

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) “Domestic assault” shall include any offense provided in subchapter  
16 6, chapter 19 of Title 13 (domestic assault).

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

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

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

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

8           (10) “Gamete” means a sperm, egg, or any part of a sperm or egg.

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

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

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

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

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

8           (16) “Parent” means a person who has established parentage that meets  
9           the requirements of this title.

10           (17) “Parentage” means the legal relationship between a child and a  
11           parent as established under this title.

12           (18) “Presumed parent” means a person who is recognized as the parent  
13           of a child under section 401 of this title.

14           (19) “Record” means information that is inscribed on a tangible medium  
15           or that is stored in an electronic or other medium and is retrievable in  
16           perceivable form.

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

6           (21) “Sexual exploitation” shall include sexual exploitation of an inmate  
7           as provided in 13 V.S.A. § 3257, sexual exploitation of a minor as provided in  
8           13 V.S.A. § 3258, sexual abuse of a vulnerable adult as provided in 13 V.S.A.  
9           § 1379, and similar offenses in other jurisdictions.

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

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

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

14           (23) “Signatory” means a person who signs a record and is bound by its  
15           terms.

16           (24) “Spouse” includes a partner in a civil union or a partner in a legal  
17           relationship that provides substantially the same rights, benefits, and  
18           responsibilities as marriage and is recognized as valid in the state or  
19           jurisdiction in which it was entered.

20           § 103. SCOPE AND APPLICATION

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

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

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

6        § 104. PARENTAGE PROCEEDING

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

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

19       (c) Original actions. Original actions to adjudicate parentage may be  
20       commenced in the Family Division of the Superior Court, except that

1 proceedings for birth orders under sections 708 and 804 of this title shall be  
2 commenced in the Probate Division of the Superior Court.

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

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

11 § 105. STANDING TO MAINTAIN PROCEEDING

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

14 (1) the child;

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

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

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

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

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

4           § 106. NOTICE OF PROCEEDING

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

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

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

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

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

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

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

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



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

3        § 107. FORM OF NOTICE

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

5        § 108. PERSONAL JURISDICTION

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

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

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

15       § 109. VENUE

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

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

20       (2) any parent or intended parent resides;

1           (3) the respondent resides or is present if the child does not reside in this

2           State;

3           (4) a proceeding for probate or administration of the parent or alleged  
4           parent’s estate has been commenced; or

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

7           § 110. JOINDER OF PROCEEDINGS

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

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

1     § 111. ORDERS

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

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

6           (2) petitioning to have parentage adjudicated;

7           (3) identified as the genetic parent through genetic testing under chapter  
8     6 of this title;

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

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

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

14          (7) a parent under this chapter.

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

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

1        § 112. ADMISSION OF PARENTAGE AUTHORIZED

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

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

11       § 113. ORDER ON DEFAULT

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

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

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

16       § 114. ORDER ADJUDICATING PARENTAGE

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

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

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

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

6        § 115. BINDING EFFECT OF DETERMINATION OF PARENTAGE

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

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

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

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

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

18            (2) the final order:

19                  (A) expressly identifies a child as a “child of the marriage “ or “issue  
20          of the marriage “ or by similar words indicates that the parties are the parents  
21          of the child; or

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

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

6           (d) Challenge to adjudication.

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

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

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

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

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

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

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

11           § 116. FULL FAITH AND CREDIT

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

16                           CHAPTER 2. ESTABLISHMENT OF PARENTAGE

17           § 201. RECOGNIZED PARENTS

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

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

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

1           (3) Acknowledgment. An effective voluntary acknowledgment of  
2           parentage under chapter 3 of this title.

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

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

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

9           (7) Genetic parentage. An adjudication of genetic parentage under  
10          chapter 6 of this title.

11          (8) Assisted reproduction. Consent to assisted reproduction under  
12          chapter 7 of this title.

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

15          § 202. NONDISCRIMINATION

16          Every child has the same rights under law as any other child without regard  
17          to the marital status or gender of the parents or the circumstances of the child's  
18          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) The acknowledgment shall be signed by both the person who gave birth  
2        to the child and by the person seeking to establish a parent-child relationship  
3        and shall be witnessed and signed by at least one other person.

4        § 302. ACKNOWLEDGMENT OF PARENTAGE VOID

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

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

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

12       § 303. DENIAL OF PARENTAGE

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

15       A denial of parentage shall be valid only if:

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

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

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

1           (A) acknowledged parentage, unless the previous acknowledgment  
2           has been rescinded pursuant to section 307 of this title or successfully  
3           challenged the acknowledgment pursuant to section 308 of this title; or  
4           (B) been adjudicated to be the parent of the child.

5           § 304. CONDITIONS FOR ACKNOWLEDGMENT OR DENIAL OF  
6           PARENTAGE

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

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

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

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

16          § 305. EQUIVALENT TO ADJUDICATION; NO RATIFICATION  
17          REQUIRED

18          (a) Acknowledgment. Except as otherwise provided in sections 307 and  
19          308 of this title, a valid acknowledgment of parentage under section 301 of this  
20          title filed with the Department of Health is equivalent to an adjudication of

1 parentage of a child and confers upon the acknowledged parent all of the rights  
2 and duties of a parent.

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

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

13 (d) Challenge. A signatory of an acknowledgment of parentage may  
14 rescind or challenge the acknowledgement in accordance with sections 307-  
15 309 of this title.

16 § 306. NO FILING FEE

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

19 § 307. TIMING OF RESCISSION

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

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

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

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

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

10          (b) If an acknowledgment of parentage is rescinded under this section, any  
11          associated denial of parentage becomes invalid, and the Department of Health  
12          shall notify the person who gave birth to the child and any person who signed a  
13          denial of parentage of the child that the acknowledgment of parentage has been  
14          rescinded. Failure to give notice required by this section does not affect the  
15          validity of the rescission.

16          § 308. CHALLENGE TO ACKNOWLEDGMENT AFTER EXPIRATION  
17          OF PERIOD FOR RESCISSION

18          (a) Challenge by signatory. After the period for rescission under section  
19          307 has expired, a signatory of an acknowledgment of parentage or denial of  
20          parentage may commence a proceeding to challenge the acknowledgment or  
21          denial only:

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

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

5           (b) Challenge by person not a signatory. If an acknowledgment of  
6           parentage has been made in accordance with this chapter, a person who is  
7           neither the child nor a signatory to the acknowledgment who seeks to  
8           challenge the validity of the acknowledgment and adjudicate parentage shall  
9           commence a proceeding within two years after the effective date of the  
10           acknowledgment unless the person did not know and could not reasonably  
11           have known of the person’s potential parentage due to a material  
12           misrepresentation or concealment, in which case the proceeding shall be  
13           commenced within two years after the discovery of the person’s potential  
14           parentage.

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

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

21           § 309. PROCEDURE FOR RESCISSION OR CHALLENGE

1       (a) Every signatory party. Every signatory to an acknowledgment of  
2       parentage and any related denial of parentage shall be made a party to a  
3       proceeding under section 307 or 308 of this title to rescind or challenge the  
4       acknowledgment or denial.

5       (b) Submission to personal jurisdiction. For the purpose of rescission of or  
6       challenge to an acknowledgment of parentage or denial of parentage, a  
7       signatory submits to personal jurisdiction of this State by signing the  
8       acknowledgment or denial, effective upon the filing of the document with the  
9       Department of Health pursuant to section 304 of this title.

10       (c) Suspension of legal responsibilities. Except for good cause shown,  
11       during the pendency of a proceeding to rescind or challenge an  
12       acknowledgment of parentage or denial of parentage, the court shall not  
13       suspend the legal responsibilities of a signatory arising from the  
14       acknowledgment, including the duty to pay child support.

15       (d) Proceeding to rescind or challenge. A proceeding to rescind or  
16       challenge an acknowledgment of parentage or denial of parentage shall be  
17       conducted as a proceeding to adjudicate parentage pursuant to chapter 1 of this  
18       title.

19       (e) Amendment to birth record. At the conclusion of a proceeding to  
20       rescind or challenge an acknowledgment of parentage or denial of parentage,



1 the court shall order the Department of Health to amend the birth record of the  
2 child, if appropriate.

3 § 310. FORMS FOR ACKNOWLEDGMENT AND DENIAL OF  
4 PARENTAGE

5 (a) The Department of Health shall develop an acknowledgment of  
6 parentage form and denial of parentage form for execution of parentage under  
7 this chapter.

8 (b) The acknowledgement of parentage form shall provide notice of the  
9 alternatives to, the legal consequences of, and the rights and responsibilities  
10 that arise from signing the acknowledgment and shall state that:

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

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

16 (C) the signatories understand that the acknowledgment is the equivalent  
17 of a court determination of parentage of the child and that a challenge to the  
18 acknowledgment is permitted only under limited circumstances within two  
19 years after the effective date of the acknowledgment.

20

1        (c) 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 the person and another parent of the child openly held out the child as the  
6 person's child.

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

10 § 402. CHALLENGE TO PRESUMED PARENT

11 (a)(1) Except as provided in subdivision (a)(2) of this section, a proceeding  
12 to challenge the parentage of a person whose parentage is presumed under  
13 section 401 of this title shall be commenced within two years after the birth of  
14 the child.

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

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

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

10           (b) Regarding a presumption under subdivision 401(a)(4) of this title,  
11           another parent of the child may challenge a presumption of parentage if that  
12           parent openly held out the child as the presumptive parent's child due to  
13           duress, coercion, or threat of harm. Evidence of duress, coercion, or threat of  
14           harm may include whether within the prior ten years, the person presumed to  
15           be a parent pursuant to subdivision 401(a)(4) of this title has been convicted of  
16           domestic assault, sexual assault, or sexual exploitation of the child or another  
17           parent of the child, or was subject to a final abuse protection order because the  
18           person was found to have committed abuse against (the child or another parent  
19           of the child OR a family or household member, as defined in section 1101 of  
20           this title – policy choice for committee as to whether the APO should be  
21           specific to child and other parent or broader). (Timing?)

1     § 403. MULTIPLE PRESUMPTIONS

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

5                     CHAPTER 5. DE FACTO PARENTAGE

6     § 501. STANDARD; ADJUDICATION

7             (a)(1) In a proceeding to adjudicate the parentage of a person who claims to  
8     be a de facto parent of the child, if there is only one other person who is a  
9     parent or has a claim to parentage of the child, the court shall adjudicate the  
10    person who claims to be a de facto parent to be a parent of the child if the  
11    person demonstrates by clear-and-convincing evidence that:

12                    (A) the person resided with the child as a regular member of the  
13    child's household for a significant period of time;

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

15                    (C) the person undertook full and permanent responsibilities of a  
16    parent of the child without expectation of financial compensation;

17                    (D) the person held out the child as the person's child;

18                    (E) the person established a bonded and dependent relationship with  
19    the child which is parental in nature;

1           (F) the person and another parent of the child fostered or supported  
2           the bonded and dependent relationship required under subdivision (1)(E) of  
3           this subsection (a); and

4           (G) continuing the relationship between the person and the child is in  
5           the best interest of the child.

6           (2) A parent of the child may use evidence of duress, coercion, or threat  
7           of harm to contest an allegation of fostering or supporting a bonded dependent  
8           relationship as provided in subdivision (1)(F) of this subsection (a). Such  
9           evidence may include whether within the prior ten years, the person seeking to  
10           be adjudicated a de facto parent has been convicted of domestic assault, sexual  
11           assault, or sexual exploitation of the child or another parent of the child, or was  
12           subject to a final abuse protection order because the person was found to have  
13           committed abuse against (the child or another parent of the child OR a family  
14           or household member, as defined in section 1101 of this title – *policy choice*  
15           for committee as to whether the APO should be specific to child and other  
16           parent or broader).

17           (b) In a proceeding to adjudicate the parentage of an person who claims to  
18           be a de facto parent of the child, if there is more than one other person who is a  
19           parent or has a claim to parentage of the child and the court determines that the  
20           requirements of subdivisions (a)(1)(A) - (G) of this section are met, the court

1 shall adjudicate parentage under section 206, subject to other applicable  
2 limitations in this title.

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

5 § 502. STANDING; PETITION

6 (a) A person seeking to be adjudicated a de facto parent of a child shall file  
7 a petition with the Family Division of the Superior Court before the child  
8 reaches 18 years of age. Both the person seeking to be adjudicated a de facto  
9 parent and the child must be alive at the time of the filing. The petition shall  
10 include a verified affidavit alleging facts to support the existence of a de facto  
11 parent relationship with the child. The petition and affidavit shall be served on  
12 all parents and legal guardians of the child and any other party to the  
13 proceeding.

14 (b) An adverse party, parent, or legal guardian may file a pleading and  
15 affidavit in response to the petition which shall be served on all parties to the  
16 proceeding.

17 (c) The court shall determine on the basis of the pleadings and affidavits  
18 whether the person seeking to be adjudicated a de facto parent has presented  
19 prima facie evidence of the criteria for de facto parentage as provided in  
20 subsection (a) of section 501 of this title and, therefore, has standing to proceed  
21 with a parentage action. The court, in its sole discretion, may hold a hearing to

1 determine disputed facts that are necessary and material to the issue of  
2 standing.

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

## 6 CHAPTER 6. GENETIC PARENTAGE

### 7 § 601. SCOPE

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

### 15 § 602. REQUIREMENTS FOR GENETIC TESTING

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



1     § 603. COURT ORDER FOR TESTING

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

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

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

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

13     § 604. GENETIC TESTING RESULTS

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

18          (b) Identification of a genetic parent through genetic testing does not  
19     establish parentage absent adjudication under this chapter and a court may rely  
20     on nongenetic evidence to determine parentage, including parentage by  
21     acknowledgment pursuant to chapter 3 of this title or by admission pursuant to

1 section 112 of this title, presumed parentage under chapter 4 of this title, de  
2 facto parentage under chapter 5 of this title, and parentage by intended parents  
3 under chapter 7 or 8 of this title.

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

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

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

10 § 605. REPORT OF GENETIC TESTING

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

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

18 § 606. ADMISSIBILITY OF RESULTS OF GENETIC TESTING

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

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

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

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

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

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

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

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

1     § 607. ADDITIONAL GENETIC TESTING

2             The court shall order additional genetic testing upon the request of a party  
3     who contests the result of the initial testing. If the initial genetic testing  
4     identified a person as a genetic parent of the child under section 604 of this  
5     title, the court shall not order additional testing unless the party provides  
6     advance payment for the testing.

7     § 608. CONSEQUENCES OF DECLINING GENETIC TESTING

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

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

16    § 609. ADJUDICATION OF PARENTAGE BASED ON GENETIC  
17            TESTING

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

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

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

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

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

16           § 610. COSTS OF GENETIC TESTING

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

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

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

1           (3) as ordered by the court.

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

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

9           § 611. GENETIC TESTING WHEN SPECIMENS NOT AVAILABLE

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

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

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

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

17                   (4) another relative of the alleged genetic parent necessary to complete  
18           genetic testing.

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

1     § 612. DECEASED PERSON

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

4     § 613. IDENTICAL SIBLING

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

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

11    § 614. CONFIDENTIALITY OF GENETIC TESTING

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

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

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

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

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

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

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

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

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

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

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

21                    (5) the age of the child;



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

3           (7) the nature of the relationship between the child and any alleged  
4           parent;

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

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

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

15           § 616. PRECLUDING ESTABLISHMENT OF PARENTAGE BY

16                   PERPETRATOR OF SEXUAL ASSAULT

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

20           (b) This section shall not apply if the person alleged to have committed a  
21           sexual assault has previously been adjudicated to be a parent of the child.

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

1           (3) requiring that the person alleged to have committed a sexual assault  
2           to pay child support or birth-related costs, or both, unless the person giving  
3           birth requests otherwise.

4           ~~(f) As used in this section:~~

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

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

14           CHAPTER 7. PARENTAGE BY ASSISTED REPRODUCTION

15           § 701. SCOPE

16           This chapter does not apply to the birth of a child conceived by sexual  
17           intercourse or assisted reproduction under a surrogacy agreement under chapter  
18           8 of this title.

19           § 702. PARENTAL STATUS OF DONOR

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

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

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

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

9        § 703. PARENTAGE OF CHILD OF ASSISTED REPRODUCTION

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

13        § 704. CONSENT TO ASSISTED REPRODUCTION

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

18            (2) Consent pursuant to subdivision (1) of this subsection, executed via  
19        a form made available by the Department of Health, shall be accepted and  
20        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 IN CASES OF  
9        ASSISTED REPRODUCTION

10        (a) Except as otherwise provided in subsection (b) of this section, a person  
11        may not challenge their own parentage of a child if the person was the spouse  
12        of the person who gave birth to the child at the time of the child's birth 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 challenge 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