFICATION

7 REQUIRED

8 (a) Acknowledgment. Except as otherwise provided in sections 307 and
9 308 of this title, a valid acknowledgment of parentage under section 301 of this
10 title filed with the Department of Health is equivalent to an adjudication of
11 parentage of a child and confers upon the acknowledged parent all of the rights
12 and duties of a parent.

13 (b) Ratification. Judicial or administrative ratification is neither permitted
14 nor required for an unrescinded or unchallenged acknowledgment of
15 parentage.

16 (c) Denial. Except as otherwise provided in sections 307 and 308 of this
17 title, a valid denial of parentage under section 303 of this title filed with the
18 Department of Health in conjunction with a valid acknowledgment of
19 parentage under section 301 of this title is equivalent to an adjudication of the
20 nonparentage of the presumed parent or alleged genetic parent and discharges

1 the presumed parent or alleged genetic parent from all rights and duties of a
2 parent.

3 § 306. NO FILING FEE

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

6 § 307. TIMING OF RESCISSION

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

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

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

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

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

18 (b) If an acknowledgment of parentage is rescinded under this section, any
19 associated denial of parentage becomes invalid, and the Department of Health
20 shall notify the person who gave birth to the child and any person who signed a
21 denial of parentage of the child that the acknowledgment of parentage has been

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

3 § 308. CHALLENGE TO ACKNOWLEDGMENT AFTER EXPIRATION
4 OF PERIOD FOR RESCISSION

5 (a) Challenge by signatory. After the period for rescission under section
6 307 has expired, a signatory of an acknowledgment of parentage or denial of
7 parentage may commence a proceeding to challenge the acknowledgment or
8 denial only:

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

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

13 (b) Challenge by person not a signatory. If an acknowledgment of
14 parentage has been made in accordance with this chapter, a person who is
15 neither the child nor a signatory to the acknowledgment who seeks to
16 challenge the validity of the acknowledgment and adjudicate parentage shall
17 commence a proceeding within two years after the effective date of the
18 acknowledgment unless the person did not know and could not reasonably
19 have known of the person's potential parentage due to a material
20 misrepresentation or concealment, in which case the proceeding shall be

1 commenced within two years after the discovery of the person's potential
2 parentage.

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

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

9 § 309. PROCEDURE FOR RESCISSION OR CHALLENGE

10 (a) Every signatory party. Every signatory to an acknowledgment of
11 parentage and any related denial of parentage shall be made a party to a
12 proceeding under section 307 or 308 of this title to rescind or challenge the
13 acknowledgment or denial.

14 (b) Submission to personal jurisdiction. For the purpose of rescission of or
15 challenge to an acknowledgment of parentage or denial of parentage, a
16 signatory submits to personal jurisdiction of this State by signing the
17 acknowledgment or denial, effective upon the filing of the document with the
18 Department of Health pursuant to section 304 of this title.

19 (c) Suspension of legal responsibilities. Except for good cause shown,
20 during the pendency of a proceeding to rescind or challenge an
21 acknowledgment of parentage or denial of parentage, the court shall not

1 suspend the legal responsibilities of a signatory arising from the
2 acknowledgment, including the duty to pay child support.

3 (d) Proceeding to rescind or challenge. A proceeding to rescind or
4 challenge an acknowledgment of parentage or denial of parentage shall be
5 conducted as a proceeding to adjudicate parentage pursuant to chapter 1 of this
6 title.

7 (e) Amendment to birth record. At the conclusion of a proceeding to
8 rescind or challenge an acknowledgment of parentage or denial of parentage,
9 the court shall order the Department of Health to amend the birth record of the
10 child, if appropriate.

11 § 310. FORMS FOR ACKNOWLEDGMENT AND DENIAL OF
12 PARENTAGE

13 To facilitate compliance with this subchapter, the Department of Health
14 shall prescribe forms for the acknowledgment of parentage and the denial of
15 parentage. A valid acknowledgment of parentage or denial of parentage is not
16 affected by a later modification of the prescribed form.

17 § 311. RELEASE OF INFORMATION

18 The Department of Health may release information relating to an
19 acknowledgment of parentage under section 301 of this title as provided
20 18 V.S.A. § 5002.

1 § 312. ADOPTION OF RULES

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

3 CHAPTER 4. PRESUMED PARENTAGE

4 § 401. PRESUMPTION OF PARENTAGE

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

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

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

13 (3) the person and the person who gave birth to the child married each
14 other after the birth of the child and the person at any time asserted parentage
15 of the child and the person agreed to be and is named as a parent of the child
16 on the birth certificate of the child; or

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

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

4 § 402. CHALLENGE TO PRESUMED PARENT

5 (a) Except as provided in subsection (b) of this section, a proceeding to
6 challenge the parentage of a person whose parentage is presumed under section
7 401 of this title shall be commenced within two years after the birth of the
8 child.

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

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

16 (2) An alleged genetic parent who did not know of the potential genetic
17 parentage of a child and who could not reasonably have known on account of
18 material misrepresentation or concealment may commence a proceeding under
19 this section within two years after discovering the potential genetic parentage.
20 If the person is adjudicated to be the genetic parent of the child, the court may
21 not disestablish a presumed parent. Consistent with section 203 of this title,

1 the court shall determine parental rights and responsibilities of the parents in
2 accordance with 15 V.S.A chapter 11. subchapter 3A.

3 § 403. MULTIPLE PRESUMPTIONS

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

7 CHAPTER 5. DE FACTO PARENTAGE

8 § 501. STANDARD; ADJUDICATION

9 (a) The court shall adjudicate a person a de facto parent if the court finds by
10 clear and convincing evidence that the person has fully and completely
11 undertaken a permanent, unequivocal, committed, and responsible parental role
12 in the child's life as evidenced by the fact that:

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

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

15 (3) a bonded and dependent relationship has been established between
16 the child and the person, the relationship was fostered or supported by another
17 parent of the child, and the person and the other parent have understood,
18 acknowledged, or accepted that relationship or behaved as though the person
19 were a parent of the child;

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

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

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

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

11 § 502. PETITION; STANDING

12 (a) A person seeking to be adjudicated a de facto parent of a child shall file
13 a petition with the Family Division of the Superior Court. The petition shall
14 include an affidavit alleging facts to support the existence of a de facto parent
15 relationship with the child. The petition and affidavit shall be served on all
16 parents and legal guardians of the child and any other party to the proceeding.

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

20 (c) The court shall determine on the basis of the pleadings and affidavits
21 whether the person seeking to be adjudicated a de facto parent has presented

1 prima facie evidence of de facto parentage and, therefore, has standing to
2 proceed with a parentage action. The court, in its sole discretion, may hold a
3 hearing to determine disputed facts that are necessary and material to the issue
4 of standing.

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

8 CHAPTER 6. GENETIC PARENTAGE

9 § 601. SCOPE

10 This chapter governs procedures and requirements of genetic testing and
11 genetic testing results of a person to determine parentage and adjudication of
12 parentage based on genetic testing, whether the person voluntarily submits to
13 testing or is tested pursuant to an order of the court. Genetic testing shall not
14 be used to challenge the parentage of a person who is a parent by operation of
15 law under chapter 7 or 8 of this title or to establish the parentage of a person
16 who is a donor.

17 § 602. REQUIREMENTS FOR GENETIC TESTING

18 Genetic testing shall be of a type reasonably relied upon by scientific and
19 medical experts in the field of genetic testing and performed in a testing
20 laboratory accredited by a national association of blood banks or an accrediting
21 body designated by the Secretary of the U.S. Department of Health and Human

1 Services. For the purposes of this chapter, “genetic testing” shall have the
2 same meaning as provided in 18 V.S.A. § 9331.

3 § 603. COURT ORDER FOR TESTING

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

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

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

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

15 § 604. GENETIC TESTING RESULTS

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

20 (b) Identification of a genetic parent through genetic testing does not
21 establish parentage absent adjudication under this chapter and a court may rely

1 on nongenetic evidence to determine parentage, including parentage by
2 acknowledgment pursuant to chapter 3 of this title or by admission pursuant to
3 section 112 of this title, presumed parentage under chapter 4 of this title, de
4 facto parentage under chapter 5 of this title, and parentage by intended parents
5 under chapter 7 or 8 of this title.

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

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

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

12 § 605. REPORT OF GENETIC TESTING

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

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

1 § 606. ADMISSIBILITY OF RESULTS OF GENETIC TESTING

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

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

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

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

11 (b) Objection. Any motion objecting to genetic test results shall be made in
12 writing to the court and to the party intending to introduce the evidence at least
13 five days prior to any hearing at which the results may be introduced into
14 evidence. If no timely objection is made, the written results shall be
15 admissible as evidence without the need for foundation testimony or other
16 proof of authenticity or accuracy.

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

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

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

5 (d) Copies of bills and records as evidence. Copies of bills and records of
6 expenses paid for prenatal care, childbirth, postnatal care, and genetic testing
7 are admissible as evidence without requiring third-party foundation testimony
8 and are prima facie evidence of amounts incurred for those expenses or testing
9 on behalf of the child.

10 § 607. ADDITIONAL GENETIC TESTING

11 The court shall order additional genetic testing upon the request of a party
12 who contests the result of the initial testing. If the initial genetic testing
13 identified a person as a genetic parent of the child under section 604 of this
14 title, the court shall not order additional testing unless the party provides
15 advance payment for the testing.

16 § 608. CONSEQUENCES OF DECLINING GENETIC TESTING

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

20 (b) Genetic testing of the person who gave birth to a child is not a condition
21 precedent to testing the child and an individual whose parentage is being

1 determined under this chapter. If the person who gave birth is unavailable or
2 declines to submit to genetic testing, the court may order the testing of the
3 child and every person whose genetic parentage is being adjudicated.

4 § 609. ADJUDICATION OF PARENTAGE BASED ON GENETIC

5 TESTING

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

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

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

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

1 (c) Testimony relating to the sexual conduct of the person who gave birth
2 to the child is admissible only if it is alleged to have occurred during a time
3 when conception of the child was probable.

4 § 610. COSTS OF GENETIC TESTING

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

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

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

10 (3) as ordered by the court.

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

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

18 § 611. GENETIC TESTING WHEN SPECIMENS NOT AVAILABLE

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

- 1 (1) the parents of the alleged genetic parent;
2 (2) a sibling of the alleged genetic parent;
3 (3) another child of the alleged genetic parent and the person who gave
4 birth to that other child; and
5 (4) another relative of the alleged genetic parent necessary to complete
6 genetic testing.

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

10 § 612. DECEASED PERSON

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

13 § 613. IDENTICAL SIBLING

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

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

1 § 614. CONFIDENTIALITY OF GENETIC TESTING

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

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

10 § 615. AUTHORITY TO DENY REQUESTED ORDER FOR GENETIC
11 TESTING OR ADMISSION OF TEST RESULTS

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

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

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

19 (b) Factors. In determining whether to deny a motion seeking an order for
20 genetic testing under this title or a request for admission of such test results at

1 trial, the court shall consider the best interests of the child, including the
2 following factors, if relevant:

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

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

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

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

10 (5) the age of the child;

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

13 (7) the nature of the relationship between the child and any alleged
14 parent;

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

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

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

5 § 616. PRECLUDING ESTABLISHMENT OF PARENTAGE BY
6 PERPETRATOR OF SEXUAL ASSAULT

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

10 (b) This section shall not apply if:

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

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

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

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

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

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

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

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

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

14 (3) requiring that the person alleged to have committed a sexual assault
15 to pay child support or birth-related costs, or both, unless the person giving
16 birth requests otherwise and the court determines that granting the request is in
17 the best interests of the child.

18 (f) As used in this section:

19 (1) "Sexual assault" includes sexual assault as provided in 13 V.S.A.
20 § 3252(a), (b), (d), and (e), aggravated sexual assault as provided in 13 V.S.A.
21 § 3253, aggravated sexual assault of a child as provided in 13 V.S.A. § 3253a,

1 lewd and lascivious conduct with a child as provided in 13 V.S.A. § 2602, and
2 similar offenses in other jurisdictions.

3 (2) “Sexual exploitation” includes sexual exploitation of an inmate as
4 provided in 13 V.S.A. § 3257, sexual exploitation of a minor as provided in
5 13 V.S.A. § 3258, sexual abuse of a vulnerable adult as provided in 13 V.S.A.
6 § 1379, and similar offenses in other jurisdictions.

7 CHAPTER 7. PARENTAGE BY ASSISTED REPRODUCTION

8 § 701. SCOPE

9 This chapter does not apply to the birth of a child conceived by sexual
10 intercourse or assisted reproduction under a surrogacy agreement under chapter
11 8 of this title.

12 § 702. PARENTAL STATUS OF DONOR

13 (a) A donor is not a parent of a child conceived through assisted
14 reproduction.

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

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

19 (2) a person who provides a gamete or an embryo for assisted
20 reproduction is a parent of the resulting child if the person has a written

1 agreement or agreements with the person giving birth that the person providing
2 the gamete or the embryo is intended to be a parent.

3 § 703. PARENTAGE OF CHILD OF ASSISTED REPRODUCTION

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

7 § 704. CONSENT TO ASSISTED REPRODUCTION

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

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

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

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

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

1 § 705. CHALLENGE TO CONSENT BY SPOUSE

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

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

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

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

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

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

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

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

1 § 706. EFFECT OF DISSOLUTION OF MARRIAGE OR WITHDRAWAL
2 OF CONSENT

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

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

13 § 707. PARENTAL STATUS OF DECEASED PERSON

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

19 (b)(1) If a person who consented in a record to assisted reproduction by the
20 person giving birth to the child dies before transfer or implantation of gametes

1 or embryos, the deceased person is not a parent of a child conceived by
2 assisted reproduction unless:

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

6 (B) the deceased person's intent to be a parent of a child conceived
7 by assisted reproduction after the person's death is established by a
8 preponderance of the evidence.

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

11 (A) the embryo is in utero not later than 36 months after the person's
12 death; or

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

14 § 708. BIRTH ORDERS

15 (a) A party consenting to assisted reproduction, a person who is a parent
16 pursuant to sections 702–704 of this title, an intended parent or parents, or the
17 person giving birth may commence a proceeding in the Probate Division of the
18 Superior Court to obtain an order:

19 (1) declaring that the intended parent or parents are the parent or parents
20 of the resulting child and ordering that parental rights and responsibilities vest

1 exclusively in the intended parent or parents immediately upon the birth of the
2 child;

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

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

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

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

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

12 § 709. LABORATORY ERROR

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

16 CHAPTER 8. PARENTAGE BY GESTATIONAL CARRIER

17 AGREEMENT

18 § 801. ELIGIBILITY TO ENTER GESTATIONAL CARRIER

19 AGREEMENT

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

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

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

4 (3) have had independent legal representation of the person's own
5 choosing and paid for by the intended parent or parents regarding the terms of
6 the gestational carrier agreement and have been advised of the potential legal
7 consequences of the gestational carrier agreement; and

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

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

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

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

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

1 § 802. GESTATIONAL CARRIER AGREEMENT

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

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

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

10 (3) the intended parent or parents will be the parents of any resulting
11 child.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14 (13) The intended parent or parents shall:

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

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

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

4 (d) Reasonable consideration and expenses. Except as provided in section
5 809 of this title, a gestational carrier agreement may include provisions for
6 payment of consideration and reasonable expenses to a prospective gestational
7 carrier, provided they are negotiated in good faith between the parties.

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

12 § 803. PARENTAGE; PARENTAL RIGHTS AND RESPONSIBILITIES

13 (a)(1) If a gestational carrier agreement satisfies the requirements of this
14 chapter, the intended parent or parents are the parent or parents of the resulting
15 child immediately upon the birth of the child, and the resulting child is
16 considered the child of the intended parent or parents immediately upon the
17 birth of the child. Neither the gestational carrier nor the gestational carrier's
18 spouse, if any, is the parent of the resulting child.

19 (2) A person who is determined to be a parent of the resulting child is
20 obligated to support the child. The breach of the gestational carrier agreement

1 by the intended parent or parents does not relieve the intended parent or
2 parents of the obligation to support the resulting child.

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

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

8 (c) If due to a laboratory error, the resulting child is not genetically related
9 to either the intended parent or parents or any donor who donated to the
10 intended parent or parents, the intended parent or parents are considered the
11 parent or parents of the child.

12 § 804. BIRTH ORDERS

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

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

20 (2) Designating the contents of the birth certificate and directing the
21 Department of Health to designate the intended parent or parents as the parent

1 or parents of the child. The Department of Health may charge a reasonable fee
2 for the issuance of a birth certificate.

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

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

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

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

10 § 805. EXCLUSIVE, CONTINUING JURISDICTION

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

16 § 806. TERMINATION OF GESTATIONAL CARRIER AGREEMENT

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

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

10 § 807. GESTATIONAL CARRIER AGREEMENT; EFFECT OF
11 SUBSEQUENT CHANGE OF MARITAL STATUS

12 Unless a gestational carrier agreement expressly provides otherwise:

13 (1) the marriage of a gestational carrier or of an intended parent after the
14 agreement has been signed by all parties does not affect the validity of the
15 agreement, the gestational carrier's spouse's consent or intended parent's
16 spouse's consent to the agreement is not required, and the gestational carrier's
17 spouse or intended parent's spouse is not a presumed parent of a child
18 conceived by assisted reproduction under the agreement; and

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

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

2 REMEDIES

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

5 (b) Standard of review. In the event of noncompliance with the
6 requirements of this chapter or with a gestational carrier agreement, the Family
7 Division of the Superior Court shall determine the respective rights and
8 obligations of the parties to the gestational carrier agreement, including
9 evidence of the intent of the parties at the time of execution.

10 (c) Remedies. Except as expressly provided in a gestational carrier
11 agreement and in subsection (d) of this section, in the event of a breach of the
12 gestational carrier agreement by the gestational carrier or the intended parent
13 or parents, the gestational carrier or the intended parent or parents are entitled
14 to all remedies available at law or in equity.

15 (d) Genetic testing. If a person alleges that the parentage of a child born to
16 a gestational carrier is not the result of assisted reproduction, and this question
17 is relevant to the determination of parentage, the court may order genetic
18 testing.

19 (e) Specific performance. Specific performance is not an available remedy
20 for a breach by the gestational carrier of any term in a gestational carrier
21 agreement that requires the gestational carrier to be impregnated or to

1 terminate a pregnancy. Specific performance is an available remedy for a
2 breach by the gestational carrier of any term that prevents the intended parent
3 or parents from exercising the full rights of parentage immediately upon the
4 birth of the child.

5 § 809. LIABILITY FOR PAYMENT OF GESTATIONAL CARRIER

6 HEALTH CARE COSTS

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

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

16 (c) This section is not intended to supplant any health insurance coverage
17 that is otherwise available to the gestational carrier or an intended parent for
18 the coverage of health care costs. This section does not change the health
19 insurance coverage of the gestational carrier or the responsibility of the
20 insurance company to pay benefits under a policy that covers a gestational
21 carrier.

1 Sec. 2. REPEAL

2 15 V.S.A. chapter 5, subchapter 3A (parentage proceedings) is repealed.

3 Sec. 3. TRANSITIONAL PROVISION

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

7 Sec. 4. EFFECTIVE DATE

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