

REVISED:
1ST DRAFT DATE:

____.B. NO. _____

A BILL FOR AN ACT

RELATING TO PARENTAGE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. This measure enacts portions of the Uniform
2 Parentage Act of 2017 (UPA) to replace the Uniform Parentage act
3 of 1973. Among other things, the UPA seeks to do the following:
4 ensures the equal treatment of children born to same-gender
5 couples; adds an additional status of functional parent as a
6 legal parent; and includes provisions that reflect developments
7 in surrogacy and assistive reproductive technology.

8 SECTION 2. The Hawaii Revised Statutes is amended by adding
9 a new chapter to be appropriately designated to read as follows:

10 **"CHAPTER**

11 **UNIFORM PARENTAGE ACT**

12 **PART I. GENERAL PROVISIONS**

13 § -101 **Short title.** This chapter may be cited as the
14 Uniform Parentage Act.

15 § -102 **Definitions.** In this chapter:

16 "Acknowledged parent" means an individual who has
17 established a parent-child relationship under part III and IV.

XXX-00 (25)

1 "Adjudicated genetic parent" means an individual who, after
2 genetic testing, has been adjudicated to be a parent of a child
3 by a court with jurisdiction.

4 "Adjudicated parent" means an individual who has been
5 adjudicated to be a parent of a child by a court with
6 jurisdiction.

7 "Alleged genetic parent" means an individual who is alleged
8 to be, or alleges that the individual is, a genetic parent or
9 possible genetic parent of a child whose parentage has not been
10 adjudicated. The term does not include a presumed parent; an
11 individual whose parental rights have been terminated or
12 declared not to exist; or a donor.

13 "Assisted reproduction" means a method of causing pregnancy
14 other than sexual intercourse. The term includes intrauterine
15 or intracervical insemination, donation of gametes, donation of
16 embryos, in-vitro fertilization and transfer of embryos, and
17 intracytoplasmic sperm injection.

18 "Birth" includes stillbirth.

19 "Birthing center" means any facility outside a hospital
20 that provides maternity services.

21 "Birthing hospital" means any hospital with licensed
22 obstetric-care units, any hospital licensed to provide obstetric
23 services, or any licensed birthing center associated with a
24 hospital.

1 "Child" means an individual of any age whose parentage may
2 be determined under this chapter.

3 "Child support enforcement agency" means the state agency
4 created pursuant to chapter 576D.

5 "Combined relationship index" means the product of all
6 tested relationship indices.

7 "Determination of parentage" means establishment of a
8 parent-child relationship by a judicial or administrative
9 proceeding or signing of a valid acknowledgment of parentage
10 under part IV.

11 "Donor" means an individual who provides gametes or embryos
12 intended for use in assisted reproduction, whether or not for
13 consideration. The term does not include a parent under part
14 VIII, an intended parent under part IX, or an individual who
15 gives birth to a child conceived by assisted reproduction,
16 except as otherwise provided in part IX.

17 "Embryo" means the fertilized product of a sperm and egg,
18 including the zygote stage of early embryo development after
19 fertilization.

20 "Ethnic or racial group" means for the purpose of genetic
21 testing, a recognized group that an individual identifies as the
22 individual's ancestry or part of the individual's ancestry or
23 that is identified by other information.

1 "Fertility clinic" means a medical facility that
2 specializes in diagnosing and treating infertility and the use
3 of assisted reproductive technology.

4 "Functional parent" means an individual who meets the
5 criteria set out in -603(d).

6 "Gamete" means sperm, egg, or any part of a sperm or egg.

7 "Genetic parent" means an individual whose relationship to
8 a child has been determined by genetic testing or based on a
9 physician's statement by the physician who oversaw the in vitro
10 process by which the embryo was created and transferred.

11 "Genetic testing" means an analysis of genetic markers to
12 identify or exclude a genetic relationship.

13 "Hypothesized genetic relationship" means an asserted
14 genetic relationship between an individual and a child.

15 "Individual" means a natural person of any age.

16 "Intended parent" means an individual, married or
17 unmarried, who manifests an intent to be legally bound as a
18 parent of a child conceived by assisted reproduction.

19 "Parent" means an individual who has established a parent-
20 child relationship under section -301.

21 "Parentage" or "parent-child relationship" means the legal
22 relationship between a child and a parent of the child.

23 "Presumed parent" means an individual who under
24 section -303 is presumed to be a parent of a child, unless

1 the presumption is overcome in a judicial proceeding, a valid
2 denial of parentage is made under part VI, or a court
3 adjudicates the individual to be a parent.

4 "Probability of parentage" means, for the ethnic or racial
5 group to which an individual alleged to be a parent belongs, the
6 probability that a hypothesized genetic relationship is
7 supported, compared to the probability that a genetic
8 relationship is supported between the child and a random
9 individual of the ethnic or racial group used in the
10 hypothesized genetic relationship, expressed as a percentage
11 incorporating the combined relationship index and a prior
12 probability.

13 "Record" means information that is written or printed, or
14 that is stored in an electronic or other medium and is
15 retrievable in a perceivable form.

16 "Relationship index" means a likelihood ratio that compares
17 the probability of a genetic marker given a hypothesized genetic
18 relationship and the probability of the genetic marker given a
19 genetic relationship between the child and a random individual
20 of the ethnic or racial group used in the hypothesized genetic
21 relationship.

22 "Sign" means, with present intent to authenticate or adopt
23 a record: to execute or adopt a tangible symbol; or to attach or

1 logically associate with the record an electronic symbol, sound,
2 or process.

3 "Signatory" means an individual who signs a record.

4 "Transfer" means a procedure for assisted reproduction by
5 which an embryo or sperm is placed within the reproductive tract
6 of the individual who will give birth to the child.

7 "Witnessed" means that at least one individual who is
8 authorized to sign has signed a record to verify that the
9 individual personally observed a signatory sign the record.

10 **PART II. JURISDICTION**

11 § -201 **Jurisdiction; venue.** (a) Without limiting the
12 jurisdiction of any other court, the family court has
13 jurisdiction over an action brought under this chapter, chapter
14 583A, or chapter 576B. The action may be joined with an action
15 for divorce, annulment, separate maintenance, or support.

16 (b) An individual who has sexual intercourse, undergoes or
17 consents to assisted reproductive technology, or consents to an
18 assisted reproductive or surrogacy technology agreement in this
19 State thereby submits to the jurisdiction of the courts of this
20 State as to an action brought under this chapter with respect to
21 a child who may have been conceived by that act of intercourse
22 or assisted reproductive technology, regardless of where the
23 child is born. A court of this state with jurisdiction to
24 adjudicate parentage may exercise personal jurisdiction over a

1 nonresident individual, or a guardian or conservator of the
2 individual, if the conditions prescribed in section 576B-201 are
3 satisfied. In addition to any other method provided by statute,
4 personal jurisdiction over a resident and non-resident
5 individual may be acquired by personal service within or outside
6 this State or by service by certified or registered mail,
7 postage prepaid, with return receipt requested.

8 (c) In addition to any other method of service provided by
9 statute or court rule, if the respondent is not found within the
10 circuit, service may be effectuated by registered or certified
11 mail, with request for a return receipt and direction to deliver
12 to addressee only. The return receipt signed by the respondent
13 shall be prima facie evidence that the respondent accepted
14 delivery of the complaint and summons on the date set forth on
15 the receipt. For service effectuated by registered or certified
16 mail, an electronic copy or facsimile of the signature of the
17 served individual or certified mailers provided by the United
18 States Postal Service shall constitute valid proof of service on
19 the individual. Actual receipt by the respondent of the
20 complaint and summons sent by registered or certified mail shall
21 be the equivalent to personal service on the respondent by an
22 authorized process server as of the date of the receipt.

23 (d) If it appears that the respondent has refused to
24 accept service by registered or certified mail or is concealing

1 themselves or evading service, or the petitioner does not know
2 the address or residence of the respondent and has not been able
3 to ascertain the same after reasonable and due inquiry and
4 search, the court may authorize notice of the parentage action
5 and the time and date of hearing by publication or by any other
6 manner that is reasonably calculated to give the party actual
7 notice of proceedings and an opportunity to be heard, including
8 the following:

9 (1) When publication is authorized, the summons shall be
10 published once a week for four consecutive weeks in a
11 publication of general circulation in the circuit.
12 The publication of general circulation shall be
13 designated by the court in the order for publication
14 of the summons. Notice by publication shall have the
15 same force and effect as such individual having been
16 personally served with the summons; provided that the
17 date of the last publication shall be set not less
18 than twenty-one days prior to the return date stated
19 in the summons. Proof of service shall be satisfied
20 by an affidavit or declaration by the authorized
21 representative for the publication that the notice was
22 given in the manner prescribed by the court;

23 (2) When posting to an online publication website is
24 authorized, proof of service shall be satisfied by an

1 affidavit or declaration by the authorized
2 representative for the publication that the notice was
3 given in the manner prescribed by the court;

4 (3) When service by electronic mail or posting to a social
5 networking account is authorized, proof of service
6 shall be satisfied by an affidavit or declaration by
7 the process server that the notice was given in the
8 manner prescribed by the court; and

9 (4) When service is made by posting to a public bulletin
10 board, proof of service shall be satisfied by an
11 affidavit or declaration by the process server that
12 the notice was given in the manner prescribed by the
13 court.

14 (e) The action may be brought in the county in which the
15 child, or any parent, alleged genetic parent, functional parent,
16 or presumed parent reside or is found, or in which the child was
17 born or, if a parent is deceased, in which proceedings for
18 probate of the parent's estate have been or could be commenced,
19 in which assisted reproductive technology was performed, or as
20 specified in an assisted reproduction or surrogacy agreement, if
21 any.

22 § -202 **Parentage determinations from other states and**
23 **territories.** Parentage determinations from other states and
24 territories, whether established through voluntary

1 acknowledgement or through administrative or judicial processes,
2 shall be treated the same as a parentage adjudication in this
3 State. A determination addressing parentage only in another
4 State does not preclude a court in this State from addressing
5 other related issues.

6 § -203 **Who may bring action; when action may be brought;**
7 **process, warrant, bond.** (a) A child or guardian ad litem of
8 the child, an individual who is the child's parent under this
9 chapter, an individual whose parentage of the child is to be
10 adjudicated, a personal representative of a deceased parent of
11 the child, the personal representative of a deceased individual
12 who otherwise would be entitled to maintain a proceeding, or the
13 child support enforcement agency may bring an action for the
14 purpose of declaring the existence or nonexistence of a parent-
15 child relationship in accordance with the following:

16 (1) If the child is the subject of an adoption proceeding,
17 action may be brought:

18 (A) Within thirty days after the date of the child's
19 birth in any case when a parent relinquishes the
20 child for adoption during the thirty-day period;

21 or

22 (B) Any time prior to the date of execution by a
23 parent of a valid consent to the child's

1 adoption, or prior to placement of the child with
2 adoptive parents;

3 (2) If the child has not become the subject of an adoption
4 proceeding, within three years after the child reaches
5 the age of majority or any time after that for good
6 cause; provided that any period of time during which
7 the individual whose parentage is to be adjudicated is
8 absent from the State or is openly cohabitating with a
9 parent of the child or is contributing to the support
10 of the child, shall not be computed;

11 (3) This section shall not extend the time within which a
12 right of inheritance or a right to a succession may be
13 asserted beyond the time otherwise provided by law
14 relating to distribution and closing of decedents'
15 estates or to the determination of heirship; and

16 (4) A personal representative for purposes of this section
17 may be appointed by the court upon a filing of an ex
18 parte motion by one of the parties entitled to file a
19 parentage action. Probate requirements need not be
20 met. However, appointment of the personal
21 representative in this section is limited to
22 representation in proceedings under this chapter.

23 (b) When an action is brought under this section, process
24 shall issue in the form of a summons and an order directed to

1 the individual whose parentage of the child is to be
2 adjudicated, requiring each to appear and to show cause why the
3 action should not be brought. The court, in its discretion, may
4 waive a hearing on an uncontested parentage complaint submitted
5 by an individual who gave birth to a child, an alleged genetic
6 parent of the child, a presumed parent of the child, or a
7 functional parent of the child with proof provided by affidavit.

8 If, at any stage of the proceedings, there appears probable
9 cause to believe that the individual whose parentage is to be
10 adjudicated will fail to appear in response thereto or will flee
11 the jurisdiction of the court, the court may issue a warrant
12 directed to the sheriff, deputy sheriff, or any police officer
13 within the circuit, requiring the individual to be arrested and
14 brought for pre-trial proceedings before the family court. Upon
15 such pre-trial proceedings, the court may require the individual
16 to enter into bond with good sureties to the State in a sum to
17 be fixed by the court for each individual's appearance and the
18 trial of the proceeding in the family court. If the individual
19 whose parentage is to be adjudicated fails to give the bond
20 required, the court may immediately commit that individual to
21 the custody of the chief of police of the county, there to
22 remain until that individual enters into the required bond or
23 otherwise is discharged by due process of law. If the
24 individual whose parentage is to be adjudicated fails to appear

1 in any proceeding under this chapter, any bond for that
2 individual's appearance in any proceeding under this chapter
3 shall be forfeited; but the trial of, or other proceedings in,
4 the action shall proceed as though that individual were present,
5 and the court shall make such orders as it deems proper upon the
6 findings as though that individual were in court.

7 In case of forfeiture of any appearance bond, the money
8 collected upon the forfeiture shall be applied in payment of the
9 judgment against the individual if they are adjudicated to be a
10 parent under this chapter.

11 (c) Regardless of its terms, an agreement, other than an
12 agreement approved by the court in accordance with
13 section -501(a)(2), between a parent and the individual whose
14 parentage is to be adjudicated shall not bar an action under
15 this section.

16 (d) Except as otherwise provided in section -910, if an
17 action under this section is brought before the birth of the
18 child, all proceedings shall be stayed until after the birth,
19 except service of process and the taking of depositions to
20 perpetuate testimony.

21 (e) Subject to the requirements of section -303(a),
22 with respect to a child who was not conceived through assisted
23 reproduction, where a married individual has not had sexual
24 contact with their spouse nor resided in the same house with the

1 spouse for at least three hundred days prior to the birth of the
2 child and the spouse cannot be contacted after due diligence,
3 the court may accept an affidavit by the married individual,
4 attesting to their diligent efforts to contact their spouse and
5 providing clear and convincing evidence to rebut the presumption
6 of the parentage of the subject child, and upon the court's
7 satisfaction, notice of the spouse may be waived and the spouse
8 need not be made a party in the parentage proceedings. The
9 court, after receiving evidence, may also enter a finding of
10 non-parentage of the spouse.

11 (f) With respect to a child who was not conceived through
12 assisted reproduction, where a married individual has not had
13 sexual contact with their spouse nor resided in the same house
14 with the spouse for at least three hundred days prior to the
15 birth of the child, and the biological parent is known,
16 parentage in the married spouse may be disestablished by
17 submission of affidavits of both spouses, and the biological
18 parent stating the name and birthdate of the child and
19 acknowledgement that the spouse is not the parent and that
20 biological parent should be adjudicated as the legal parent.

21 **PART III. PARENT-CHILD RELATIONSHIP**

22 § -301 **Establishment of parent-child relationship.** A
23 parent-child relationship is established between an individual
24 and a child if:

- 1 (1) The individual gives birth to the child, except as
2 otherwise provided in part IX;
- 3 (2) There is a presumption under section -303 of the
4 individual's parentage of the child, unless the
5 presumption is overcome in a judicial proceeding or a
6 valid denial of parentage is made under part V;
- 7 (3) The individual is adjudicated a parent of the child
8 under part V;
- 9 (4) The individual adopts the child;
- 10 (5) The individual acknowledges parentage of the child
11 under part IV, unless the acknowledgment is rescinded
12 under section -403(d) or successfully challenged
13 under part IV or V;
- 14 (6) The individual's parentage of the child is established
15 under part VIII; or
- 16 (7) The individual's parentage of the child is established
17 under part IX.

18 **§ -302 Relationship not dependent on marriage.** A
19 parent-child relationship extends equally to every child and
20 parent, regardless of the marital status of the parent.

21 **§ -303 Presumption of parentage.** (a) An individual is
22 presumed to be a parent of a child if:

- 23 (1) Except as otherwise provided under part IX or the law
24 of this State other than this chapter:

1 (A) The prospective presumed parent and the
2 individual who gave birth to the child are
3 married to each other and the child is born
4 during the marriage, regardless of whether the
5 marriage is or could be declared invalid and
6 regardless of the gender of the two individuals;
7 (B) The prospective presumed parent and the
8 individual who gave birth to the child were
9 married to each other and the child is born not
10 later than three hundred days after the marriage
11 is terminated by death, divorce, annulment, or
12 after a decree of separation, regardless of
13 whether the marriage is or could be declared
14 invalid; or
15 (C) The prospective presumed parent and the
16 individual who gave birth to the child married
17 each other after the birth of the child,
18 regardless of whether the marriage is or could be
19 declared invalid, the prospective presumed parent
20 at any time asserted parentage of the child, and:
21 (i) the assertion is in an acknowledgment of
22 parentage as defined in Part IV that is
23 filed with the department of health; or

- 1 (ii) the prospective presumed parent agreed to
2 be and is named as a parent of the child on
3 the birth certificate of the child; or
- 4 (2) The individual resided in the same household with the
5 child prior to the child reaching the age of majority,
6 including any period of temporary absence, and openly
7 held out the child as the individual's child.
- 8 (3) Pursuant to section -702, prospective presumed
9 parent submits to court-ordered genetic testing and
10 the results, as stated in a report prepared by the
11 testing laboratory, do not exclude the possibility of
12 their parentage of the child, provided the results of
13 the testing disclose the individual has at least a
14 ninety-nine percent probability of parentage, using a
15 prior probability of .50 as calculated by using the
16 combined relationship index obtained in the testing;
17 and a combined relationship index of at least one
18 hundred to one.
- 19 (b) A presumption of parentage under this section may be
20 overcome, and competing claims to parentage may be resolved,
21 only by an adjudication under part V or VI or a valid denial of
22 parentage under part VI.

23 **PART IV. VOLUNTARY ESTABLISHMENT OF PARENTAGE**

1 § **-401 Acknowledgment of parentage.** An individual who
2 gave birth to a child and an alleged genetic parent of the
3 child, intended parent under part VIII, or functional parent may
4 sign an acknowledgment of parentage to establish the parentage
5 of the child.

6 § **-402 Execution of acknowledgment of parentage.** (a)
7 An acknowledgment of parentage under section -401 shall:

8 (1) Be in a record signed by the individual who gave birth
9 to the child and by the other individual seeking to
10 establish a parent-child relationship, and the
11 signatures must be attested by a notarial officer or
12 witnessed;

13 (2) State that the child whose parentage is being
14 acknowledged:

15 (A) Does not have a presumed parent other than the
16 individual seeking to establish the parent-child
17 relationship; and

18 (B) Does not have another acknowledged parent or
19 adjudicated parent, or individual who is a parent
20 of the child under part VIII or IX other than the
21 individual who gave birth to the child; and

22 (3) State that the signatories understand that the
23 acknowledgment is the equivalent of an adjudication of
24 parentage of the child and that a challenge to the

1 acknowledgment is permitted only under limited
2 circumstances and is barred two years after the
3 effective date of the acknowledgment.

4 (b) An acknowledgment of parentage is void if, at the time
5 of signing:

6 (1) An individual other than the individual seeking to
7 establish parentage is a presumed parent; or

8 (2) An individual, other than the individual who gave
9 birth to the child or the individual seeking to
10 establish parentage, is an acknowledged or adjudicated
11 parent or a parent under part VIII or IX.

12 § -403 **Expedited process of parentage.** (a) To expedite
13 the establishment of parentage, each public and private birthing
14 hospital or center, the child support enforcement agency,
15 midwives, and the department of health shall provide parents the
16 opportunity to voluntarily acknowledge the parentage of a child
17 during the period immediately prior to or following the child's
18 birth. However, an individual who is a presumed parent under
19 section -303(a)(1)(C) or section -303(a)(2) may only
20 submit their voluntary acknowledgment directly to the department
21 of health. The voluntary acknowledgment of parentage shall be
22 in writing and shall consist of a single form signed under oath,
23 by the individual who gave birth to the child and the individual
24 seeking to establish a parent-child relationship and also signed

1 by a witness. The voluntary acknowledgment of parentage form
2 shall include social security numbers, dates of birth, places of
3 birth, and ethnic backgrounds, of each signatory. An electronic
4 version of this form may be utilized.

5 (b) Prior to the signing of the voluntary acknowledgment
6 of parentage form, designated staff members of such facilities
7 shall provide to both the individual who gave birth to the child
8 and the other signatory, if either are present at the facility:

- 9 (1) Written materials regarding parentage establishment;
10 (2) Forms necessary to voluntarily acknowledge parentage;
11 and
12 (3) Oral, video, or audio, and written descriptions of the
13 alternatives to, the legal consequences of, and the
14 rights and responsibilities of acknowledging
15 parentage, including, if one parent is a minor, any
16 right afforded due to minority status; and
17 (4) The opportunity to speak with staff, either by
18 telephone or in person, who are trained to clarify
19 information and answer questions about parentage
20 establishment.

21 (c) The completed voluntary acknowledgment forms shall
22 clearly identify the name and position of the staff member who
23 provides information to the parents regarding parentage
24 establishment. The provision by designated staff members of the

1 facility of the information required by this section shall not
2 constitute the unauthorized practice of law. Birthing facility
3 staff, midwives, and department of health staff shall not be
4 subject to civil, criminal, or administrative liability for a
5 negligent act or omission relative to the accuracy of the
6 information provided or for filing the declaration with the
7 appropriate state or local agencies. Each facility shall send
8 to the department of health the original acknowledgment of
9 parentage, or an electronic version, containing the social
10 security numbers, dates of birth, places of birth, and ethnic
11 backgrounds, of both signatories, with any other information
12 required by the department of health so that the birth
13 certificate issued includes the names of the signatories. The
14 birth certificate shall be promptly recorded by the department
15 of health.

16 (d) The child support enforcement agency shall:

17 (1) Provide to any individual or facility the necessary:

18 (A) Materials and forms and a written description of
19 the rights and responsibilities related to
20 voluntary acknowledgment of parentage; and

21 (B) Training, guidance, and written instructions
22 regarding voluntary acknowledgment of parentage;

23 (2) Annually assess each facility's parentage
24 establishment program; and

1 (3) Determine if a voluntary acknowledgment has been filed
2 with the department of health whenever it receives an
3 application for parentage establishment services.

4 (e) Notwithstanding sections 338-17.7 and 338-18(b), the
5 department of health shall disclose to the child support
6 enforcement agency, upon request, all voluntary acknowledgment
7 of parentage forms on file with the department of health.

8 (f) The signed voluntary acknowledgment of parentage shall
9 constitute a legal finding of parentage, subject to the right of
10 any signatory to rescind the acknowledgment:

11 (1) Within sixty days of signature; or

12 (2) Before the date of an administrative or judicial
13 proceeding relating to the child, including a
14 proceeding to establish a support order to which the
15 signatory is a party, whichever is sooner.

16 (g) Following the sixty-day period referred to in
17 subsection (f), a signed voluntary acknowledgment of parentage
18 may be challenged in court only on the basis of fraud, duress,
19 or material mistake of fact, with the burden of proof on the
20 challenger. The legal responsibilities of any signatory arising
21 from the acknowledgment, including child support obligations,
22 shall not be suspended during the challenge, except for good
23 cause shown.

1 (h) The courts and office of child support hearings of
2 this State shall give full faith and credit to affidavits for
3 the voluntary acknowledgment of parentage signed in any other
4 state and these affidavits shall constitute legal findings of
5 parentage subject to subsections (f) and (g).

6 (i) Judicial and administrative proceedings shall not be
7 required or permitted to ratify an unchallenged acknowledgment
8 of parentage. A voluntary acknowledgment of parentage signed by
9 the individuals and filed with the department of health shall be
10 the basis for establishing and enforcing a support obligation
11 through a judicial or administrative proceeding.

12 **PART V. PROCEEDING TO ADJUDICATE PARENTAGE**

13 **§ -501 Pretrial recommendations.** (a) On the basis of
14 the information produced at the pretrial hearing, the judge
15 conducting the hearing shall evaluate the probability of
16 determining the existence or nonexistence of the parent-child
17 relationship in a trial and whether a judicial declaration of
18 the relationship would be in the best interest of the child
19 pursuant to section 571-46. On the basis of the evaluation, an
20 appropriate recommendation for settlement shall be made to the
21 parties, which may include any of the following:

22 (1) That the action be dismissed with or without
23 prejudice;

1 (2) That the matter be compromised by an agreement among
2 the birth parent and the individual who is seeking to
3 have their parentage adjudicated, and the child, in
4 which the individual seeking to be adjudicated to be a
5 parent is not adjudicated to be a parent but in which
6 a defined economic obligation is undertaken in favor
7 of the child and, if appropriate, in favor of the
8 parent, subject to approval by the judge conducting
9 the hearing. In reviewing the obligation undertaken
10 by the individual whose parentage is to be adjudicated
11 in a compromise agreement, the judge conducting the
12 hearing shall consider the best interest of the child,
13 in light of the factors enumerated in section 576D-7,
14 discounted by the improbability, as it appears to the
15 judge, of establishing the parentage or nonparentage
16 of the individual whose parentage is to be adjudicated
17 in a trial of the action; or

18 (3) That the individual whose parentage is to be
19 adjudicated voluntarily acknowledges parentage of the
20 child.

21 (b) If the parties accept a recommendation made in
22 accordance with subsection (a), judgment shall be entered
23 accordingly.

1 (c) If a party refuses to accept the final recommendation
2 made under subsection (a) and genetic tests have not been taken,
3 if practicable, the court may order the parties to submit to
4 genetic tests. Thereafter the judge shall make an appropriate
5 final recommendation. If a party refuses to accept the final
6 recommendation, the action shall be set for trial.

7 (d) A guardian ad litem appointed for the child may accept
8 or refuse to accept a recommendation under this section.

9 (e) The informal hearing may be terminated and the action
10 set for trial if the judge conducting the hearing finds it
11 unlikely that all parties would accept a recommendation the
12 judge might make under subsection (a) or (c).

13 **§ -502 Civil action.** (a) An action under this chapter
14 shall be a civil action governed by the Hawaii rules of civil
15 procedure or the Hawaii family court rules. The individual who
16 gave birth to the child and the individual whose parentage is to
17 be adjudicated shall be competent to testify and may be
18 compelled to testify; provided that no criminal prosecution,
19 other than a prosecution for perjury, shall afterwards be
20 commenced against the individual who gave birth to the child or
21 the individual whose parentage is to be adjudicated on account
22 of any transaction, matter, or thing concerning which they may
23 testify or produce evidence under this chapter, documentary or

1 otherwise. Part VII shall apply in any action brought under
2 this chapter.

3 (b) Testimony relating to sexual access to the
4 individualperson who gave birth to the child ~~at or about the~~
5 ~~probable time of conception of the child is not precluded if it~~
6 identifies the individual having sexual access and if it occurs
7 within the conception period. Testimony as to sexual access
8 occurring outside of the conception period or involving an
9 unidentified individual shall be inadmissible in evidence,
10 unless offered by the individual who gave birth to the child.
11 ~~shall be inadmissible in evidence, unless offered by the~~
12 ~~individual who gave birth to the child.~~

13 (c) Notwithstanding the limitation on the admission of
14 evidence stated in (b), evidence offered with respect to an
15 individual who is not subject to the jurisdiction of the court
16 concerning sexual intercourse or assisted reproduction with the
17 individual who gave birth to the child at or about the probable
18 time of conception of the child shall be admissible in evidence
19 only if the individual offering the evidence has undergone and
20 made available to the court genetic tests, including genetic
21 tests the results of which do not exclude the possibility of the
22 individual's parentage of the child.

Commented [MN1]: Changes made by the drafting PIG alter the meaning/intent of this section. The wording in the original draft bill tracks HRS 584-14 (b). In *Jane Doe VI v. Richard Roe VI*, 6 Haw. App. 629, 736 P.2d 448 (1987), the court found that HRS 584-14 (b) does not preclude all testimony regarding sexual relations by mother but only such relations allegedly occurring with unidentified men or with identified men other than during the conception period. This interpretation suggests that testimony regarding sexual access to the mother by the alleged father, if identified and within the time of conception, is not automatically excluded under HRS 584-14(b). This balances the need for relevant evidence with the protection of the mother's character.

1 § **-503 Action to declare parent-child relationship.** Any
2 interested party may bring an action to determine the existence
3 or nonexistence of a parent-child relationship.

4 § **-504 Judgment or order.** (a) The judgment or order of
5 the court determining the existence or nonexistence of the
6 parent-child relationship shall be determinative for all
7 purposes.

8 (b) If the judgment or order of the court is at variance
9 with the child's birth certificate, the court shall order that a
10 new birth certificate be issued under section -510.

11 (c) The judgment or order may contain any other provision
12 directed against the appropriate party to the proceeding,
13 concerning the duty of support, the custody and guardianship of
14 the child, visitation privileges with the child, the furnishing
15 of bond or other security for the payment of the judgment, or
16 any other matter in the best interest of the child. Upon
17 neglect or refusal to give this security, or upon default of a
18 parent or a parent's surety in compliance with the terms of the
19 judgment, the court may order the forfeiture of any such
20 security and the application of the proceeds thereof toward the
21 payment of any sums due under the terms of the judgment and may
22 also sequester a parent's personal estate, and the rents and
23 profits of a parent's real estate, and may appoint a receiver
24 thereof, and may cause a parent's personal estate, including any

1 salaries, wages, commissions, or other moneys owed to them and
2 the rents and profits of the parent's real estate, to be applied
3 toward the meeting of the terms of the judgment, to the extent
4 that the court, from time to time, deems just and reasonable.
5 The judgment or order may direct a parent to pay the reasonable
6 expenses of the pregnancy and birth, including but not limited
7 to medical insurance premiums, such as for MedQuest, that cover
8 the periods of pregnancy and childbirth. The court may further
9 order the noncustodial parent to reimburse the custodial parent,
10 the child, or any public agency for reasonable expenses incurred
11 prior to entry of judgment, including support, maintenance,
12 education, and funeral expenses expended for the benefit of the
13 child.

14 (d) Support judgments or orders ordinarily shall be for
15 periodic payments that may vary in amount. In the best interest
16 of the child, a lump sum payment or the purchase of an annuity
17 may be ordered in lieu of periodic payments of support. The
18 court may limit the obligor parent's liability for past support
19 of the child to the proportion of the expenses already incurred
20 that the court deems just.

21 (e) In determining the amount to be paid by a parent for
22 support of the child and the period during which the duty of
23 support is owed, a court enforcing the obligation of support
24 shall use the guidelines established under section 576D-7.

1 Provision may be made for the support, maintenance, and
2 education of an adult or minor child and an incompetent adult
3 child, whether or not the petition is made before or after the
4 child has attained the age of majority.

5 (f) Whenever a parent of a child is a minor, unmarried,
6 and not able to provide full support, the court may order one or
7 both parents of the minor to support the child until the minor
8 reaches the age of majority, is otherwise emancipated, or is
9 financially able to fully support the child, whichever occurs
10 first. For this purpose:

11 (1) The judgment or order for support shall be made
12 against the parent or parents of the minor to the
13 extent that the minor is unable to support the child;

14 (2) The resources, standard of living, and earning ability
15 of the parent or parents of the minor shall be
16 considered under subsection (d) in determining the
17 amount of support; and

18 (3) The parent or parents of the minor shall be an obligor
19 under this chapter and chapter 571 and any action
20 against the obligor to collect support may be pursued
21 against the parent or parents of the minor.

22 § -505 **Costs.** The court may order reasonable fees of
23 counsel, experts, and the child's guardian ad litem, and other
24 costs of the action and pre-trial proceedings, including genetic

1 tests, subject to section -703, to be paid by the parties in
2 proportions and at times determined by the court.

3 § -506 **Enforcement of judgment or order.** (a) If
4 existence of the parent-child relationship is declared, or
5 parentage or a duty of support has been acknowledged or
6 adjudicated under this chapter or under prior law, the
7 obligation of a parent may be enforced in the same or other
8 proceedings by the other parent, the child, the public authority
9 that has furnished or may furnish the reasonable expenses of
10 pregnancy, childbirth, education, support, or funeral, or by any
11 other individual, including a private agency, to the extent the
12 individual has furnished or is furnishing these expenses.

13 (b) The court may order support payments to be made to a
14 parent or an adult child, or through the child support
15 enforcement agency as its rules permit, or through an
16 individual, corporation, or agency designated to administer
17 support payments for the benefit of the child under the
18 supervision of the court.

19 (c) Willful failure to obey the judgment or order of the
20 court shall be a civil contempt of the court. All remedies for
21 the enforcement of judgments shall apply to this chapter. When
22 a court of competent jurisdiction issues an order compelling a
23 parent to furnish support, including child support, medical
24 support, or other remedial care, for the parent's child, it

1 shall constitute prima facie evidence of a civil contempt of
2 court upon proof that:

3 (1) The order was made, filed, and served on the parent or
4 proof that the parent was present in court at the time
5 the order was pronounced; and

6 (2) The parent did not comply with the order. An order of
7 civil contempt of court based on prima facie evidence
8 under this subsection shall clearly state that the
9 failure to comply with the order of civil contempt of
10 court may subject the parent to a penalty that may
11 include imprisonment or, if imprisonment is
12 immediately ordered, the conditions that must be met
13 for release from imprisonment. A party may also prove
14 civil contempt of court by means other than prima
15 facie evidence under this subsection.

16 § -507 **Modification of judgment or order.** (a) The
17 court shall have continuing jurisdiction to modify or revoke a
18 judgment or order:

19 (1) For future education and support; and

20 (2) With respect to matters listed in section -504(c)
21 and (d) and section -506(b), except that a court
22 entering a judgment or order for the payment of a lump
23 sum or the purchase of an annuity under

1 section -504(d) may specify that the judgment or
2 order may not be modified or revoked.

3 (b) In those cases where child support payments are to
4 continue due to the adult child's pursuance of education, the
5 child support enforcement agency, at least three months prior to
6 the adult child's nineteenth birthday, shall send notice by
7 regular mail to the adult child and the custodial parent that
8 prospective child support will be suspended unless proof is
9 provided by the custodial parent or adult child, to the child
10 support enforcement agency, prior to the child's nineteenth
11 birthday, that the child is presently enrolled as a full-time
12 student in school or has been accepted into and plans to attend
13 as a full-time student for the next semester a post-high school
14 university, college, or vocational school. If the custodial
15 parent or adult child fails to do so, prospective child support
16 payments may be automatically suspended by the child support
17 enforcement agency, hearings officer, or court. In addition, if
18 applicable, the child support enforcement agency, hearings
19 officer, or court may issue an order terminating existing
20 assignments against the responsible parent's income and income
21 assignment orders.

22 (c) The need to provide for the child's health care needs
23 through health insurance or other means shall be a basis for
24 petitioning for a modification of the support order.

1 § -508 **Hearings and records; confidentiality.** (a)

2 Notwithstanding any other law concerning public hearings and

3 records, any hearing or trial held under this chapter shall be

4 held in closed court without admittance of any individual other

5 than those individuals necessary to the action or proceeding.

6 All papers and records pertaining to the action or proceeding,

7 whether part of the permanent record of the court or of a file

8 in the department of health or elsewhere, shall be subject to

9 inspection only upon consent of the court and all interested

10 individuals; provided that the court records under this chapter

11 shall be fully sealed, such that the filings, caption, party

12 names, docket, and any information identifying the type of case

13 are not open for public inspection, or in exceptional cases only

14 upon an order of the court for good cause shown.

15 (b) Upon parentage being established, the confidentiality

16 requirement shall not extend to the judgment and all

17 subsequently filed documents that are used in good faith for

18 support and medical expenses, insurance, or enforcement

19 purposes, except that the confidentiality requirement shall

20 continue to apply to any references to a non-adjudicated alleged

21 or presumed parent.

22 (c) Subsections (a) and (b) shall only apply to cases

23 filed before January 1, 2021 and to parts VIII, IX, and X of

24 this chapter, regardless of when the cases are filed.

1 § -509 **Court filings; minutes of proceedings; posting**
2 **requirement.** The judiciary shall post on its website the titles
3 of all court filings and the minutes of court proceedings in
4 cases brought under this chapter except for actions filed
5 pursuant to part VIII or IX; provided that the judiciary shall
6 redact information that has been made confidential by any
7 statute, rule of court, or court order; and provided further
8 that, on request of a party and for good cause, the court may
9 close a proceeding and records to the public except that the
10 titles of all court filings for the case and the contents of a
11 final order shall be available for public inspection, with other
12 papers and records available for public inspection only with the
13 consent of the parties or by court order.

14 § -510 **Birth records.** (a) Upon order of a court of
15 this State or upon request or order of a court of another state,
16 or following acknowledgment as provided in section -401, the
17 department of health shall prepare a new certificate of birth
18 consistent with the findings of the court or in cases of
19 acknowledgment under section -401, consistent with the
20 acknowledgment, and shall substitute the new certificate for the
21 original certificate of birth.

22 (b) The fact that a parent-child relationship was declared
23 or acknowledged after the child's birth shall not be

1 ascertainable from the new certificate but the actual place and
2 date of birth shall be shown.

3 (c) The evidence upon which the new certificate was made
4 and the original birth certificate shall be kept in a sealed and
5 confidential file and be subject to inspection only upon consent
6 of the court and all interested individuals, or in exceptional
7 cases only upon an order of the court for good cause shown.

8 § -511 **Parentage judgment, acknowledgment, support**
9 **order; social security number.** The social security number of
10 any individual who is subject to a parentage judgment or
11 acknowledgment, or a support order issued under this chapter,
12 shall be placed in the records relating to the matter in
13 compliance with any other court rule or law.

14 § -512 **Filing of acknowledgments and adjudications with**
15 **department of health.** All voluntary acknowledgments and
16 adjudications of parentage by judicial process shall be filed
17 with the department of health for comparison with information in
18 the state case registry established pursuant to section
19 576D-6(a)(12). Filing of the adjudications of parentage shall
20 be the responsibility of the natural parent or such individual
21 or agency as the court shall direct.

22 **PART VI. SPECIAL RULES FOR PROCEEDINGS**
23 **TO ADJUDICATE PARENTAGE**

1 § -601 **Adjudicating parentage of child with alleged**
2 **genetic parent.** (a) A proceeding to determine whether an
3 alleged genetic parent who is not a presumed parent is a parent
4 of a child may be commenced:
5 (1) Before the child becomes an adult; or
6 (2) After the child becomes an adult, but only if the
7 child initiates the proceeding.
8 (b) Except as otherwise provided by law, this subsection
9 applies in a proceeding described in subsection (a) if the
10 individual who gave birth to the child is the only other
11 individual with a claim to parentage of the child. The court
12 shall adjudicate an alleged genetic parent to be a parent of the
13 child if the alleged genetic parent:
14 (1) Is identified under section -703 as a genetic
15 parent of the child and the identification is not
16 successfully challenged under section -703;
17 (2) Admits parentage in a pleading, when making an
18 appearance, or during a hearing; the court accepts the
19 admission; and the court determines the alleged
20 genetic parent to be a parent of the child;
21 (3) Declines to submit to genetic testing ordered by the
22 court or the child support enforcement agency, in
23 which case the court may adjudicate the alleged
24 genetic parent to be a parent of the child even if the

1 alleged genetic parent denies a genetic relationship
2 with the child;

3 (4) Is in default after service of process and the court
4 determines the alleged genetic parent to be a parent
5 of the child; or

6 (5) Is neither identified nor excluded as a genetic parent
7 by genetic testing and, based on other evidence, the
8 court determines the alleged genetic parent to be a
9 parent of the child.

10 (c) If in a proceeding involving an alleged genetic parent
11 at least one other individual in addition to the individual who
12 gave birth to the child has a claim to parentage of the child,
13 the court shall adjudicate parentage under section -607,
14 unless a valid denial of parentage is filed in accordance with
15 section -608.

16 § **-603 Adjudicating parentage of child with presumed**

17 **parent.** (a) A proceeding to determine whether a presumed
18 parent is a parent of a child may be commenced:

19 (1) Before the child becomes an adult; or

20 (2) After the child becomes an adult, but only if the
21 child initiates the proceeding.

22 (b) A presumption of parentage under section -303
23 cannot be overcome after the child attains two years of age
24 unless the court determines:

1 (1) The presumed parent is not a genetic parent, never
2 resided with the child, and never held out the child
3 as the presumed parent's child; or

4 (2) The child has more than one presumed parent.

5 (c) Except as otherwise provided by law, the following
6 rules apply in a proceeding to adjudicate a presumed parent's
7 parentage of a child if the individual who gave birth to the
8 child is the only other individual with a claim to parentage of
9 the child:

10 (1) If no party to the proceeding challenges the presumed
11 parent's parentage of the child, the court shall
12 adjudicate the presumed parent to be a parent of the
13 child;

14 (2) If the presumed parent is identified under
15 section -703 as a genetic parent of the child and
16 that identification is not successfully challenged
17 under section -703, the court shall adjudicate the
18 presumed parent to be a parent of the child; and

19 (3) If the presumed parent is not identified under
20 section -703 as a genetic parent of the child and
21 the presumed parent or the individual who gave birth
22 to the child challenges the presumed parent's
23 parentage of the child, the court shall adjudicate the
24 parentage of the child in the best interest of the

1 child based on the factors under section -607(a)
2 and (b).

3 (d) If in a proceeding to adjudicate a presumed parent's
4 parentage of a child, another individual in addition to the
5 individual who gave birth to the child asserts a claim to
6 parentage of the child, the court shall adjudicate parentage
7 under section -607, unless a valid denial of parentage is
8 filed in accordance with section -608.

9 § -603 **Adjudicating claim of functional parentage of**
10 **child.** (a) A proceeding to establish parentage of a child

11 under this section may be commenced only by an individual who:

12 (1) Is alive when the proceeding is commenced; and

13 (2) Claims to be a functional parent of the child.

14 (b) An individual who claims to be a functional parent of
15 a child must commence a proceeding to establish parentage of a
16 child under this section:

17 (1) Before the child attains eighteen years of age; and

18 (2) While the child is alive.

19 (c) The following rules govern standing of an individual
20 who claims to be a functional parent of a child to maintain a
21 proceeding under this section:

22 (1) The individual must file an initial verified pleading
23 alleging specific facts that support the claim to
24 parentage of the child asserted under this section.

1 The verified pleading must be served on all parents
2 and legal guardians of the child and any other party
3 to the proceeding;

4 (2) An adverse party, parent, or legal guardian may file a
5 pleading in response to the pleading filed under
6 paragraph (1). A responsive pleading must be verified
7 and must be served on parties to the proceeding; and

8 (3) Unless the court finds a hearing is necessary to
9 determine disputed facts material to the issue of
10 standing, the court shall determine, based on the
11 pleadings under paragraphs (1) and (2), whether the
12 individual has alleged facts sufficient to satisfy by
13 a preponderance of the evidence the requirements of
14 paragraphs (1) through (7) of subsection (d). If the
15 court holds a hearing under this subsection, the
16 hearing shall be held on an expedited basis.

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

- 1 (1) The individual resided with the child as a regular
2 member of the child's household for a significant
3 period;
- 4 (2) The individual engaged in consistent caretaking of the
5 child;
- 6 (3) The individual undertook full and permanent
7 responsibilities of a parent of the child without
8 expectation of financial compensation;
- 9 (4) The individual held out the child as the individual's
10 child;
- 11 (5) The individual established a bonded and dependent
12 relationship with the child which is parental in
13 nature;
- 14 (6) Another parent of the child fostered or supported the
15 bonded and dependent relationship required under
16 paragraph (5); and
- 17 (7) Continuing the relationship between the individual and
18 the child is in the best interest of the child.
- 19 (e) Subject to other limitations in this part, if in a
20 proceeding to adjudicate parentage of an individual who claims
21 to be a functional parent of the child, there is more than one
22 other individual who is a parent or has a claim to parentage of
23 the child and the court determines that the requirements of
24 subsection (d) are satisfied, the court shall adjudicate

1 parentage under section -607, unless a valid denial of
2 parentage is filed in accordance with section -608.

3 § -604 Adjudicating parentage of child with acknowledged

4 parent. (a) If a child has an acknowledged parent, a
5 proceeding to challenge the acknowledgment of parentage, brought
6 by a signatory to the acknowledgment, is governed by
7 section -403(g).

Commented [NMT2]: Adding "good cause" provides flexibility to the court to address exceptional circumstances.

8 (b) If a child has an acknowledged parent, the following
9 rules apply in a proceeding to challenge the acknowledgment of
10 parentage brought by an individual, other than the child, who
11 has standing under section -203 and was not a signatory to
12 the acknowledgment:

13 (1) The individual shall commence the proceeding not later
14 than two years after the effective date of the
15 acknowledgment, unless good cause is established;

16 (2) The court may permit the proceeding only if the court
17 finds permitting the proceeding is in the best
18 interest of the child pursuant to section 571-46; and

19 (3) If the court permits the proceeding, the court shall
20 adjudicate parentage under section -607.

21 § -605 Adjudicating parentage of child with adjudicated

22 parent. (a) If a child has an adjudicated parent, a proceeding
23 to challenge the adjudication, brought by an individual who was
24 a party to the adjudication or received notice under

1 section -201, is governed by the rules governing a collateral
2 attack on a judgment.

3 (b) If a child has an adjudicated parent, the following
4 rules apply to a proceeding to challenge the adjudication of
5 parentage brought by an individual, other than the child, who
6 has standing under section -203 and was not a party to the
7 adjudication and did not receive notice under section -201:

8 (1) The individual shall commence the proceeding not later
9 than two years after the effective date of the
10 adjudication;

11 (2) The court may permit the proceeding only if the court
12 finds permitting the proceeding is in the best
13 interest of the child pursuant to section 571-46; and

14 (3) If the court permits the proceeding, the court shall
15 adjudicate parentage under section -607.

16 **§ -606 Adjudicating parentage of child of assisted**

17 **reproduction.** (a) An individual who is a parent under part
18 VIII or the individual who gave birth to the child may bring a
19 proceeding to adjudicate parentage. If the court determines the
20 individual is a parent under part VIII, the court shall
21 adjudicate the individual to be a parent of the child.

22 (b) In a proceeding to adjudicate an individual's
23 parentage of a child under this section, if another individual
24 other than the individual who gave birth to the child is a

1 parent under part VIII, the court shall adjudicate the
2 individual's parentage of the child under section -607.

3 **§ -607 Adjudicating competing claims of parentage.** (a)

4 Except as otherwise provided by law, in a proceeding to
5 adjudicate competing claims of, or challenges under
6 section -602, -604, or -605 to, parentage of a child by
7 two or more individuals, the court shall adjudicate parentage in
8 the best interest of the child, based on:

9 (1) The age of the child;

10 (2) The length of time during which each individual
11 assumed the role of parent of the child;

12 (3) The nature of the relationship between the child and
13 each individual;

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

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

18 (6) Other equitable factors arising from the disruption of
19 the relationship between the child and each individual
20 or the likelihood of other harm to the child.

21 (b) If an individual challenges parentage based on the
22 results of genetic testing, in addition to the factors listed in
23 subsection (a), the court shall consider:

1 (1) The facts surrounding the discovery that the
2 individual might not be a genetic parent of the child;
3 and

4 (2) The length of time between the time that the
5 individual was placed on notice that the individual
6 might not be a genetic parent and the commencement of
7 the proceeding.

8 (c) ~~The court may adjudicate a child to have more than two
9 parents under this chapter if the court finds that failure to
10 recognize more than two parents would be detrimental to the
11 child. A finding of detriment to the child does not require a
12 finding of unfitness of any parent or individual seeking an
13 adjudication of parentage. In determining detriment to the
14 child, the court shall consider all relevant factors, including
15 the harm if the child is removed from a stable placement with an
16 individual who has fulfilled the child's physical needs and
17 psychological needs for care and affection and has assumed the
18 role for a substantial period. The court may not adjudicate a
19 child to have more than two parents.~~

20 § -608 Denial of Parentage. A presumed parent or alleged
21 genetic parent may sign a denial of parentage in a record with
22 the court. The denial of parentage is valid only if:

23 (1) another individual other than the individual who gave
24 birth to the child agrees to have their parentage of

Commented [MN3]: The potential adjudication of more than 2 parents presents the following barriers that should be considered: 1) The child support guidelines are not formatted to calculate more than 2 parents; 2) CSEA's internal system is not capable of tracking cases/payments involving more than one payor; 3) DOH's system is not set up to create birth records of more than 2 parents. Changes to the CSGW, and CSEA and DOH systems will be necessary to accommodate the establishment of more than 2 parents.

Additionally, this change may elicit opposition from groups that support maintaining traditional concepts of 2 family households.

The legal parentage PIG initially identified this section as an issue to be discussed but it was unfortunately never brought back up. If time constraints prohibit changes to the current draft bill, it is recommended that the above noted concerns be noted in the Report of the Task Force.

1 the child established under this part, and such
2 agreement is in an affidavit filed with the court;

3 (2) the signature of the presumed parent or alleged
4 genetic parent is attested by a notarial officer or
5 witnesses; and

6 (3) the presumed parent or alleged genetic parent has not
7 previously:

8 (A) completed a valid acknowledgement of parentage,
9 unless the previous acknowledgment was rescinded
10 under section -403(f) or challenged

11 successfully under section -403(g); or

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

13 **PART VII. GENETIC TESTING**

14 **§ -701 Scope of part; limitation on use of genetic**

15 **testing.** (a) This part governs genetic testing of an
16 individual in a proceeding to adjudicate parentage, whether the
17 individual:

18 (1) Voluntarily submits to testing; or

19 (2) Is tested under an order of the court or the child
20 support enforcement agency.

21 (b) Genetic testing may not be used:

22 (1) To challenge the parentage of an individual who is a
23 parent under part VIII or IX; or

1 (2) To establish the parentage of an individual who is a
2 donor.

3 § -702 Authority to order or deny genetic testing. (a)

4 Except as otherwise provided in this part or part V, in a
5 proceeding under this chapter to determine parentage, the court
6 shall order the child and any other individual to submit to
7 genetic testing if a request for testing is supported by the
8 sworn statement of a party:

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

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

14 (b) A child support enforcement agency may order genetic
15 testing only if there is no presumed, acknowledged, or
16 adjudicated parent of a child other than the individual who gave
17 birth to the child.

18 (c) The court or child support enforcement agency may not
19 order in utero genetic testing.

20 (d) If two or more individuals are subject to court-
21 ordered genetic testing, the court may order that testing be
22 completed concurrently or sequentially.

23 (e) Genetic testing of an individual who gave birth to a
24 child is not a condition precedent to testing of the child and

1 an individual whose genetic parentage of the child is being
2 determined. If the individual who gave birth to the child is
3 unavailable or declines to submit to genetic testing, the court
4 may order genetic testing of the child and each individual whose
5 genetic parentage of the child is being adjudicated.

6 (f) In a proceeding to adjudicate the parentage of a child
7 having a presumed parent or an individual who claims to be a
8 parent under section -603, or to challenge an acknowledgment
9 of parentage, the court may deny a motion for genetic testing of
10 the child and any other individual after considering the factors
11 in section -607(a) and (b).

12 (g) If an individual requesting genetic testing is barred
13 under section -403(e) from establishing the individual's
14 parentage, the court shall deny the request for genetic testing.

15 (h) An order under this section for genetic testing is
16 enforceable by contempt.

17 **§ -703 Requirements for genetic testing.** (a) Genetic
18 testing shall be of a type reasonably relied on by experts in
19 the field of genetic testing and performed in a testing
20 laboratory accredited by:

- 21 (1) The AABB, formerly known as the American Association
22 of Blood Banks, or a successor to its functions; or
23 (2) An accrediting body designated by the Secretary of the
24 United States Department of Health and Human Services.

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

6 (c) Based on the ethnic or racial group of an individual
7 undergoing genetic testing, a testing laboratory shall determine
8 the databases from which to select frequencies for use in
9 calculating a relationship index. If an individual or the child
10 support enforcement agency objects to the laboratory's choice,
11 the following rules apply:

12 (1) Not later than 30 days after receipt of the report of
13 the test, the objecting individual or the child
14 support enforcement agency may request the court to
15 require the laboratory to recalculate the relationship
16 index using an ethnic or racial group different from
17 that used by the laboratory.

18 (2) The individual or the child support enforcement agency
19 objecting to the laboratory's choice under this
20 subsection shall:

21 (A) if the requested frequencies are not available to
22 the laboratory for the ethnic or racial group
23 requested, provide the requested frequencies

1 compiled in a manner recognized by accrediting
2 bodies; or

3 (B) engage another laboratory to perform the
4 calculations.

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

10 (d) If, after recalculation of the relationship index
11 under sub-section (c) using a different ethnic or racial group,
12 genetic testing under section -705 does not identify an
13 individual as a genetic parent of a child, the court may require
14 an individual who has been tested to submit to additional
15 genetic testing to identify a genetic parent.

16 § -704 **Report of genetic testing.** (a) In any hearing
17 or trial brought under this chapter, a report of the facts and
18 results of genetic tests ordered by the court under this chapter
19 shall be admissible in evidence by affidavit of the person whose
20 name is signed to the report, attesting to the procedures
21 followed in obtaining the report. A report of the facts and
22 results of genetic tests shall be admissible as evidence of
23 parentage without the need for foundation testimony or other
24 proof of authenticity or accuracy, unless objection is made.

1 (b) Documentation from a testing laboratory of the
2 following information is sufficient to establish a reliable
3 chain of custody and allow the results of genetic testing to be
4 admissible without testimony:

5 (1) The name and photograph of each individual whose
6 specimen has been taken;

7 (2) The name of the individual who collected each
8 specimen;

9 (3) The place and date each specimen was collected;

10 (4) The name of the individual who received each specimen
11 in the testing laboratory; and

12 (5) The date each specimen was received.

13 **§ -705 Genetic testing results; challenge to results.**

14 (a) Subject to a challenge under subsection (b), an individual
15 is identified under this chapter as a genetic parent of a child
16 if genetic testing complies with this part and the results of
17 the testing disclose:

18 (1) The individual has at least a ninety-nine percent
19 probability of parentage, using a prior probability of
20 0.50, as calculated by using the combined relationship
21 index obtained in the testing; and

22 (2) A combined relationship index of at least one hundred
23 to one.

1 (b) An individual identified under subsection (a) as a
2 genetic parent of the child may challenge the genetic testing
3 results only by other genetic testing satisfying the
4 requirements of this part which:

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

7 (2) Identifies another individual as a possible genetic
8 parent of the child other than:

9 (A) The individual who gave birth to the child; or
10 (B) The individual identified under subsection (a).

11 (3) An alleged genetic parent or party to the parentage
12 action who objects to the admission of the report
13 concerning the genetic test results must file a motion
14 no later than twenty days after receiving a copy of
15 the report and shall show good cause as to why a
16 witness is necessary to lay the foundation for the
17 admission of the report as evidence. The court may,
18 sua sponte, or at a hearing on the motion determine
19 whether a witness shall be required to lay the
20 foundation for the admission of the report as
21 evidence. The right to call witnesses to rebut the
22 report is reserved to all parties.

23 (c) If more than one individual other than the individual
24 who gave birth is identified by genetic testing as a possible

1 genetic parent of the child, the court shall order each
2 individual to submit to further genetic testing to identify a
3 genetic parent.

4 (d) Should an original test result be contested, the court
5 shall order further genetic testing with payment of the testing
6 to be advanced and paid for by the contesting party.

7 **§ -706 Genetic testing when specimen not available.** (a)

8 Subject to subsection (b), if a genetic-testing specimen is not
9 available from an alleged genetic parent of a child, an
10 individual seeking genetic testing demonstrates good cause, and
11 the court finds that the circumstances are just, the court may
12 order any of the following individuals to submit specimens for
13 genetic testing:

- 14 (1) A parent of the alleged genetic parent;
- 15 (2) A sibling of the alleged genetic parent;
- 16 (3) Another child of the alleged genetic parent and the
17 individual who gave birth to the other child; and
- 18 (4) Another relative of the alleged genetic parent
19 necessary to complete genetic testing.

20 (b) To issue an order under this section, the court shall
21 find that a need for genetic testing outweighs the legitimate
22 interests of the individual sought to be tested.

1 § -707 **Deceased individual.** If an individual seeking
2 genetic testing demonstrates good cause, the court may order
3 genetic testing of a deceased individual.

4 **PART VIII. ASSISTED REPRODUCTION**

5 § -801 **Scope of part.** This part does not apply to the
6 birth of a child conceived by sexual intercourse or assisted
7 reproduction under a surrogacy agreement under part IX.

8 § -802 **Parental status of donor.** A donor is not a parent
9 of a child conceived by assisted reproduction.

10 § -803 **Parentage of child of assisted reproduction.** An
11 individual who consents under section -804 to assisted
12 reproduction by another individual with the intent to be a
13 parent of a child conceived by the assisted reproduction is a
14 parent of the child.

15 § -804 **Consent to assisted reproduction.** (a) Except as
16 otherwise provided in subsection (b), the consent described in
17 section -803 shall be in a record signed by an individual
18 giving birth to a child conceived by assisted reproduction and
19 the other individual who intends to be a parent of the child.

20 (b) Failure to consent in a record as required by
21 subsection (a), before, on, or after the birth of the child does
22 not preclude the court from finding consent to parentage if:

23 (1) The individual giving birth to a child or the other
24 individual proves by clear and convincing evidence the

1 existence of an express agreement entered into before
2 conception that the individual giving birth and the
3 other individual intended they both would be parents
4 of the child; or

5 (2) The individual giving birth to the child and the other
6 individual for the first two years of the child's
7 life, including any period of temporary absence,
8 resided together in the same household with the child
9 and both openly held out the child as the individual's
10 child; provided, however, that if an individual dies
11 or becomes incapacitated before the child attains two
12 years of age or the child dies before the child
13 attains two years of age, the court may find consent
14 under this subsection to parentage if a party proves
15 by clear and convincing evidence that the individual
16 giving birth to the child and the other individual
17 intended to reside together in the same household with
18 the child and both intended the individual would
19 openly hold out the child as the individual's child,
20 but the individual was prevented from carrying out
21 that intent by death or incapacity.

22 § -805 **Limitation on spouse's dispute of parentage.** (a)

23 Except as otherwise provided in subsection (b), an individual
24 who, at the time of the child's birth, is the spouse of an

1 individual who gave birth to the child by assisted reproduction
2 may not challenge the individual's own parentage of the child
3 unless:

4 (1) Not later than two years after the birth of the child
5 or the date of which the individual first learns of
6 the birth of the child, whichever is later, the
7 individual commences a proceeding to adjudicate the
8 individual's parentage of the child; and

9 (2) The court finds the individual did not consent to the
10 assisted reproduction, before, on, or after the birth
11 of the child, or withdrew consent under
12 section -807.

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

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

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

21 (3) The spouse never openly held out the child as the
22 spouse's child.

1 (c) This section applies to a spouse's dispute of
2 parentage even if the spouse's marriage is declared invalid
3 after assisted reproduction occurs.

4 § -806 **Effect of certain legal proceedings regarding**
5 **marriage.** If a marriage of an individual who gives birth to a
6 child conceived by assisted reproduction is terminated through
7 divorce or dissolution, subject to legal separation or separate
8 maintenance, declared invalid, or annulled before transfer of
9 gametes or embryos to said individual, a former spouse of said
10 individual is not a parent of the child unless the former spouse
11 consented in a record that the former spouse would be a parent
12 of the child if assisted reproduction were to occur after a
13 divorce, dissolution, annulment, declaration of invalidity,
14 legal separation, or separate maintenance, and the former spouse
15 did not withdraw consent under section -807.

16 § -807 **Withdrawal of consent.** (a) An individual who
17 consents under section -804 to assisted reproduction may
18 withdraw consent any time before a transfer, by giving notice in
19 a record of the withdrawal of consent to the individual who
20 agreed to give birth to a child conceived by assisted
21 reproduction and to any clinic or health-care provider
22 facilitating the assisted reproduction. Failure to give notice
23 to the clinic or health-care provider does not affect a
24 determination of parentage under this part.

1 (b) An individual who withdraws consent under subsection
2 (a) is not a parent of the child under this part.

3 § -808 Parental status of deceased individual. (a) If
4 an individual who intends to be a parent of a child conceived by
5 assisted reproduction dies during the period between the
6 transfer of a gamete or embryo and the birth of the child, the
7 individual's death does not preclude the establishment of the
8 individual's parentage of the child if the individual otherwise
9 would be a parent of the child under this chapter.

10 (b) If an individual who consented in a record to assisted
11 reproduction by an individual who agreed to give birth to a
12 child dies before a transfer of gametes or embryos, the deceased
13 individual is a parent of a child conceived by the assisted
14 reproduction only if:

15 (1) Either:

16 (A) The individual consented in a record that if
17 assisted reproduction were to occur after the
18 death of the individual, the individual would be
19 a parent of the child; or

20 (B) The individual's intent to be a parent of a child
21 conceived by assisted reproduction after the
22 individual's death is established by clear-and-
23 convincing evidence; and

24 (2) Either:

1 (A) The embryo is in utero not later than thirty-six
2 months after the individual's death; or

3 (B) The child is born not later than forty-five
4 months after the individual's death.

5 **PART IX. SURROGACY AGREEMENT**

6 § -901 **Definitions.** In this part:

7 "Genetic surrogate" means an individual who is capable of
8 carrying a pregnancy to term and giving birth to a child, who is
9 not an intended parent and who agrees to become pregnant through
10 assisted reproduction using their own gamete, under a genetic
11 surrogacy agreement as provided in this part.

12 "Gestational surrogate" means an individual who is capable
13 of carrying a pregnancy to term and giving birth to a child, who
14 is not an intended parent and who agrees to become pregnant
15 through assisted reproduction using gametes that are not their
16 own, under a gestational surrogacy agreement as provided in this
17 part.

18 "Surrogacy agreement" means an agreement between one or two
19 intended parents and an individual who is capable of carrying a
20 pregnancy to term and giving birth to a child and who is not an
21 intended parent in which said individual agrees to become
22 pregnant through assisted reproduction and which provides that
23 any intended parent is a parent of a child conceived under the
24 agreement. Unless otherwise specified, the term refers to both

1 a gestational surrogacy agreement and a genetic surrogacy
2 agreement.

3 § -902 Eligibility to enter gestational or genetic

4 surrogacy agreement. (a) To execute an agreement to act as a
5 gestational or genetic surrogate, an individual who is capable
6 of carrying a pregnancy to term and giving birth to a child
7 shall:

- 8 (1) Have attained twenty-one years of age;
- 9 (2) Previously have given birth to at least one child;
- 10 (3) Complete a medical evaluation related to the surrogacy
11 arrangement by a licensed medical doctor;
- 12 (4) Complete a mental health consultation by a licensed
13 mental health professional; and
- 14 (5) Have independent legal representation of their choice
15 throughout the surrogacy arrangement regarding the
16 terms of the surrogacy agreement and the potential
17 legal consequences of the agreement.

18 (b) To execute a surrogacy agreement, each intended
19 parent, whether or not genetically related to the child, shall:

- 20 (1) Have attained twenty-one years of age; and
- 21 (2) Have independent legal representation of the intended
22 parent's or parents' choice throughout the surrogacy
23 arrangement regarding the terms of the surrogacy
24 agreement and the potential legal consequences of the

1 agreement; provided that the intended parents may be
2 jointly represented if desired.

3 § -903 Requirements of gestational or genetic surrogacy
4 agreement; process. A surrogacy agreement shall be executed in
5 compliance with the following rules:

- 6 (1) At least one party shall be a resident of this State
7 or, if no party is a resident of this State, at least
8 one medical evaluation or procedure or mental health
9 consultation under the agreement shall occur in this
10 State and in such circumstance each party to the
11 agreement shall consent to the jurisdiction of the
12 courts of this state;
- 13 (2) A surrogate and each intended parent shall meet the
14 requirements of section -902;
- 15 (3) Each intended parent, the surrogate, and the
16 surrogate's spouse, if any, shall be parties to the
17 agreement;
- 18 (4) The agreement shall be in a record signed by each
19 party listed in paragraph (3);
- 20 (5) The surrogate and each intended parent shall
21 acknowledge in a record receipt of a copy of the
22 agreement;
- 23 (6) The signature of each party to the agreement shall be
24 attested by a notarial officer or witnessed in

1 accordance with the laws of the jurisdiction in which
2 the agreement is signed;

3 (7) The surrogate, surrogate's spouse, if any, and the
4 intended parent or parents shall have independent
5 legal representation throughout the surrogacy
6 arrangement regarding the terms of the surrogacy
7 agreement and the potential legal consequences of the
8 agreement, and each counsel shall be identified in the
9 surrogacy agreement; provided that the surrogate and
10 the surrogate's spouse, if any, may be jointly
11 represented if so desired, and the intended parent or
12 parents may be jointly represented if so desired.

13 (8) The intended parent or parents shall pay for
14 independent legal representation for the surrogate and
15 surrogate's spouse, if any; and

16 (9) The agreement shall be executed before a medical
17 procedure, to include the taking of medication, occurs
18 related to the surrogacy agreement, other than the
19 medical evaluation and mental health consultation
20 required by section -902.

21 § -904 **Requirements of gestational or genetic surrogacy**
22 **agreement; content.** (a) A surrogacy agreement shall comply
23 with the following requirements:

- 1 (1) A surrogate agrees to attempt to become pregnant by
2 means of assisted reproduction;
- 3 (2) Except as otherwise provided in
4 sections -910, -913, and -914, the surrogate
5 and the surrogate's spouse or former spouse, if any,
6 have no claim to parentage of a child conceived by
7 assisted reproduction under the agreement;
- 8 (3) The surrogate's spouse, if any, shall acknowledge and
9 agree to comply with the obligations imposed on the
10 surrogate by the agreement;
- 11 (4) Except as otherwise provided in
12 sections -910, -913, and -914, the intended
13 parent, or, if there are two intended parents, each
14 one jointly and severally, immediately on birth will
15 be the exclusive parent or parents of the child,
16 regardless of the number of children born, or the
17 gender or mental or physical condition of each child;
- 18 (5) Except as otherwise provided in
19 sections -910, -913, and -914, the intended
20 parent or, if there are two intended parents, each
21 parent jointly and severally, immediately on birth
22 will assume physical and legal custody of, and
23 responsibility for the financial support of the child,

1 regardless of the number of children born, or the
2 gender or mental or physical condition of each child;

3 (6) The surrogacy agreement shall provide for payment by
4 the intended parent or parents of reasonable legal,
5 medical and ancillary expenses, including: (A)
6 Premiums for a health insurance policy that covers
7 medical treatment and hospitalization for the person
8 acting as surrogate unless otherwise mutually agreed
9 upon by the parties, pursuant to the terms of the
10 surrogacy agreement; (B) payment of all uncovered
11 medical expenses; (C) payment of legal fees for the
12 legal representation of the person acting as
13 surrogate; (D) payment of life insurance premiums,
14 pursuant to the terms of the surrogacy agreement; and
15 (E) any other reasonable financial arrangements
16 mutually agreed upon by the parties, including any
17 applicable reimbursement and compensation schedule,
18 pursuant to the terms of the surrogacy agreement.

19 (7) The intended parent or parents are liable for the
20 surrogacy-related expenses of the individual acting as
21 surrogate, including expenses for health care provided
22 for assisted reproduction, prenatal care, labor and
23 delivery and for the medical expenses of the resulting
24 child that are not paid by insurance. This paragraph

1 shall not be construed to supplant any health
2 insurance coverage that is otherwise available to the
3 person acting as surrogate or an intended parent for
4 the coverage of health care costs. This paragraph
5 shall not change the health insurance coverage of the
6 person acting as surrogate or the responsibility of
7 the insurance company to pay benefits under a policy
8 that covers a person acting as surrogate.

9 (8) The agreement shall permit the surrogate to make all
10 health and welfare decisions regarding themselves and
11 their pregnancy. This chapter does not enlarge or
12 diminish the surrogate's constitutional or other legal
13 right to terminate the pregnancy;

14 (9) The agreement shall include information about each
15 party's right under this part to terminate the
16 surrogacy agreement; and

17 (10) The agreement shall address confidentiality between the
18 parties to the agreement;

19 (11) The agreement shall address whether the intended
20 parents will complete a mental health consultation by
21 a licensed mental health professional.

22 (b) A surrogacy agreement may provide for:

1 (1) Payment of consideration to, and payment or
2 reimbursement of reasonable expenses to, the
3 surrogate; and

4 (2) Reimbursement of specific expenses if the agreement is
5 terminated under this part.

6 (c) A right created under a surrogacy agreement is not
7 assignable and there is no third-party beneficiary of the
8 agreement other than the child.

9 § -905 **Surrogacy agreement; effect of subsequent change**
10 **of marital status.** (a) Unless a surrogacy agreement expressly
11 provides otherwise:

12 (1) The marriage of a surrogate after the agreement is
13 signed by all parties does not affect the validity of
14 the agreement, their spouse's consent to the agreement
15 is not required, and their spouse is not a presumed
16 parent of a child conceived by assisted reproduction
17 under the agreement; and

18 (2) The divorce, dissolution, annulment, declaration of
19 invalidity, or legal separation, of the surrogate
20 after the agreement is signed by all parties does not
21 affect the validity of the agreement.

22 (b) Unless a surrogacy agreement expressly provides
23 otherwise:

1 (1) The marriage of an intended parent after the agreement
2 is signed by all parties does not affect the validity
3 of a surrogacy agreement, the consent of the spouse of
4 the intended parent is not required, and the spouse of
5 the intended parent is not, based on the agreement
6 alone, a parent of a child conceived by assisted
7 reproduction under the agreement; and

8 (2) The divorce, dissolution, annulment, declaration of
9 invalidity, or legal separation of an intended parent
10 after the agreement is signed by all parties does not
11 affect the validity of the agreement and, except as
12 otherwise provided in section -913, the intended
13 parents are the parents of the child.

14 § -906 **Exclusive, continuing jurisdiction.** During the
15 period after the execution of a surrogacy agreement until ninety
16 days after the birth of a child conceived by assisted
17 reproduction under the agreement, a court of this State
18 conducting a proceeding under this chapter has exclusive,
19 continuing jurisdiction over all matters arising out of the
20 agreement. This section does not give the court jurisdiction
21 over a child custody or child support proceeding if jurisdiction
22 is not otherwise authorized by a law of this State other than
23 this chapter.

24 **SPECIAL RULES OF GESTATIONAL SURROGACY AGREEMENT**

1 **§ -907 Termination of gestational surrogacy agreement.**

2 (a) A party to a gestational surrogacy agreement may terminate
3 the agreement, at any time before an embryo transfer, by giving
4 notice of termination in a record to all other parties. If an
5 embryo transfer does not result in a pregnancy, a party may
6 terminate the agreement at any time before a subsequent embryo
7 transfer.

8 (b) Unless a gestational surrogacy agreement provides
9 otherwise, on termination of the agreement under subsection (a),
10 the parties are released from the agreement, except that each
11 intended parent remains responsible for expenses that are
12 reimbursable under the agreement and incurred by the gestational
13 surrogate through the date of termination.

14 (c) Except in a case involving fraud, neither a
15 gestational surrogate nor the surrogate's spouse or former
16 spouse, if any, is liable to the intended parent or parents for
17 a penalty or liquidated damages, for terminating a gestational
18 surrogacy agreement under this section.

19 **§ -908 Parentage under gestational surrogacy agreement.**

20 (a) Except as otherwise provided in subsection (c),
21 section -909(b), or section -911, on birth of a child
22 conceived by assisted reproduction under a gestational surrogacy
23 agreement, each intended parent is, by operation of law, a
24 parent of the child.

1 (b) Except as otherwise provided in subsection (c) or
2 section -911, neither a gestational surrogate nor the
3 surrogate's spouse or former spouse, if any, is a parent of the
4 child.

5 (c) If a child is alleged to be a genetic child of the
6 individual who agreed to be a gestational surrogate, the court
7 shall order genetic testing of the child. If the child is a
8 genetic child of said individual who agreed to be a gestational
9 surrogate, parentage shall be determined based on parts I
10 through VII.

11 (d) Except as otherwise provided in subsection (c),
12 section -909(b), or section -911, if, due to a clinical or
13 laboratory error, a child conceived by assisted reproduction
14 under a gestational surrogacy agreement is not genetically
15 related to either intended parent or to a donor who donated
16 gametes to the intended parent or parents, each intended parent,
17 and not the gestational surrogate and the surrogate's spouse or
18 former spouse, if any, is a parent of the child, subject to any
19 other claim of parentage.

20 **§ -909 Gestational surrogacy agreement; parentage of**
21 **deceased intended parent.** (a) Section -908 applies to an
22 intended parent even if the intended parent dies during the
23 period between the transfer of a gamete or embryo and the birth
24 of the child.

1 (b) Except as otherwise provided in section -811, an
2 intended parent is not a parent of a child conceived by assisted
3 reproduction under a gestational surrogacy agreement if the
4 intended parent dies before the transfer of a gamete or embryo
5 unless:

- 6 (1) The agreement provides otherwise; and
7 (2) The transfer of a gamete or embryo occurs not later
8 than thirty-six months after the death of the intended
9 parent or the birth of the child occurs not later than
10 forty-five months after the death of the intended
11 parent.

12 § -910 Gestational surrogacy agreement; order of
13 parentage. (a) Except as otherwise provided in
14 section -908(c) or -911, before, on, or after the birth of
15 a child conceived by assisted reproduction under a gestational
16 surrogacy agreement, a party to the agreement may commence a
17 proceeding in the appropriate court for an order or judgment:

- 18 (1) Declaring that each intended parent is a parent of the
19 child and ordering that parental rights and duties
20 vest immediately on the birth of the child exclusively
21 in each intended parent;
22 (2) Declaring that the gestational surrogate and the
23 surrogate's spouse or former spouse, if any, are not
24 the parents of the child;

1 (3) Designating the content of the birth record in
2 accordance with chapter 338 and directing the
3 department of health to designate each intended parent
4 as a parent of the child;

5 (4) To protect the privacy of the child and the parties,
6 declaring that the court record is not open to public
7 inspection, provided that the court records under this
8 chapter shall be fully sealed, such that the filings,
9 caption, party names, docket, and any information
10 identifying the type of case are not open for public
11 inspection;

12 (5) If necessary, that the child be surrendered to the
13 intended parent or parents; and

14 (6) For other relief the court determines necessary and
15 proper.

16 (b) The court may issue an order or judgment under
17 subsection (a) before the birth of the child. The court shall
18 stay enforcement of the order or judgment until the birth of the
19 child.

20 (c) Neither this State nor the department of health is a
21 necessary party to a proceeding under subsection (a).

22 § -911 **Effect of gestational surrogacy agreement.** (a)
23 A gestational surrogacy agreement that complies with
24 sections -902, -903, and -904 is enforceable.

1 (b) If a child was conceived by assisted reproduction
2 under a gestational surrogacy agreement that does not comply
3 with sections -902, -903, and -904, the court shall
4 determine the rights and duties of the parties to the agreement
5 consistent with the intent of the parties at the time of
6 execution of the agreement. Each party to the agreement and any
7 individual who at the time of the execution of the agreement was
8 a spouse of a party to the agreement has standing to maintain a
9 proceeding to adjudicate an issue related to the enforcement of
10 the agreement.

11 (c) Except as expressly provided in a gestational
12 surrogacy agreement or subsection (d) or (e), if the agreement
13 is breached by the gestational surrogate or one or more intended
14 parents, the non-breaching party is entitled to the remedies
15 available at law or in equity.

16 (d) Specific performance is not a remedy available for
17 breach by a gestational surrogate of a provision in the
18 agreement that the gestational surrogate undergo an embryo
19 transfer, terminate or not terminate a pregnancy, or submit to
20 medical procedures.

21 (e) Except as otherwise provided in subsection (d), if an
22 intended parent is determined to be a parent of the child,
23 specific performance is a remedy available for:

1 (1) Breach of the agreement by a gestational surrogate or
2 gestational surrogate's spouse which prevents the
3 intended parent from exercising immediately on the
4 birth of the child the full rights of parentage; or

5 (2) Breach by the intended parent which prevents the
6 intended parent's acceptance, immediately on the birth
7 of the child conceived by assisted reproduction under
8 the agreement, of the duties of parentage.

9 **SPECIAL RULES FOR GENETIC SURROGACY AGREEMENT**

10 **§ -912 Requirements to validate genetic surrogacy**

11 **agreement.** (a) Except as otherwise provided in
12 section -914, to be enforceable, a genetic surrogacy
13 agreement shall be validated by the family court. A proceeding
14 to validate the agreement shall be commenced before assisted
15 reproduction related to the surrogacy agreement.

16 (b) The court shall issue an order validating a genetic
17 surrogacy agreement if the court finds that:

18 (1) Sections -902, -903, and -904 are satisfied;
19 and

20 (2) All parties entered into the agreement voluntarily and
21 understand its terms.

22 (c) An individual who terminates under section -913 a
23 genetic surrogacy agreement shall file notice of the termination
24 with the court. On receipt of the notice, the court shall

1 vacate any order issued under subsection (b). An individual who
2 terminates a genetic surrogacy agreement under this section but
3 does not notify the court of the termination of the agreement is
4 subject to sanctions.

5 **§ -913 Termination of genetic surrogacy agreement.** (a)

6 A party to a genetic surrogacy agreement may terminate the
7 agreement as follows:

8 (1) An intended parent who is a party to the agreement may
9 terminate the agreement at any time before a gamete or
10 embryo transfer by giving notice of termination in a
11 record to all other parties. If a gamete or embryo
12 transfer does not result in a pregnancy, a party may
13 terminate the agreement at any time before a
14 subsequent gamete or embryo transfer. The notice of
15 termination shall be attested by a notarial officer or
16 witnessed; and

17 (2) A genetic surrogate who is a party to the agreement
18 may withdraw consent to the agreement any time before
19 seventy-two hours after the birth of a child conceived
20 by assisted reproduction under the agreement. To
21 withdraw consent, the genetic surrogate shall execute
22 a notice of termination in a record stating the
23 surrogate's intent to terminate the agreement. The
24 notice of termination shall be attested by a notarial

1 officer or witnessed and be delivered to each intended
2 parent any time before seventy-two hours after the
3 birth of the child.

4 (b) On termination of the genetic surrogacy agreement
5 under subsection (a), the parties are released from all
6 obligations under the agreement except that each intended parent
7 remains responsible for all expenses incurred by the surrogate
8 through the date of termination which are reimbursable under the
9 agreement. Unless the agreement provides otherwise, the
10 surrogate is not entitled to and shall refund to intended
11 parents within ten days after withdrawal of consent any non-
12 expense related compensation paid for serving as a surrogate.

13 (c) Except in a case involving fraud, neither a genetic
14 surrogate nor the surrogate's spouse or former spouse, if any,
15 is liable to the intended parent or parents for a penalty or
16 liquidated damages, for terminating a genetic surrogacy
17 agreement under this section.

18 § -914 **Parentage under validated genetic surrogacy**
19 **agreement.** (a) Unless a genetic surrogate exercises the right
20 under section -913 to terminate a genetic surrogacy
21 agreement, each intended parent is a parent of a child conceived
22 by assisted reproduction under an agreement validated under
23 section -912.

1 (b) Unless a genetic surrogate exercises the right under
2 section -913 to terminate the genetic surrogacy agreement, on
3 proof of a court order issued under section -912 validating
4 the agreement, the court shall make an order:

5 (1) Declaring that each intended parent is a parent of a
6 child conceived by assisted reproduction under the
7 agreement and ordering that parental rights and duties
8 vest exclusively in each intended parent;

9 (2) Declaring that the gestational surrogate and the
10 surrogate's spouse or former spouse, if any, are not
11 parents of the child;

12 (3) Designating the contents of the birth certificate in
13 accordance with chapter 338 and directing the
14 department of health to designate each intended parent
15 as a parent of the child;

16 (4) To protect the privacy of the child and the parties,
17 declaring that the court record is not open to public
18 inspection, provided that the court records under this
19 chapter shall be fully sealed, such that the filings,
20 caption, party names, docket, and any information
21 identifying the type of case are not open for public
22 inspection;

23 (5) If necessary, that the child be surrendered to the
24 intended parent or parents; and

1 (6) For other relief the court determines necessary and
2 proper.

3 (c) If a genetic surrogate terminates under
4 section -913(a)(2) a genetic surrogacy agreement, parentage
5 of the child conceived by assisted reproduction under the
6 agreement shall be determined under parts I through VII.

7 (d) If a child born to a genetic surrogate is alleged not
8 to have been conceived by assisted reproduction, the court shall
9 order genetic testing to determine the genetic parentage of the
10 child. If the child was not conceived by assisted reproduction,
11 parentage shall be determined under parts I through VII. Unless
12 the genetic surrogacy agreement provides otherwise, if the child
13 was not conceived by assisted reproduction, the surrogate is not
14 entitled to any non-expense related compensation paid for
15 serving as a surrogate.

16 (e) Unless a genetic surrogate exercises the right under
17 section § -913 to terminate the genetic surrogacy agreement,
18 if an intended parent fails to file notice required under
19 section -913(a), the genetic surrogate or the department of
20 health may file with the court, not later than sixty days after
21 the birth of a child conceived by assisted reproduction under
22 the agreement, notice that the child has been born to the
23 genetic surrogate. Unless the genetic surrogate has properly
24 exercised the right under section -913 to withdraw consent to

1 the agreement, on proof of a court order issued under
2 section -912 validating the agreement, the court shall order
3 that each intended parent is a parent of the child.

4 **§ -915 Effect of nonvalidated genetic surrogacy**

5 **agreement.** (a) A genetic surrogacy agreement, whether or not
6 in a record, that is not validated under section -912 is
7 enforceable only to the extent provided in this section and
8 section -917.

9 (b) If all parties agree, a court may validate a genetic
10 surrogacy agreement after assisted reproduction has occurred but
11 before the birth of a child conceived by assisted reproduction
12 under the agreement.

13 (c) If a child conceived by assisted reproduction under a
14 genetic surrogacy agreement that is not validated under
15 section -912 is born and the genetic surrogate, consistent
16 with section -913(a)(2), withdraws their consent to the
17 agreement before seventy-two hours after the birth of the child,
18 the court shall adjudicate the parentage of the child under part
19 I or VII.

20 (d) If a child conceived by assisted reproduction under a
21 genetic surrogacy agreement that is not validated under
22 section -912 is born and a genetic surrogate does not
23 withdraw their consent to the agreement, consistent with
24 section -913(a)(2), before seventy-two hours after the birth

1 of the child, the genetic surrogate is not automatically a
2 parent and the court shall adjudicate parentage of the child
3 based on the best interest of the child, taking into account the
4 factors in section -607(a) and the intent of the parties at
5 the time of the execution of the agreement.

6 (e) The parties to a genetic surrogacy agreement have
7 standing to maintain a proceeding to adjudicate parentage under
8 this section.

9 § -916 Genetic surrogacy agreement; parentage of
10 deceased intended parent. (a) Except as otherwise provided in
11 section -914 or -915, on birth of a child conceived by
12 assisted reproduction under a genetic surrogacy agreement, each
13 intended parent is, by operation of law, a parent of the child,
14 notwithstanding the death of an intended parent during the
15 period between the transfer of a gamete or embryo and the birth
16 of the child.

17 (b) Except as otherwise provided in section -914
18 or -915, an intended parent is not a parent of a child
19 conceived by assisted reproduction under a genetic surrogacy
20 agreement if the intended parent dies before the transfer of a
21 gamete or embryo unless:

- 22 (1) The agreement provides otherwise; and
23 (2) The transfer of the gamete or embryo occurs not later
24 than thirty-six months after the death of the intended

1 parent, or the birth of the child occurs not later
2 than forty-five months after the death of the intended
3 parent.

4 § -917 Breach of genetic surrogacy agreement. (a)
5 Subject to section -913(b), if a genetic surrogacy agreement
6 is breached by a genetic surrogate or one or more intended
7 parents, the non-breaching party is entitled to the remedies
8 available at law or in equity.

9 (b) Specific performance is not a remedy available for
10 breach by a genetic surrogate of a requirement of a validated or
11 non-validated genetic surrogacy agreement that the surrogate
12 undergo insemination or embryo transfer, terminate or not
13 terminate a pregnancy, or submit to medical procedures.

14 (c) Except as otherwise provided in subsection (b),
15 specific performance is a remedy available for:

16 (1) Breach of a validated genetic surrogacy agreement by a
17 genetic surrogate of a requirement which prevents an
18 intended parent from exercising the full rights of
19 parentage seventy-two hours after the birth of the
20 child; or

21 (2) Breach by an intended parent which prevents the
22 intended parent's acceptance of duties of parentage
23 seventy-two hours after the birth of the child.

24 **PART X. INFORMATION ABOUT DONOR**

1 § **-1001 Definitions.** In this part:

2 "Identifying information" means:

- 3 (1) The full name of a donor;
- 4 (2) The date of birth of the donor; and
- 5 (3) The permanent and, if different, current address of
- 6 the donor at the time of the donation.

7 "Medical history" means information regarding any:

- 8 (1) Present illness of a donor;
- 9 (2) Past illness of the donor; and
- 10 (3) Social, genetic, and family history pertaining to the
- 11 health of the donor.

12 § **-1002 Applicability.** This part applies only to

13 gametes collected on or after the effective date of this

14 chapter.

15 § **-1003 Collection of information.** (a) A gamete bank

16 or fertility clinic licensed in this State shall collect from a

17 donor the donor's identifying information and medical history at

18 the time of the donation.

19 (b) A gamete bank or fertility clinic licensed in this

20 State which receives gametes of a donor collected by another

21 gamete bank or fertility clinic shall collect the name, address,

22 telephone number, and electronic mail address of the gamete bank

23 or fertility clinic from which it received the gametes.

1 (c) A gamete bank or fertility clinic licensed in this
2 State shall disclose the information collected under subsections
3 (a) and (b) as provided under section -1004.

4 § -1004 Declaration regarding identity disclosure. (a)
5 A gamete bank or fertility clinic licensed in this State which
6 collects gametes from a donor shall:

- 7 (1) Provide the donor with information in a record about
8 the donor's choice regarding identity disclosure; and
9 (2) Obtain a declaration from the donor regarding identity
10 disclosure.

11 (b) A gamete bank or fertility clinic licensed in this
12 State shall give a donor the choice to sign a declaration,
13 attested by a notarial officer or witnessed, that either:

- 14 (1) states that the donor agrees to disclose the
15 donor's identity to a child conceived by assisted
16 reproduction with the donor's gametes on request once the
17 child attains eighteen years of age; or
18 (2) states that the donor does not agree presently to
19 disclose the donor's identity to the child.

20 (c) A gamete bank or fertility clinic licensed in this
21 state shall permit a donor who has signed a declaration under
22 subsection (b) (2) to withdraw the declaration at any time by
23 signing a declaration under subsection (b) (1).

1 § -1005 **Disclosure of identifying information and**
2 **medical history.** (a) On request of a child conceived by
3 assisted reproduction who attains eighteen years of age, a
4 gamete bank or fertility clinic licensed in this State which
5 collected, stored, or released for use the gametes used in the
6 assisted reproduction shall make a good faith effort to provide
7 the child with identifying information of the donor who provided
8 the gametes, unless the donor signed and did not withdraw a
9 declaration under section -1004(b)(2). If the donor signed
10 and did not withdraw the declaration, the gamete bank or
11 fertility clinic shall make a good-faith effort to notify the
12 donor, who may elect under section -1004(c) to withdraw the
13 donor's declaration.

14 (b) Regardless whether a donor signed a declaration under
15 Section § -1004 (b)(2), on request by a child conceived by
16 assisted reproduction who attains 18 years of age, or , if the
17 child is a minor, by a parent or guardian of the child, a gamete
18 bank or fertility clinic licensed in this state shall make a
19 good-faith effort to provide the child, or if the child is a
20 minor, the parent or guardian of the child, access to
21 nonidentifying medical history of the donor.

22 (c) On request of a child conceived by assisted
23 reproduction who attains eighteen years of age, a gamete bank or
24 fertility clinic licensed in this State which received the

1 gametes used in the assisted reproduction from another gamete
2 bank or fertility clinic shall disclose the name, address,
3 telephone number, and electronic mail address of the gamete bank
4 or fertility clinic from which it received the gametes.

5 § **-1006 Recordkeeping.** (a) A gamete bank or fertility
6 clinic licensed in this State which collects gametes for use in
7 assisted reproduction shall collect and maintain identifying
8 information and medical history about each gamete donor. The
9 gamete bank or fertility clinic shall collect and maintain
10 records of gamete screening and testing and comply with
11 reporting requirements, in accordance with federal law and the
12 applicable law of this State other than this chapter.

13 (b) A gamete bank or fertility clinic licensed in this
14 State that receives gametes from another gamete bank or
15 fertility clinic shall maintain the name, address, telephone
16 number, and electronic mail address of the gamete bank or
17 fertility clinic from which it received the gametes.

18 **PART XI. MISCELLANEOUS PROVISIONS**

19 § **-1101 Uniformity of application and construction.**
20 This chapter shall be applied and construed to effectuate its
21 general purpose to make uniform the law with respect to the
22 subject of this chapter among states enacting it.

23 SECTION 3. Section 26-14.6, Hawaii Revised Statutes, is
24 amended by amending subsection (f) to read as follows:

1 (f) Effective July 1, 1990, the functions,
2 authority, and obligations, together with the limitations
3 imposed thereon and the privileges and immunities conferred
4 thereby, exercised by a "sheriff", "sheriffs", a "sheriff's
5 deputy", "sheriff's deputies", a "deputy sheriff", "deputy
6 sheriffs", or a "deputy", under sections 21-8, 47-18, 105-4,
7 134-51, 183D-11, 187A-14, 231-25, 281-108, 281-111, 286-52, 286-
8 52.5, 321-1, 322-6, 325-9, 353-11, 356D-54, 356D-94, 383-71,
9 438-5, 445-37, 482E-4, 485A-202, 501-42, 501-171, 501-218, 521-
10 78, 578-4, [~~584-6~~] -203, 587-33, 603-29, 604-6.2, 606-14,
11 607-2, 607-4, 607-8, 633-8, 634-11, 634-12, 634-21, 634-22, 651-
12 33, 651-37, 651-51, 654-2, 655-2, 657-13, 660-16, 666-11, 666-
13 21, 803-23, 803-34, 803-35, 804-14, 804-18, 804-41, 805-1, 806-
14 71, and 832-23 shall be exercised to the same extent by the
15 department of public safety."

16 SECTION 4. Section 338-12, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "**§338-12 Evidentiary character of certificates.**

19 Certificates filed within thirty days after the time prescribed
20 therefor shall be prima facie evidence of the facts therein
21 stated. Data pertaining to [~~the father~~] a parent of a child is
22 prima facie evidence if:

23 (1) The alleged [~~father~~] parent is:

- 1 (A) The [~~husband~~] spouse of the [~~mother,~~] other
2 parent; or
- 3 (B) The acknowledged [~~father~~] parent of the child; or
- 4 (2) The [~~father~~] parent and child relationship has been
5 established under chapter [~~584-~~] _____. Data pertaining
6 to the alleged [~~father~~] parent acknowledging
7 [~~paternity~~] parentage of the child is admissible as
8 evidence of [~~paternity~~] parentage in any family court
9 proceeding, including proceedings under chapter
10 [~~584-~~] _____."

11 SECTION 5. Section 338-15, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "**§338-15 Late or altered certificates.** A person born in
14 the State may file or amend a certificate after the time
15 prescribed, upon submitting proof as required by rules adopted
16 by the department of health. Certificates registered after the
17 time prescribed for filing by the rules of the department of
18 health shall be registered subject to any evidentiary
19 requirements that the department adopts by rule to substantiate
20 the alleged facts of birth. The department may amend a birth
21 certificate to change or establish the identity of a
22 registrant's parent only pursuant to a court order from a court
23 of appropriate jurisdiction or pursuant to a legal establishment
24 of parenthood pursuant to chapter [~~584-~~] _____. Amendments that

1 change or establish the identity of a registrant's parent that
2 are made in accordance with this section shall not be considered
3 corrections of personal records pursuant to chapter 92F."

4 SECTION 6. Section 338-21, Hawaii Revised Statutes, is
5 amended as follows:

6 1. By amending subsection (a) to read as follows:

7 "(a) All children born to parents not married to each
8 other, irrespective of the marriage of either natural parent to
9 another, (1) on the marriage of the natural parents with each
10 other, (2) on the voluntary, written acknowledgments of
11 ~~[paternity]~~ parentage under oath signed by the ~~natural father~~
12 ~~and the natural mother~~ birthing parent and alleged genetic
13 parent, presumed parent, or intended parent under Part VIII of
14 chapter _____, or (3) on establishment of the parent and child
15 relationship under chapter [584,] _____, are entitled to the same
16 rights as those born to parents married to each other and shall
17 take the name so stipulated by their parents or, if the parents
18 do not agree on the name, shall take the name specified by a
19 court of competent jurisdiction to be the name that is in the
20 best interests of the child. The original certificate of birth
21 shall contain the name so stipulated. The child or children or
22 the parents thereof may petition the department of health to
23 issue a new original certificate of birth, and not a duplicate
24 of the original certificate that has been amended, altered, or

1 modified, in the new name of the child, and the department shall
2 issue the new original certificate of birth. As used in this
3 section "name" includes the first name, middle name, or last
4 name."

5 2. By amending subsection (d) to read as follows:

6 "(d) Nothing in this section shall be construed to limit
7 the power of the courts to order the department to prepare new
8 certificates of birth under section [~~584-23.~~] -410."

9 SECTION 7. Section 532-6, Hawaii Revised Statutes, is
10 amended to read as follows:

11 **"§532-6 To child born to parents not married to each**
12 **other.** Every child born to parents not married to each other at
13 the time of the child's birth and for whom the parent and child
14 relationship has not been established pursuant to chapter
15 [~~584~~] shall be considered as an heir to the child's mother,
16 and shall inherit her estate, in whole or in part, as the case
17 may be, in like manner as if the child had been born in lawful
18 wedlock."

19 SECTION 8. Section 560:2-114, Hawaii Revised Statutes, is
20 amended by amending subsection (a) to read as follows:

21 "(a) Except as provided in subsections (b) and (c), for
22 purposes of intestate succession by, through, or from a person,
23 an individual is the child of the child's natural parents,

1 regardless of their marital status. The parent and child
2 relationship may be established under chapter [~~584-~~] ____."

3 SECTION 9. Section 571-14, Hawaii Revised Statutes, is
4 amended by amending subsection (a) to read as follows:

5 "(a) Except as provided in sections 603-21.5 and 604-8,
6 the court shall have exclusive original jurisdiction:

7 (1) To try any offense committed against a child by the
8 child's parent or guardian or by any other person
9 having the child's legal or physical custody, and any
10 violation of section 707-726, 707-727, 709-902, 709-
11 903, 709-903.5, 709-904, 709-905, 709-906, or 302A-
12 1135, whether or not included in other provisions of
13 this paragraph or paragraph (2);

14 (2) To try any adult charged with:

15 (A) Deserting, abandoning, or failing to provide
16 support for any person in violation of law;

17 (B) An offense, other than a felony, against the
18 person of the defendant's husband or wife;

19 (C) Any violation of an order issued pursuant to
20 chapter 586; or

21 (D) Any violation of an order issued by a family
22 court judge.

23 In any case within paragraph (1) or (2), the court, in its
24 discretion, may waive its jurisdiction over the offense charged;

- 1 (3) In all proceedings under chapter 580, and in all
2 proceedings under chapter [~~584~~] ____;
- 3 (4) In proceedings under chapter 575, the Uniform
4 Desertion and Nonsupport Act, and under chapter 576B,
5 the Uniform Interstate Family Support Act;
- 6 (5) For commitment of an adult alleged to be mentally
7 defective or mentally ill;
- 8 (6) In all proceedings for support between parent and
9 child or between husband and wife;
- 10 (7) In all proceedings for pre-trial detention or waiver
11 of jurisdiction over an adult who was a child at the
12 time of an alleged criminal act as provided in section
13 571-13 or 571-22;
- 14 (8) In all proceedings under chapter 586, Domestic Abuse
15 Protective Orders; and
- 16 (9) For the protection of vulnerable adults under chapter
17 346, part X.

18 In any case within paragraph (3), (4), or (6), the attorney
19 general, through the child support enforcement agency, may
20 exercise concurrent jurisdiction as provided in chapter 576E."

21 SECTION 10. Section 571-50, Hawaii Revised Statutes, is
22 amended to read as follows:

1 "**§571-50 Modification of decree, rehearing.** Except as
2 otherwise provided by this chapter, any decree or order of the
3 court may be modified at any time.

4 At any time during supervision of a child the court may
5 issue notice or other appropriate process to the child if the
6 child is of sufficient age to understand the nature of the
7 process, to the parents, and to any other necessary parties to
8 appear at a hearing on a charge of violation of the terms of
9 supervision, for any change in or modification of the decree or
10 for discharge. The provisions of this chapter relating to
11 process, custody, and detention at other stages of the
12 proceeding shall be applicable.

13 A parent, guardian, custodian, or next friend of any child
14 whose status has been adjudicated by the court, or any adult
15 affected by a decree of the court, at any time may petition the
16 court for a rehearing on the ground that new evidence, which was
17 not known or not available through the exercise of due diligence
18 at the time of the original hearing and which might affect the
19 decree, has been discovered. Upon a satisfactory showing of
20 this evidence, the court shall order a new hearing and make any
21 disposition of the case that the facts and the best interests of
22 the child warrant.

23 A parent, guardian, or next friend of a child whose legal
24 custody has been transferred by the court to an institution,

1 facility, agency, or person may petition the court for
2 modification or revocation of the decree, on the ground that the
3 legal custodian has wrongfully denied application for the
4 release of the child or has failed to act upon it within a
5 reasonable time, or has acted in an arbitrary manner not
6 consistent with the welfare of the child or the public interest.
7 An institution, facility, agency, or person vested with legal
8 custody of a child may petition the court for a renewal,
9 modification, or revocation of the custody order on the ground
10 that the change is necessary for the welfare of the child or in
11 the public interest. The court may dismiss the petition if on
12 preliminary investigation it finds the petition without
13 substance. If the court is of the opinion that the decree
14 should be reviewed, it shall conduct a hearing on notice to all
15 parties concerned, and may enter an order continuing, modifying,
16 or terminating the decree.

17 Notwithstanding the foregoing provisions of this section
18 the court's authority with respect to the review, rehearing,
19 renewal, modification, or revocation of decrees, judgments, or
20 orders entered in the herein below listed classes of proceedings
21 shall be limited by any specific limitations set forth in the
22 statutes governing these proceedings or in any other
23 specifically applicable statutes or rules. These proceedings
24 are as follows:

1 (1) Annulment, divorce, separation, and other
2 proceedings under chapter 580;

3 (2) Adoption proceedings under chapter 578;

4 (3) [~~Paternity~~] Parentage proceedings under chapter
5 ~~584~~ ___;

6 (4) Termination of parental rights proceedings under
7 this chapter; and

8 (5) State hospital commitment proceedings under
9 chapter 334.

10 A decree, judgment, or order committing a child to the care
11 of the director of human services shall be reviewable under this
12 section at the instance of others other than duly authorized
13 representatives of the department only after a lapse of thirty
14 days following the date of the decree, judgment, or order, and
15 thereafter only at intervals of not less than one year.

16 Notwithstanding this section the court shall not conduct a
17 rehearing of any petition, filed under section 571-11(1), which,
18 following a hearing, has been denied or dismissed."

19 SECTION 11. Section 571-52.6, Hawaii Revised Statutes, is
20 amended to read as follows:

21 "**§571-52.6 Child support order, judgment, or decree;**
22 **accident and health or sickness insurance coverage.** Each order,
23 judgment, or decree under this chapter or chapter 576B, 580, or

1 [584] ___ ordering a person to pay child support shall include
2 the following provisions:

3 (1) Both the obligor and the obligee are required to file
4 with the state case registry, through the child
5 support enforcement agency, upon entry of the child
6 support order and to update as appropriate,
7 information on the identity and location of the party,
8 including social security number, residential and
9 mailing addresses, telephone number, driver's license
10 number if different from social security number, and
11 name, address, and telephone number of the party's
12 employer; and

13 (2) The liability of that person for accident and health
14 or sickness insurance coverage when available at
15 reasonable cost."

16 SECTION 12. Section 571-84, Hawaii Revised Statutes, is
17 amended by amending subsection (a) to read as follows:

18 "(a) The court shall maintain records of all cases brought
19 before it. Except as provided in sections 571-84.6 and ~~[584-~~
20 ~~20.5,]~~ 571-509, in proceedings under section 571-11 and in
21 ~~[paternity]~~ parentage proceedings under chapter ~~[584,]~~ 571, the
22 following records shall be withheld from public inspection: the
23 court docket, petitions, complaints, motions, and other papers
24 filed in any case; transcripts of testimony taken by the court;

1 and findings, judgments, orders, decrees, and other papers other
2 than social records filed in proceedings before the court. The
3 records other than social records shall be open to
4 inspection: by the parties and their attorneys, by an
5 institution or agency to which custody of a minor has been
6 transferred, and by an individual who has been appointed
7 guardian; with consent of the judge, by persons having a
8 legitimate interest in the proceedings from the standpoint of
9 the welfare of the minor; and, pursuant to order of the court or
10 the rules of court, by persons conducting pertinent research
11 studies, and by persons, institutions, and agencies having a
12 legitimate interest in the protection, welfare, treatment, or
13 disposition of the minor."

14 SECTION 13. Section 571-84.5, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "**§571-84.5 Support order, decree, judgment, or**
17 **acknowledgment; social security number.** The social security
18 number of any individual who is a party to a divorce decree, or
19 subject to a support order or ~~[paternity]~~ parentage
20 determination, or has made an acknowledgment of ~~[paternity]~~
21 parentage issued under this chapter or chapter 576B, 580, or
22 ~~[584]~~ ___ shall be placed in the records relating to the
23 matter."

1 SECTION 14. Section 571-87, Hawaii Revised Statutes, is
2 amended by amending subsection (c) to read as follows:

3 "(c) The maximum allowable fee shall not exceed the
4 following schedule:

- 5 (1) Case arising under chapters [†]587A[†] and 346, part
6 X:
7 (A) Predisposition \$3,000;
8 (B) Postdisposition review hearing . . . \$1,000;
9 (2) Cases arising under chapters 560, 571, 580, and
10 [~~584~~] ____ \$3,000."

11 SECTION 15. Section 571-92, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "**§571-92 Application.** This part shall only apply to
14 actions under chapters 580 and [~~584~~] _____. Nothing in this part
15 shall supersede any provision of any existing state or federal
16 law. The provisions in this part shall be interpreted
17 consistently with other relevant laws and the standard of "best
18 interest of the child" shall remain paramount."

19 SECTION 16. Section 574-3, Hawaii Revised Statutes, is
20 amended to read as follows:

21 "**§574-3 Children born to parents not married to each
22 other.** The registrar of births shall register any child born to
23 parents not married to each other at the time of the child's
24 birth and where either the natural parents have not married each

1 other or where the parent and child relationship has not been
2 established pursuant to chapter ~~[584,]~~ , as having both a
3 family name and given name chosen by the ~~[mother.]~~ individual
4 who gave birth to the child."

5 SECTION 17. Section 576B-401, Hawaii Revised Statutes, is
6 amended by amending subsection (b) to read as follows:

7 "(b) The tribunal may issue a temporary child support
8 order if the tribunal determines that the order is appropriate
9 and the individual ordered to pay is:

- 10 (1) A presumed ~~[father]~~ parent of the child;
- 11 (2) Petitioning to have ~~[paternity]~~ parentage adjudicated;
- 12 (3) Identified as the ~~[father]~~ parent of the child through
13 genetic testing;
- 14 (4) An alleged ~~[father]~~ parent who has declined to submit
15 to genetic testing;
- 16 (5) Shown by clear and convincing evidence to be the
17 ~~[father]~~ parent of the child;
- 18 (6) An acknowledged ~~[father]~~ parent as provided by section
19 ~~[584-3.5,]~~ -303;
- 20 (7) The ~~[mother-of]~~ individual who gave birth to the
21 child; or
- 22 (8) An individual who has been ordered to pay child
23 support in a previous proceeding and the order has not
24 been reversed or vacated."

1 SECTION 18. Section 576B-402, Hawaii Revised Statutes, is
2 amended by amending subsection (b) to read as follows:

3 "(b) In a proceeding to determine parentage, a responding
4 tribunal of this State shall apply chapter [~~584~~] ___ and the
5 rules of this State on choice of law."

6 SECTION 19. Section 576E-2, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "**§576E-2 Attorney general; powers.** Notwithstanding any
9 other law to the contrary, the attorney general, through the
10 child support enforcement agency and the office, shall have
11 concurrent jurisdiction with the court in all proceedings in
12 which a support obligation is established, modified, or
13 enforced, including but not limited to proceedings under
14 chapters 571, 580, [~~584~~]___, and 576B. The attorney general,
15 through the child support enforcement agency and the office, may
16 establish, modify, suspend, terminate, and enforce child support
17 obligations and collect or enforce spousal support using the
18 administrative process provided in this chapter on all cases for
19 which the department has a responsibility under Title IV-D of
20 the Social Security Act, including but not limited to welfare
21 and non-welfare cases in which the responsible parent is subject
22 to the department's jurisdiction, regardless of the residence of
23 the children for whom support is sought. These powers shall
24 include but not be limited to the power to:

- 1 (1) Conduct investigations into the ability of parties to
2 pay support and into nonpayment of support;
- 3 (2) Administer oaths, issue subpoenas, and require
4 production of books, accounts, documents, and
5 evidence;
- 6 (3) Establish, modify, suspend, terminate, or enforce a
7 child support order and to collect or enforce a
8 spousal support order in conjunction with a child
9 support order;
- 10 (4) Determine that a party has not complied with a court
11 or administrative order of support and make
12 recommendations to the court or other agency with
13 respect to contempt or other appropriate proceedings;
- 14 (5) Establish arrearage;
- 15 (6) Establish an order for child support for periods which
16 public assistance was provided to the child or
17 children by the department of human services;
- 18 (7) Order and enforce assignment of future income under
19 section 576E-16, chapter 571, and section 576D-14;
- 20 (8) Exercise the powers and authority described in this
21 section, notwithstanding the existence of a prior
22 court or administrative order of support issued by
23 another state or foreign jurisdiction, except as
24 modified or limited by this chapter;

1 (9) Determine that an obligor owes past-due support with
2 respect to a child receiving assistance under a state
3 program funded under Title IV-A of the Social Security
4 Act, including Aid to Families with Dependent Children
5 and Temporary Assistance to Needy Families and
6 petition the court to issue an order that requires the
7 obligor to pay such support in accordance with a plan
8 approved by the court or, if the obligor is subject to
9 such a plan and is not incapacitated, participate in
10 work activities, as defined in 42 U.S.C. §607(d), as
11 the court deems appropriate;

12 (10) Order genetic testing pursuant to chapter ~~[584]~~ ___ for
13 the purpose of establishing ~~[paternity,]~~ parentage,
14 with payment of costs to be made by the agency,
15 subject to recoupment by the State from ~~[the father or~~
16 ~~the mother,]~~ a parent if appropriate, if ~~[paternity]~~
17 parentage is established, and to also order additional
18 testing in any case if an original test result is
19 contested, upon request and advance payment by the
20 contestant;

21 (11) Exercise the powers and authority described in this
22 section, notwithstanding the existence of a prior
23 court or administrative order of support issued by
24 another state or foreign jurisdiction, except as

1 modified or limited by this chapter and chapter 576B;
2 and
3 (12) Delegate the powers and authority described in this
4 section to hearings officers and employees of the
5 agency."

6 SECTION 20. Section 580-47, Hawaii Revised Statutes, is
7 amended by amending subsection (a) to read as follows:

8 " . . . In those cases where child support payments are to
9 continue due to the adult child's pursuance of education, the
10 agency, at least three months prior to the adult child's
11 nineteenth birthday, shall send notice by regular mail to the
12 adult child and the custodial parent that prospective child
13 support will be suspended unless proof is provided by the
14 custodial parent or adult child to the child support enforcement
15 agency, prior to the child's nineteenth birthday, that the child
16 is presently enrolled as a full-time student in school or has
17 been accepted into and plans to attend as a full-time student
18 for the next semester a post-high school university, college, or
19 vocational school."

20 SECTION 21. Section 607-5.6, Hawaii Revised Statutes, is
21 amended by amending subsection (a) to read as follows:

22 "(a) In addition to the fees prescribed under section
23 607-5 for a matrimonial action where either party has a minor
24 child, or a family court proceeding under chapter ~~584~~ _____,

1 the court shall collect a surcharge of \$50 at the time of filing
2 the initial complaint or petition. In cases where the surcharge
3 has been initially waived, the court may collect the surcharge
4 subsequent to the filing with such surcharge to be assessed from
5 either party or apportioned between both parties."

6 SECTION 21. Section 634-7, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "**§634-37 Presumption of notice and service of process in**
9 **child support cases.** Whenever notice and service of process is
10 required for child support enforcement proceedings subsequent to
11 an order issued pursuant to chapter 571, 576B, 576E, 580, or
12 [~~584~~] ____, upon a showing that diligent effort has been made to
13 ascertain the location of a party, notice and service of process
14 shall be presumed to be satisfied upon delivery of written
15 notice to the most recent residential or employer address on
16 file with the state case registry pursuant to section 571-52.6."

17 SECTION 22. Chapter 584, Hawaii Revised Statutes, is
18 repealed.

19 SECTION 23. This Act does not affect rights and duties
20 that matured, penalties that were incurred, and proceedings that
21 were begun before its effective date.

22 SECTION 24. Statutory material to be repealed is bracketed
23 and stricken. New statutory material is underscored.

1 SECTION 25. This Act shall take effect on January 1,
2 2026.

3 INTRODUCED BY:

4

5

6 INTRODUCED BY: _____

7

BY REQUEST

____.B. NO.____

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