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December 6, 2024

The Honorable Ronald D. Kouchi  
President and Members of the Senate  
Thirty-Third State Legislature  
State Capitol, Room 409  
Honolulu, Hawaii 96813

The Honorable Nadine K. Nakamura  
Speaker and Members of the  
House of Representatives  
Thirty-Third State Legislature  
State Capitol, Room 431  
Honolulu, Hawaii 96813

Dear President Kouchi, Speaker Nakamura, and Members of the Legislature:

For your information and consideration, I am transmitting a copy of the Department of the Attorney General's Final Report of the Task Force to Recommend Amendments to Existing Parentage Laws, as required by Act 156, Session Laws of Hawaii 2023. In accordance with section 93-16, HRS, I am also informing you that the report may be viewed electronically at <http://ag.hawaii.gov/publications/reports/reports-to-the-legislature/>.

If you have any questions or concerns, please feel free to call me at (808) 586-1500.

Sincerely,

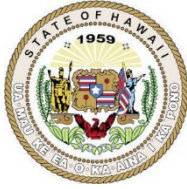
*Anne E. Lopez*

Anne E. Lopez  
Attorney General

c: Josh Green, M.D., Governor  
Sylvia Luke, Lieutenant Governor  
Legislative Reference Bureau (Attn: Karen Mau)  
Leslie H. Kondo, State Auditor  
Luis Salaveria, Director of Finance, Department of Budget and Finance  
Stacey A. Aldrich, State Librarian, Hawaii State Public Library System  
David Lassner, Ph.D., President, University of Hawaii

Enclosure

**JOSH GREEN, M.D.**  
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## **FINAL REPORT OF THE TASK FORCE TO RECOMMEND AMENDMENTS TO HAWAII PARENTAGE LAWS**

Pursuant to Act 156, Session Laws of Hawaii 2023

Submitted to the Thirty-Third State Legislature  
Regular Session of 2025

### **I. Executive Summary**

Act 156, Session Laws of Hawaii (SLH) 2023 requires the Department of the Attorney General to convene a task force to recommend amendments to the Hawaii Revised Statutes (HRS) to update existing parentage laws. The members of the task force, including representatives from the Department of Health (DOH), the Child Support Enforcement Agency (CSEA), family law experts, and medical professionals, submit this final report summarizing the policy choices and reasoning behind the proposed bill, attached as Appendix A, which seeks to replace Hawaii's current Uniform Parentage Act of 1973 (chapter 584, HRS) with a new chapter incorporating portions of the Uniform Parentage Act of 2017 (UPA (2017)). The driving goal behind the proposed bill is to update Hawaii's existing parentage laws to align with modern concepts of family and parenthood, and to respond to the advancements in technology that make family building possible for heterosexual-cisgender couples, non-heterosexual/non-cisgender couples, and single people seeking to become parents.

### **II. Background**

Act 201, SLH 2021 required the DOH to convene a task force to recommend amendments to the HRS to update existing parentage laws "that reflect outdated, cisheteronormative concepts of families, parenthood, and parental rights." The Act 201 task force submitted its report to the legislature on December 21, 2021. Due to the COVID-19 situation and time constraints, the Act 201 task force was not able to complete a recommendation for amendments to the HRS.

Act 156, SLH 2023, created a new task force, the composition of which differed from the Act 201 task force. Act 156 required the Department of the Attorney General to convene a task force to recommend amendments to the HRS to "update existing

parentage laws that reflect outdated concepts of families, parenthood, conception and gestation, and parental rights." The task force was created, and an interim report was filed before the 2024 legislative session. A final report of the task force's findings and recommendations, including any proposed legislation, is due no later than forty days prior to the convening of the regular session of 2025. The task force will be dissolved on December 31, 2025.

### **III. Task Force Members**

The task force consists of the following individuals who were appointed pursuant to the requirements of Act 156:

- (1) A representative from the department of the attorney general, who shall serve as chairperson: Lauren Chun, Deputy Solicitor General;
- (2) The director of health, or the director's designee: Lorrin Kim, Chief, Office of Planning, Policy, and Program Development, DOH, and Thaddeus Pham, Viral Hepatitis Prevention Coordinator, Harm Reduction Services Branch, DOH, a second designee of the director of health;
- (3) A member of the Hawaii state commission on the status of women (this position is currently vacant, as the Commission has not designated a representative to serve on the task force)<sup>1</sup>;
- (4) A member of the Hawaii state commission on fatherhood: Jeff Esmond, Chair, Hawaii State Commission on Fatherhood;
- (5) A family court judge: the Honorable Jessi L. K. Hall, Judge, District Family Court of the First Circuit, State of Hawai'i;
- (6) A family law attorney: Carol E. Lockwood;
- (7) A health care professional familiar with hospital and birthing center procedure experience: Dr. John Frattarelli, M.D., Fertility Institute of Hawaii and Advanced Reproductive Medicine and Gynecology of Hawaii, Inc.;
- (8) A mental health professional familiar with post-adoption experience: Dr. Cheryl Andaya, Psy.D., Director, Family Strengthening Center;
- (9) An individual with personal knowledge of adoption-related health and medical issues: Laurel Johnston, Adoption Circle of Hawaii;

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<sup>1</sup> The chairperson of the task force contacted the chairperson of the Hawaii State Commission on the Status of Women for the Commission's appointed designee. As of the date of this report, the Commission has not designated a representative to serve on the task force.

- (10) An individual with personal knowledge of surrogacy: Sean Taylor, attorney; and
- (11) Any other member as recommended by the task force, as follows:
  - (A) Mark Nugent, Deputy Attorney General, Oahu Family Support Branch Manager, Child Support Enforcement Agency;
  - (B) Geraldine Hasegawa, Deputy Attorney General, Branch Manager, Child Support Enforcement Agency;
  - (C) Mihoko Ito, attorney;
  - (D) Deirdre Marie-Iha, attorney; and
  - (E) Sianha M. Gualano, Deputy Solicitor General (vice-chairperson).

#### **IV. Meetings of the Act 156 Task Force**

The task force met 14 times over the course of 2023–24. To guide its investigation and discussion, it identified three major topic areas to organize its review of a draft bill prepared by Judge Hall and formed Permitted Interaction Groups (PIGs) to consider policy decisions and investigate any revisions, comments, or concerns related to those topics. The three topic areas were:

- (1) Legal Parentage;
- (2) Assisted Reproduction and Surrogacy; and
- (3) Birth Heritage (including genetic and medical information).

During its meetings, the task force considered the recommendations of the three investigative PIGs and public written and oral testimony submitted by individuals and various interest groups to the task force. Once the task force heard the final reports of each of its investigative PIGs, it deliberated and voted on their final recommendations on August 9, 2024, and August 23, 2024. It then convened a Drafting PIG to compile its policy decisions and recommendations into a final report and draft legislation.

#### **V. Recommendations**

As the task force's review was divided into three general topic areas, its recommendations are organized accordingly. The task force's recommendations relate to provisions of the new chapter of the Hawaii Revised Statutes that would be established by the proposed bill. Appx. A, section 2. The references to "parts" and "sections" herein refer to the parts and sections established by that proposed new chapter.

## A. Legal Parentage

Federal law requires states receiving subsidies for their child-support enforcement programs to establish procedures for "a simple civil process for voluntarily acknowledging paternity." 42 U.S.C. § 666(a)(5)(C)(i). Currently, Hawai'i provides this through its voluntary establishment of paternity under oath form. This process, however, is only available to the "natural mother and the natural father." Section 584-3.5(a), HRS. To expand this process, the new chapter in the proposed bill creates processes for establishing parentage that are more inclusive to non-cisgender and non-heterosexual couples. The proposed processes are substantially similar to those included in the UPA (2017), which has been adopted by the Uniform Law Commission (ULC) and enacted by several states. Under the new chapter, there would be five notable changes to the establishment of legal parentage: (1) expansion of voluntary establishment of *paternity* process to voluntary establishment of *parentage* process; (2) creation of the "functional parent" as a legal parent and adjudication thereof; (3) creation of a denial of parentage process; (4) changes to the adjudication of uncontested parentage proceedings; and (5) possible adjudication of more than two parents. Each is described in more detail below.

### (1) Voluntary Establishment of Parentage (part IV)

The proposed Voluntary Establishment of Parentage (VEP) process takes a gender-neutral approach and allows the individual who gave birth to the child (birthing parent) and either an "alleged genetic parent,"<sup>2</sup> "intended parent,"<sup>3</sup> or "presumed parent,"<sup>4</sup> to establish legal parentage through the DOH without the need for adjudication by the Family Courts. As compared to current law, the new VEP process would permit a wider range of individuals (particularly female and non-cisgender partners to the birthing parent) to voluntarily establish parentage. Connecticut, Maine, Rhode Island, Vermont, and Washington currently allow for alleged genetic parents, intended parents, and presumed parents to voluntarily acknowledge parentage.

In conjunction with the proposed changes, the task force recommends that the DOH adopt forms requiring individuals asserting parentage to attest that they meet each

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<sup>2</sup> Under the proposed bill, an individual is generally considered an "alleged genetic parent" if they are alleged to be, or allege that they are, a genetic parent or possible genetic parent of a child whose parentage has not been adjudicated. The definition of "alleged genetic parent" can be found in section -102.

<sup>3</sup> "Intended parent" is defined as those individuals that manifest an intent to be legally bound as a parent of a child conceived by assisted reproduction. Assisted reproduction and surrogacy are governed by parts VIII and IX.

<sup>4</sup> Under the proposed bill, an individual is generally considered a "presumed parent" if the individual (1) was married to the birthing parent at the time the child was born; (2) was married to the birthing parent and the child was born not later than three hundred days after the marriage was terminated by death, divorce, annulment, or decree of separation; (3) was married to the birthing parent after the child was born and asserted parentage of the child; or (4) resided in the same household with the child prior to the child reaching the age of majority and openly held the child out as their own. The proposed law regarding the presumption of parentage can be found at section -303.

of the legal requirements to become an alleged genetic parent, intended parent, or presumed parent.

(2) Adjudication of Functional Parentage (section -603):

The proposed adjudication of a claim of functional parentage, known as "de facto parent" in the UPA (2017), further equalizes access to establishment of parentage procedures for non-cisgender/non-heterosexual couples. The adjudication of functional parentage process allows individuals who may not be "presumed parents" (e.g., the birthing parent's unmarried partner who has cared for the child since the child was four years-old or the birthing parent's cohabitating and committed partner who plans to parent the child) a pathway to establishing parentage.

(3) Denial of Parentage (section -608)

Other than through court proceedings, Hawai'i does not currently have a denial of parentage/paternity process. However, 24 other states have some form of a denial process, and the task force found that there is utility in adopting one. In considering a denial of parentage process, the task force consulted with the DOH and CSEA. The DOH had concerns about the increased staffing that would be required to suitably analyze the denials and accompanying VEP acknowledgements to determine whether parentage had been established. CSEA was in favor of a simple denial process, as it receives many cases where individuals agree that a non-birthing parent should be able to deny parentage so that another non-birthing parent can establish parentage over the same child.

Recognizing the utility of a denial process and the concerns of the DOH, the proposed bill includes a process that allows denials of parentage to be filed with the Family Court. Under the proposed process, a birthing parent, the person who seeks to establish parentage, and the person seeking to deny parentage would all submit affidavits to the court, which would adjudicate the respective rights of all the parties. A denial would not be effective unless another person, other than the birthing parent, agrees to have their parentage established. This ensures that the child is not left with one parent when there previously were two. The task force does not anticipate that having the Judiciary receive and resolve denials of parentage would impose burdensome costs on the Judiciary in the same way that the DOH would be burdened if it was tasked with processing denials of parentage. The Judiciary already processes cases where one parent denies parentage and another wants to establish parentage. By allowing denials to be done via affidavit, the goal is to lessen the burden on the Judiciary.

(4) Uncontested Parentage Proceedings (section -203)

Currently, if a couple cannot use the voluntary acknowledgement of paternity process, unmarried couples must go to court to have their parental rights adjudicated. This process can be burdensome, as it requires the parties to appear in court for a hearing even if there are no disputes to resolve. This burden unfortunately falls disproportionately on unmarried, non-heterosexual, non-cisgender couples as they are

the couples that are least able to utilize the voluntary acknowledgement of parentage process. In the interest of increasing equity and decreasing the burden of establishing parentage, the task force proposes that certain uncontested parentage claims be processed without a hearing.

The proposed uncontested parentage proceedings are akin to uncontested divorce proceedings in Family Court, which are already in use. It would allow the Family Court to adjudicate parental rights of alleged genetic parents or presumed parents without a hearing when all parties agree, and the Family Court is satisfied that a hearing is not necessary. If the Family Court is assured that the petitioning parent, the responding parent, and the parent(s) denying parentage (if applicable) have fulfilled all legal requirements and are aware of their rights, it can adjudicate parentage without a hearing. However, if it is concerned that information is missing, any requirements have not been met, or that other potential parents need to be notified and joined, the Family Court can direct the parties to go through a traditional proceeding instead.<sup>5</sup>

#### (5) Adjudicating Competing Claims of Parentage (section -607(c))

Section 607(c) gives the Family Court the ability to adjudicate a child to have more than two parents if a failure to do so would be detrimental to the child. This provides the Court the flexibility to more adequately respond to unique circumstances. The task force acknowledges that this change poses some potential barriers: (1) the child support guidelines are not formatted to calculate more than two parents; (2) CSEA's internal system is not capable of tracking cases/payments involving more than one payor; and (3) DOH's system is not set up to create birth records of more than two parents. Changes to the Child Support Guidelines Worksheet, and CSEA and DOH systems will be necessary to accommodate the establishment of more than two parents.

### **B. Assisted Reproduction**

While modern medicine has brought many advances to family-building options available to heterosexual-cisgender couples, non-heterosexual/non-cisgender couples, and single people seeking to become parents, Hawai'i law has not kept up with those advances and the legal challenges that accompany them. The proposed bill seeks to update Hawaii's laws by generally adopting the portions of the UPA (2017) that relate to assisted reproduction<sup>6</sup> (part VIII), and surrogacy (part IX). The task force generally feels that staying close to the UPA (2017) would afford Hawai'i the benefit of provisions that have been thoroughly vetted and bring Hawaii's law closer to its sister states. The task force identifies below some of the key policy considerations and deviations from the UPA (2017) specifically relating to the proposed regulation of surrogacy.

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<sup>5</sup> While the Family Courts of each respective Circuit would be responsible for adopting forms to effectuate an uncontested parentage proceeding, the task force has included proposed forms as Appendix B.

<sup>6</sup> Assisted reproduction includes "intrauterine or intracervical insemination, donation of gametes, donation of embryos, in vitro fertilization and transfer of embryos, and intracytoplasmic sperm injection." Section -102

### (1) Genetic Surrogacy

Genetic surrogacy—where the surrogate is not an intended parent and becomes pregnant using their own gamete—is a controversial part of assisted reproduction. Many medical and legal professionals in the field discourage its use because of the additional complexities it introduces to the surrogacy process. The task force, however, finds that it would be preferable to regulate the process as opposed to banning the procedure altogether. The proposed language in the bill thus tracks the UPA (2017) on this topic.

### (2) Health Insurance

The UPA (2017) requires that attorneys preparing surrogacy agreements give detailed disclosures regarding insurance coverage for surrogacy. The task force finds this requirement burdensome and impractical. To address this concern, the task force instead proposes language utilized by Connecticut, a UPA (2017) enactment state, that eliminates insurance summary requirements but provides clarity about the types of expenses that should be addressed in the surrogacy agreement and intended parents' liability for uncovered medical expenses. This departs from the UPA (2017) in that it avoids reliance on summaries of insurance policies that may lead to incomplete or inaccurate understandings of medical coverage.

### (3) Confidentiality of Surrogacy Agreements

The task force believes that the confidentiality of surrogate agreements should clearly be permitted, but it should be left to the parties as to whether a particular surrogacy agreement is confidential. To address related confidentiality concerns, the task force also recommends that the bill provide clear authority to ensure that identifying information regarding surrogacy agreements or other matters of assisted reproduction are not included in public court dockets. This differs from the UPA (2017) standard language.

### (4) Mental Health Consultation

The task force disagrees with the UPA (2017) provision that intended parents undergo mental health consultation before entering into surrogacy agreements. While the task force recognizes that reciprocal mental health consultation requirements for surrogates and intended parents create an appearance of fairness, the requirement ultimately imposes unnecessary burdens on intended parents. Intended parents already work with various professionals—doctors, nurses, agency personnel, and lawyers—in preparation for the surrogacy process. Additionally, IVF doctors already serve in a gatekeeper role, referring intended parents to mental health professionals when necessary. The task force notes that there is also concern that a lack of qualified mental health professionals in Hawai'i would likely result in significant delays for intended parents. As a result, the task force instead proposes that the parties' expectations about intended parent mental health consultations be addressed in the surrogacy agreement.



### C. Birth Heritage

A common feature of assisted reproductive technology (ART) is the use of donated gametes (ova and sperm) when intended parents' gametes are unavailable or not recommended for use in ART procedures (e.g., intrauterine insemination or in vitro fertilization). Current Hawai'i law, however, provides no guidance regarding the use of donor gametes, the legal status of donors, or the collection and possible disclosure of information relating to gamete donors. The legal status of donors and the availability of donor information to donor-conceived persons has become an increasingly important area of discussion. This area also continues to be in flux, as evidenced by the promulgation of a new UPA article regulating the handling of donor information during the task force's tenure.

The task force's discussion on this topic focused on competing versions of an article in the UPA that regulates donor information—Article 9. The first version of Article 9 (Article 9 (2017)) was promulgated in 2017 and is currently adopted in California and Washington. The second version, which is substantially similar to the Article 9 (2017) (Article 9 (2019)), is currently adopted in Rhode Island and Connecticut. The most recent version (Article 9 (2024)) was promulgated in 2024 and has not yet been adopted by any state. All iterations of Article 9 require that gamete banks and fertility clinics "licensed in the state" collect and preserve donors' "identifying information" (i.e., name, date of birth, and address) and "medical history" (i.e., present illness, past illness, and social, genetic, and family history pertaining to the health of the donor) at the time of donation. Article 9 (2024) differs substantially, however, from Article 9 (2019) and Article 9 (2017) in the applicable disclosure requirements:

- Article 9 (2017) and Article 9 (2019) require that gamete banks and fertility clinics "licensed in the state" obtain a declaration from each donor stating whether the donor agrees or does not agree to the disclosure of his/her/their identity to the donor-conceived person upon reaching age eighteen. If the declaration states that the donor does not agree to disclosure, his/her/their identifying information may be released only upon withdrawal of the declaration (with the bank/clinic required to make a good faith effort to contact the donor to offer the opportunity to withdraw the declaration). Regardless of the content of the donor declaration, however, upon the request of the adult donor-conceived person (or the legal parents of a minor donor-conceived person), the bank/clinic is required to make a good faith effort to provide the adult donor-conceived person (or the legal parents of the minor donor-conceived person) with access to the non-identifying medical history of the donor.
- Article 9 (2024) does not provide for a declaration from donors regarding their agreement to disclose their identity to the donor-conceived child. Instead, gamete banks and fertility clinics are directed to collect donor identifying information and medical history at the time of donation, Appx. C, section 903(a), and "[o]n request of a child conceived by assisted reproduction who attains 18 years of age, a gamete bank or fertility clinic . . . which collected the gametes used in the assisted reproduction shall provide the child with identifying information of the donor who provided the gametes." Appx. C, section 905(a).

Additionally, gamete banks and fertility clinics are to provide the child conceived by assisted reproduction who attains 18 years of age, "or, if the child is a minor, the parent or guardian of the child, access to nonidentifying medical history of the donor" upon request. Appx. C, Section 905(b).

The primary difference between these iterations of Article 9, therefore, is that Article 9 (2017) and Article 9 (2019) do not mandate disclosure of donor-identifying information and would therefore preserve the option for the banking and use of anonymous donor gametes in the State of Hawai'i; whereas Article 9 (2024) mandates disclosure of donor-identifying information upon the request of the adult donor-conceived person, and would therefore effectively prohibit the banking and use of anonymous donor gametes by banks/clinics in the State of Hawai'i.

There was clear consensus within the task force with regard to the requirement that a non-identifying medical history be released to the adult donor-conceived person (or the legal parents of a minor donor-conceived person) upon request. With respect to the disclosure of donor-identifying information, however, the task force contended with competing interests and policy considerations:<sup>7</sup>

(1) Arguments in Favor of Article 9 (2024):

- It is the current version adopted by the ULC, after its own investigation and deliberation on release of donor information;
- The donor-conceived person lacks the ability, at their birth, to provide informed consent about their donor's anonymity, and thus it balances the interests of the donor-conceived person by allowing them to seek donor information as an adult;
- Access to medical history and birth heritage information is important to the physical and mental well-being of donor-conceived children and those children should be able to directly seek information from their donor(s) as adults;
- Genetic parent and genetic family heritage, health, and medical information can be vital to the diagnosis and treatment of medical conditions in donor-conceived children and adults;
- The similar concerns of adult adoptees and donor-conceived adults suggest that, upon turning 18, donor-conceived adults should be granted the same access to birth heritage information as is guaranteed to adult adoptees under Hawai'i law;
- Cultural trends are moving away from anonymity in both adoption and donor conception and toward greater transparency and information sharing. Some gamete banks have announced plans to stop offering anonymous donor gametes.

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<sup>7</sup> A more detailed exposition of each position can be found in the Birth Heritage PIG reports and the oral/written public testimony submitted to the task force at <https://ag.hawaii.gov/act-156-task-force-on-parentage-laws/>.

- As a practical matter, donor "anonymity" is largely a fallacy, due to the availability of commercial genetic testing, donor sibling registries, and other available databases;
- Informal methods of deriving birth heritage information (including commercial genetic testing and sibling registries) are not always accurate or complete. Planned disclosure of gamete donors' identity allows the sharing of more accurate information.

(2) Arguments in Favor of Article 9 (2017) and (2019):

- Article 9 (2024) would constitute unwarranted governmental intrusion into the reproductive freedom of Hawaii's intended parents who consider using donor gametes by attempting to regulate/restrict gamete selection and imply standards for permissible/impermissible gamete use. In the process, it would regulate donor anonymity in a way that is not mirrored for known physical harms (like genetic defects, chromosomal abnormalities, and hereditary disabilities) and recognized situational risks (like family violence, neglect, and substance abuse);
- Article 9 (2024) would codify unequal treatment of infertile, LGBTQ+, and single intended parents by imposing a legal precondition to conception when using donor gametes is considered (i.e., access to genetic father's identifying information) not imposed on fertile, heterosexual couples (noting that anonymous sexual encounters, family schisms, language barriers, illiteracy, destruction/loss of records, and other factors can also prevent access to information regarding genetic parents);
- Article 9 (2024) risks imposing additional practical and financial obstacles to parenthood on infertile, LGBTQ+, and single intended parents who consider using donor gametes (many having already experienced years of infertility, miscarriages, invasive/painful procedures, expense, social stigma, and more), including a possible reduction in the donor pool (creating shortages, waitlists, and reduced diversity) and possible cost-prohibitive increases in gamete prices if only identifiable gametes are permissible;
- Adoption of Article 9 (2024) could be premature and may have limited legal effect, given the current lack of "gamete bank[s] or fertility clinic[s] licensed in the [State of Hawai'i]" that collect and distribute anonymous donor gametes.<sup>8</sup> That being the case, Hawai'i should wait and observe the actual impact of Article 9 (2024) in other states, rather than adopting it here based on assumptions about its likely impact;

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<sup>8</sup> Per Dr. John Frattarelli, a Hawai'i reproductive endocrinologist, Founder, Medical, Practice and Laboratory Director for the Fertility Institute of Hawaii, a member of the American Society for Reproductive Medicine, and the designated health care professional member of the task force.

- The rigorous donor screening process, extensive donor information provided to intended parents by gamete banks, and the availability of commercial genetic testing, collectively, go a long way towards mitigating the impact of donor "anonymity"; and
- Practical limitations undermine the effectiveness of the mandatory disclosure, upon the donor-conceived person's request for donor-identifying information under Article 9 (2024), because it does not compel donor engagement or communication with the donor-conceived person, so positive outcomes rely on voluntary donor cooperation under either version of Article 9.

This issue was discussed at length in several task force meetings. The task force ultimately voted, ten-to-two, to recommend the adoption of the disclosure of donor identifying information policies of Article 9 (2017) and (2019). Thus, the proposed new chapter includes Article 9 (2019) (see part X). The goal of adopting Article 9 (2019) is to improve Hawai'i law by (1) ensuring the collection and preservation of gamete donors' identifying information, and (2) requiring the release of donors' non-identifying medical history upon the request of adult donor-conceived persons or the legal parents of minor donor-conceived persons, without unreasonably intruding on the private procreative decision-making of Hawaii's intended parents who consider donor gametes or subjecting infertile, LGBTQ+, and single intended parents to inequitable treatment or further burdening their path to parenthood. However, a copy of Article 9 (2024) is also included as Appendix C for the legislature's consideration.

# APPENDIX A



.B. NO.          

1           §    -101   **Short title.**   This chapter may be cited as the  
2 Uniform Parentage Act.

3           §    -102   **Definitions.**   As used in this chapter:

4           "Acknowledged parent" means an individual who has  
5 established a parent-child relationship under part IV.

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

9           "Adjudicated parent" means an individual who has been  
10 adjudicated to be a parent of a child by a court with  
11 jurisdiction.

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

18          "Assisted reproduction" means a method of causing pregnancy  
19 other than sexual intercourse. The term includes intrauterine  
20 or intracervical insemination, donation of gametes, donation of  
21 embryos, in vitro fertilization and transfer of embryos, and  
22 intracytoplasmic sperm injection.

.B. NO.          

1           "Birth" includes, but is not limited to stillbirth.

2           "Birthing center" means any facility, other than a hospital  
3 or facility associated with a hospital, that provides maternity  
4 services.

5           "Birthing hospital" means any hospital with licensed  
6 obstetric-care units, any hospital licensed to provide obstetric  
7 services, or any licensed birthing center associated with a  
8 hospital.

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

11          "Child support enforcement agency" means the state agency  
12 created pursuant to chapter 576D.

13          "Combined relationship index" means the product of all  
14 tested relationship indices.

15          "Determination of parentage" means establishment of a  
16 parent-child relationship by a judicial or administrative  
17 proceeding or signing of a valid acknowledgment of parentage  
18 under part IV.

19          "Donor" means an individual who provides gametes or embryos  
20 intended for use in assisted reproduction, whether or not for  
21 consideration. The term does not include a parent under part  
22 VIII, an intended parent under part IX, or an individual who



.B. NO.          

1 gives birth to a child conceived by assisted reproduction,  
2 except as otherwise provided in part IX.

3 "Embryo" means the fertilized product of a sperm and egg,  
4 including the zygote stage of early embryo development after  
5 fertilization.

6 "Ethnic or racial group" means for the purpose of genetic  
7 testing, a recognized group that an individual identifies as the  
8 individual's ancestry or part of the individual's ancestry or  
9 that is identified by other information.

10 "Fertility clinic" means a medical facility that  
11 specializes in diagnosing and treating infertility and the use  
12 of assisted reproductive technology.

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

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

16 "Genetic parent" means an individual whose relationship to  
17 a child has been determined by genetic testing or based on a  
18 statement by the physician who oversaw the in vitro process by  
19 which the embryo was created and transferred.

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

.B. NO.          

1           "Hypothesized genetic relationship" means an asserted  
2 genetic relationship between an individual and a child.

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

4           "Intended parent" means an individual, married or  
5 unmarried, who manifests an intent to be legally bound as a  
6 parent of a child conceived by assisted reproduction or by  
7 entering into a surrogacy agreement.

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

10          "Parentage" or "parent-child relationship" means the legal  
11 relationship between a child and a parent of the child.

12          "Presumed parent" means an individual who under  
13 section       -303 is presumed to be a parent of a child, unless  
14 the presumption is overcome in a judicial proceeding, a valid  
15 denial of parentage is made under part VI, or a court  
16 adjudicates the individual to be a parent.

17          "Probability of parentage" means, for the ethnic or racial  
18 group to which an individual alleged to be a parent belongs, the  
19 probability that a hypothesized genetic relationship is  
20 supported, compared to the probability that a genetic  
21 relationship is supported between the child and a random  
22 individual of the ethnic or racial group used in the

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1 hypothesized genetic relationship, expressed as a percentage  
2 incorporating the combined relationship index and a prior  
3 probability.

4 "Record" means information that is written or printed, or  
5 that is stored in an electronic or other medium and is  
6 retrievable in a perceivable form.

7 "Relationship index" means a likelihood ratio that compares  
8 the probability of a genetic marker given a hypothesized genetic  
9 relationship and the probability of the genetic marker given a  
10 genetic relationship between the child and a random individual  
11 of the ethnic or racial group used in the hypothesized genetic  
12 relationship.

13 "Sign" means, with present intent to authenticate or adopt  
14 a record, to execute or adopt a tangible symbol, or to attach or  
15 logically associate with the record an electronic symbol, sound,  
16 or process.

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

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



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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.

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1           (d) If it appears that the respondent has refused to  
2 accept service by registered or certified mail or is concealing  
3 the respondent's self or evading service, or the petitioner does  
4 not know the address or residence of the respondent and has not  
5 been able to ascertain the same after reasonable and due inquiry  
6 and search, the court may authorize notice of the parentage  
7 action and the time and date of hearing by publication or by any  
8 other manner that is reasonably calculated to give the party  
9 actual notice of proceedings and an opportunity to be heard,  
10 including the following:

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

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1           representative for the publication that the notice was  
2           given in the manner prescribed by the court;

3           (2) When posting to an online publication website is  
4           authorized, proof of service shall be satisfied by an  
5           affidavit or declaration by the authorized  
6           representative for the publication that the notice was  
7           given in the manner prescribed by the court;

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

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

18          (e) The action may be brought in the county in which:

19          (1) The child, or any parent, alleged genetic parent,  
20          functional parent, or presumed parent resides or is  
21          found;

22          (2) The child was born;

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1           (3) Proceedings for probate of the parent's estate have  
2                been or could be commenced, if a parent is deceased;  
3                or

4           (4) Assisted reproductive technology was performed, or as  
5                specified in an assisted reproduction or surrogacy  
6                agreement, if any.

7           §   -202   **Parentage determinations from other states and**  
8   **territories.** Parentage determinations from other states and  
9   territories, whether established through voluntary  
10   acknowledgement or through administrative or judicial processes,  
11   shall be treated the same as a parentage adjudication in this  
12   State. A determination addressing parentage only in another  
13   State does not preclude a court in this State from addressing  
14   other related issues.

15           §   -203   **Who may bring action; when action may be brought;**  
16   **process, warrant, bond.** (a) A child or guardian ad litem of  
17   the child, an individual who is the child's parent under this  
18   chapter, an individual whose parentage of the child is to be  
19   adjudicated, a personal representative of a deceased parent of  
20   the child, a personal representative of a deceased individual  
21   who otherwise would be entitled to maintain a proceeding, or the  
22   child support enforcement agency may bring an action for the



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1 purpose of declaring the existence or nonexistence of a parent-  
2 child relationship in accordance with the following:

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

5             (A) Within thirty days after the date of the child's  
6                 birth in any case when a parent relinquishes the  
7                 child for adoption during the thirty-day period;  
8                 or

9             (B) Any time prior to the date of execution by a  
10             parent of a valid consent to the child's  
11             adoption, or prior to placement of the child with  
12             adoptive parents;

13       (2) If the child has not become the subject of an adoption  
14             proceeding, within three years after the child reaches  
15             the age of majority or any time after that for good  
16             cause; provided that any period of time during which  
17             the individual whose parentage is to be adjudicated is  
18             absent from the State or is openly cohabitating with a  
19             parent of the child or is contributing to the support  
20             of the child, shall not be computed;

21       (3) This section shall not extend the time within which a  
22             right of inheritance or a right to a succession may be

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1           asserted beyond the time otherwise provided by law  
2           relating to distribution and closing of decedents'  
3           estates or to the determination of heirship; and

4           (4) A personal representative for purposes of this section  
5           may be appointed by the court upon a filing of an ex  
6           parte motion by one of the parties entitled to file a  
7           parentage action. Probate requirements need not be  
8           met. However, appointment of a personal  
9           representative in this section is limited to  
10          representation in proceedings under this chapter.

11          (b) When an action is brought under this section, process  
12          shall issue in the form of a summons and an order directed to  
13          the individual whose parentage of the child is to be  
14          adjudicated, requiring each party to appear and to show cause  
15          why the action should not be brought. The court, in its  
16          discretion, may waive a hearing on an uncontested parentage  
17          complaint submitted by an individual who gave birth to a child,  
18          an alleged genetic parent of the child, a presumed parent of the  
19          child, or a functional parent of the child with proof provided  
20          by affidavit.

21          If, at any stage of the proceedings, there appears probable  
22          cause to believe that the individual whose parentage of the

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1 child is to be adjudicated will fail to appear in response  
2 thereto or will flee the jurisdiction of the court, the court  
3 may issue a warrant directed to the sheriff, deputy sheriff, or  
4 any police officer within the circuit, requiring the individual  
5 to be arrested and brought for pre-trial proceedings before the  
6 family court. Upon such pre-trial proceedings, the court may  
7 require the individual to enter into bond with good sureties to  
8 the State in a sum to be fixed by the court for each  
9 individual's appearance and the trial of the proceeding in the  
10 family court. If the individual whose parentage of the child is  
11 to be adjudicated fails to give the bond required, the court may  
12 immediately commit that individual to the custody of the chief  
13 of police of the county, there to remain until that individual  
14 enters into the required bond or otherwise is discharged by due  
15 process of law. If the individual whose parentage of the child  
16 is to be adjudicated fails to appear in any proceeding under  
17 this chapter, any bond for that individual's appearance in any  
18 proceeding under this chapter shall be forfeited; but the trial  
19 of, or other proceedings in, the action shall proceed as though  
20 that individual were present, and the court shall make such  
21 orders as it deems proper upon the findings as though that  
22 individual were in court.

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1           In case of forfeiture of any appearance bond, the money  
2 collected upon the forfeiture shall be applied in payment of the  
3 judgment against the individual if they are adjudicated to be a  
4 parent under this chapter.

5           (c) Regardless of its terms, an agreement, other than an  
6 agreement approved by the court in accordance with  
7 section       -502(a)(2), between a parent and the individual whose  
8 parentage of the child is to be adjudicated shall not bar an  
9 action under this section.

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

15          (e) Subject to the requirements of section       -303(a),  
16 with respect to a child who was not conceived through assisted  
17 reproduction, where a married individual has not had sexual  
18 contact with the married individual's spouse nor resided in the  
19 same house with the spouse for at least three hundred days prior  
20 to the birth of the child and the spouse cannot be contacted  
21 after due diligence, the court may accept an affidavit by the  
22 married individual, attesting to the married individual's

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1 diligent efforts to contact the married individual's spouse and  
2 providing clear and convincing evidence to rebut the presumption  
3 of the parentage of the subject child, and upon the court's  
4 satisfaction, notice of the spouse may be waived and the spouse  
5 need not be made a party in the parentage proceedings. The  
6 court, after receiving evidence, may also enter a finding of  
7 non-parentage of the spouse.

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

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

19       §   -301   **Establishment of parent-child relationship.** A  
20 parent-child relationship is established between an individual  
21 and a child if:

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- 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 VI;
- 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(f) 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:

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

3           (A) The prospective presumed parent and the  
4           individual who gave birth to the child are  
5           married to each other and the child is born  
6           during the marriage, regardless of whether the  
7           marriage is or could be declared invalid and  
8           regardless of the gender of the two individuals;

9           (B) The prospective presumed parent and the  
10          individual who gave birth to the child were  
11          married to each other and the child is born not  
12          later than three hundred days after the marriage  
13          is terminated by death, divorce, annulment, or  
14          after a decree of separation, regardless of  
15          whether the marriage is or could be declared  
16          invalid; or

17          (C) The prospective presumed parent and the  
18          individual who gave birth to the child married  
19          each other after the birth of the child,  
20          regardless of whether the marriage is or could be  
21          declared invalid, the prospective presumed parent  
22          at any time asserted parentage of the child, and:

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- 1                   (i) The assertion is in an acknowledgment of  
2                   parentage as defined in part IV that is  
3                   filed with the department of health; or  
4                   (ii) The prospective presumed parent agreed to be  
5                   and is named as a parent of the child on the  
6                   birth certificate of the child; or  
7           (2) The individual resided in the same household with the  
8           child prior to the child reaching the age of majority,  
9           and openly held out the child as the individual's  
10          child.  
11          (3) Pursuant to section       -702, the prospective presumed  
12          parent submits to court-ordered genetic testing and  
13          the results, as stated in a report prepared by the  
14          testing laboratory, do not exclude the possibility of  
15          the prospective presumed parent's parentage of the  
16          child, provided the results of the testing disclose  
17          the individual has at least a ninety-nine percent  
18          probability of parentage, using a prior probability of  
19          .50 as calculated by using the combined relationship  
20          index obtained in the testing; and a combined  
21          relationship index of at least one hundred to one.



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1           (b) A presumption of parentage under this section may be  
2 overcome, and competing claims to parentage may be resolved,  
3 only by an adjudication under part V or VI or a valid denial of  
4 parentage under part VI.

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

6           §   **-401 Acknowledgment of parentage.** An individual who  
7 gave birth to a child and an alleged genetic parent of the  
8 child, intended parent under part VIII, or functional parent may  
9 sign an acknowledgment of parentage to establish the parentage  
10 of the child.

11           §   **-402 Execution of acknowledgment of parentage.** (a)  
12 An acknowledgment of parentage under section       -401 shall:

13           (1) Be in a record signed by the individual who gave birth  
14 to the child and by the other individual seeking to  
15 establish a parent-child relationship, and the  
16 signatures must be attested by a notarial officer or  
17 witnessed;

18           (2) State that the child whose parentage is being  
19 acknowledged:

20                   (A) Does not have a presumed parent other than the  
21 individual seeking to establish the parent-child  
22 relationship; and

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1           (B) Does not have another acknowledged parent or  
2                         adjudicated parent, or individual who is a parent  
3                         of the child under part VIII or IX other than the  
4                         individual who gave birth to the child; and

5           (3) State that the signatories understand that the  
6                         acknowledgment is the equivalent of an adjudication of  
7                         parentage of the child and that a challenge to the  
8                         acknowledgment is permitted only under limited  
9                         circumstances and is barred two years after the  
10                        effective date of the acknowledgment.

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

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

15           (2) An individual, other than the individual who gave  
16                         birth to the child or the individual seeking to  
17                         establish parentage, is an acknowledged or adjudicated  
18                         parent or a parent under part VIII or IX.

19           §   **-403 Expedited process of parentage.** (a) To expedite  
20 the establishment of parentage, each public or private birthing  
21 hospital or birthing center, the child support enforcement  
22 agency, midwives, and the department of health shall provide

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1 parents the opportunity to voluntarily acknowledge the parentage  
2 of a child during the period immediately prior to or following  
3 the child's birth. However, an individual who is a presumed  
4 parent under section -303(a)(1)(C) or section -303(a)(2)  
5 may only submit that individual's voluntary acknowledgment  
6 directly to the department of health. The voluntary  
7 acknowledgment of parentage shall be in writing and shall  
8 consist of a single form signed under oath, by the individual  
9 who gave birth to the child and the individual seeking to  
10 establish a parent-child relationship and also signed by a  
11 witness. The voluntary acknowledgment of parentage form shall  
12 include social security numbers, dates of birth, places of  
13 birth, and ethnic backgrounds, of each signatory. An electronic  
14 version of this form may be used.

15 (b) Prior to the signing of the voluntary acknowledgment  
16 of parentage form, designated staff members of such facilities  
17 at which a voluntary acknowledgment may be submitted, shall  
18 provide to both the individual who gave birth to the child and  
19 the other signatory, if either are present at the facility:

- 20 (1) Written materials regarding parentage establishment;  
21 (2) Forms necessary to voluntarily acknowledge parentage;  
22 and

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1           (3) Oral, video, audio, or written descriptions of the  
2                   alternatives to, the legal consequences of, and the  
3                   rights and responsibilities of acknowledging  
4                   parentage, including, if one parent is a minor, any  
5                   right afforded due to minority status; and

6           (4) The opportunity to speak with staff, either by  
7                   telephone or in person, who are trained to clarify  
8                   information and answer questions about parentage  
9                   establishment.

10           (c) The completed voluntary acknowledgment forms shall  
11 clearly identify the name and position of the staff member who  
12 provides information to the parents regarding parentage  
13 establishment. The provision by designated staff members of the  
14 facility of the information required by this section shall not  
15 constitute the unauthorized practice of law. Birthing facility  
16 staff, midwives, and department of health staff shall not be  
17 subject to civil, criminal, or administrative liability for a  
18 negligent act or omission relative to the accuracy of the  
19 information provided or for filing the declaration with the  
20 appropriate state or local agencies. Each facility shall send  
21 to the department of health the original acknowledgment of  
22 parentage form, or an electronic version, containing the social

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1 security numbers, dates of birth, places of birth, and ethnic  
2 backgrounds, of both signatories, with any other information  
3 required by the department of health so that the birth  
4 certificate issued includes the names of the signatories. The  
5 birth certificate shall be promptly recorded by the department  
6 of health.

7 (d) The child support enforcement agency shall:

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

9 (A) Materials and forms and a written description of  
10 the rights and responsibilities related to  
11 voluntary acknowledgment of parentage; and

12 (B) Training, guidance, and written instructions  
13 regarding voluntary acknowledgment of parentage;

14 (2) Annually assess each facility's parentage  
15 establishment program; and

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

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

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1           (f) The signed voluntary acknowledgment of parentage shall  
2 constitute a legal finding of parentage, subject to the right of  
3 any signatory to rescind the acknowledgment:

4           (1) Within sixty days of signature; or

5           (2) Before the date of an administrative or judicial  
6 proceeding relating to the child, including a  
7 proceeding to establish a support order to which the  
8 signatory is a party, whichever is sooner.

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

17           (h) The courts and office of child support hearings of  
18 this State shall give full faith and credit to affidavits for  
19 the voluntary acknowledgment of parentage signed in any other  
20 state and made in compliance with the law of that state, and  
21 these affidavits shall constitute legal findings of parentage  
22 subject to subsections (f) and (g).

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

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

8           §   -501 **Pretrial hearings.** (a) As soon as practicable  
9 after an action to declare the existence or nonexistence of a  
10 parent-child relationship has been brought, an informal hearing  
11 shall be held. The public shall be barred from the hearing. A  
12 record of the proceeding or any portion thereof shall be kept if  
13 any party requests, or the court orders. Rules of evidence need  
14 not be observed.

15           (b) The court, in its discretion, may waive such a hearing  
16 on an uncontested parentage complaint submitted by an individual  
17 who gave birth to a child, an alleged genetic parent of the  
18 child, a presumed parent of the child, or a functional parent of  
19 the child with proof provided by affidavit.

20           §   -502 **Pretrial recommendations.** (a) On the basis of  
21 the information produced at the pretrial hearing held pursuant  
22 to section   -501, the judge conducting the hearing shall

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1 evaluate the probability of determining the existence or  
2 nonexistence of the parent-child relationship in a trial and  
3 whether a judicial declaration of the relationship would be in  
4 the best interest of the child pursuant to section 571-46(b).

5 On the basis of the evaluation, an appropriate recommendation  
6 for settlement shall be made to the parties, which may include  
7 any of the following:

8       (1) That the action be dismissed with or without  
9       prejudice;

10       (2) That the matter be compromised by an agreement among  
11       the birth parent and the individual who is seeking to  
12       have parentage adjudicated, and the child, in which  
13       the individual seeking to be adjudicated to be a  
14       parent is not adjudicated to be a parent but in which  
15       a defined economic obligation is undertaken in favor  
16       of the child and, if appropriate, in favor of the  
17       parent, subject to approval by the judge conducting  
18       the hearing. In reviewing the obligation undertaken  
19       by the individual whose parentage is to be adjudicated  
20       in a compromise agreement, the judge conducting the  
21       hearing shall consider the best interest of the child,  
22       in light of the factors enumerated in section 576D-



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1           7(a), discounted by the improbability, as it appears  
2           to the judge, of establishing the parentage or  
3           nonparentage of the individual whose parentage is to  
4           be adjudicated in a trial of the action; or

5           (3) That the individual whose parentage is to be  
6           adjudicated voluntarily acknowledges parentage of the  
7           child.

8           (b) If the parties accept a recommendation made in  
9           accordance with subsection (a), judgment shall be entered  
10          accordingly.

11          (c) If a party refuses to accept the final recommendation  
12          made under subsection (a) and genetic tests have not been taken,  
13          the court may order the parties to submit to genetic tests, if  
14          practicable. Thereafter the judge shall make an appropriate  
15          final recommendation. If a party refuses to accept the final  
16          recommendation, the action shall be set for trial.

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

19          (e) The pretrial hearing may be terminated and the action  
20          set for trial if the judge conducting the hearing finds it  
21          unlikely that all parties would accept a recommendation the  
22          judge might make under subsection (a) or (c).

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1           §   **-503 Civil action.** (a) An action under this chapter  
2 shall be a civil action governed by the Hawaii family court  
3 rules or the Hawaii rules of civil procedure. The individual  
4 who gave birth to the child and the individual whose parentage  
5 is to be adjudicated shall be competent to testify and may be  
6 compelled to testify; provided that no criminal prosecution,  
7 other than a prosecution for perjury, shall afterwards be  
8 commenced against the individual who gave birth to the child or  
9 the individual whose parentage is to be adjudicated on account  
10 of any transaction, matter, or thing concerning which they may  
11 testify or produce evidence under this chapter, documentary or  
12 otherwise. Part VII shall apply in any action brought under  
13 this chapter.

14           (b) Testimony relating to sexual access to the individual  
15 who gave birth to the child by an unidentified person at any  
16 time or by an identified person at a time other than the  
17 probable time of conception of the child shall be inadmissible  
18 in evidence, unless offered by the individual who gave birth to  
19 the child.

20           (c) Notwithstanding the limitation on the admission of  
21 evidence stated in (b), evidence offered with respect to an  
22 individual who is not subject to the jurisdiction of the court

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1 concerning sexual intercourse or assisted reproduction with the  
2 individual who gave birth to the child at or about the probable  
3 time of conception of the child shall be admissible in evidence  
4 only if the individual offering the evidence has undergone and  
5 made available to the court genetic tests, including genetic  
6 tests the results of which do not exclude the possibility of the  
7 individual's parentage of the child.

8       **§ -504 Judgment or order.** (a) The judgment or order of  
9 the court determining the existence or nonexistence of the  
10 parent-child relationship shall be determinative for all  
11 purposes.

12       (b) If the judgment or order of the court is at variance  
13 with the child's birth certificate, the court shall order that a  
14 new birth certificate be issued pursuant to section -510.

15       (c) The judgment or order may contain any other provision  
16 directed against the appropriate party to the proceeding,  
17 concerning the duty of support, the custody and guardianship of  
18 the child, visitation privileges with the child, the furnishing  
19 of bond or other security for the payment of the judgment, or  
20 any other matter in the best interest of the child. Upon  
21 neglect or refusal to give this security, or upon default of a  
22 parent or a parent's surety in compliance with the terms of the

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1 judgment, the court may order the forfeiture of any such  
2 security and the application of the proceeds thereof toward the  
3 payment of any sums due under the terms of the judgment and may  
4 also sequester a parent's personal estate, and the rents and  
5 profits of a parent's real estate, and may appoint a receiver  
6 thereof, and may cause a parent's personal estate, including any  
7 salaries, wages, commissions, or other moneys owed to the parent  
8 and the rents and profits of the parent's real estate, to be  
9 applied toward the meeting of the terms of the judgment, to the  
10 extent that the court, from time to time, deems just and  
11 reasonable. The judgment or order may direct a parent to pay  
12 the reasonable expenses of the pregnancy and birth, including  
13 but not limited to medical insurance premiums, such as for  
14 MedQuest, that cover the periods of pregnancy and childbirth.  
15 The court may further order the noncustodial parent to reimburse  
16 the custodial parent, the child, or any public agency for  
17 reasonable expenses incurred prior to entry of judgment,  
18 including support, maintenance, education, and funeral expenses  
19 expended for the benefit of the child.

20 (d) Support judgments or orders ordinarily shall be for  
21 periodic payments that may vary in amount. In the best interest  
22 of the child, a lump sum payment or the purchase of an annuity

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1 may be ordered in lieu of periodic payments of support. The  
2 court may limit the obligor parent's liability for past support  
3 of the child to the proportion of the expenses already incurred  
4 that the court deems just.

5       (e) In determining the amount to be paid by a parent for  
6 support of the child and the period during which the duty of  
7 support is owed, a court enforcing the obligation of support  
8 shall use the guidelines established under section 576D-7.  
9 Provision may be made for the support, maintenance, and  
10 education of an adult or minor child and an incompetent adult  
11 child, whether or not the petition is made before or after the  
12 child has attained the age of majority.

13       (f) Whenever a parent of a child is a minor, unmarried,  
14 and not able to provide full support, the court may order one or  
15 both parents of the minor to support the child until the minor  
16 reaches the age of majority, is otherwise emancipated, or is  
17 financially able to fully support the child, whichever occurs  
18 first. For this purpose:

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

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

5           (3) The parent or parents of the minor shall be an obligor  
6                   under this chapter and chapter 571 and any action  
7                   against the obligor to collect support may be pursued  
8                   against the parent or parents of the minor.

9           § **-505 Costs.** The court may order reasonable fees of  
10           counsel, experts, and the child's guardian ad litem, and other  
11           costs of the action and pre-trial proceedings, including genetic  
12           tests, subject to section       -703, to be paid by the parties in  
13           proportions and at times determined by the court.

14           § **-506 Enforcement of judgment or order.** (a) If  
15           existence of the parent-child relationship is declared, or  
16           parentage or a duty of support has been acknowledged or  
17           adjudicated under this chapter or under prior law, the  
18           obligation of a parent may be enforced in the same or other  
19           proceedings by the other parent, the child, the public authority  
20           that has furnished or may furnish the reasonable expenses of  
21           pregnancy, childbirth, education, support, or funeral, or by any

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1 other individual, including a private agency, to the extent the  
2 individual has furnished or is furnishing these expenses.

3       (b) The court may order support payments to be made to a  
4 parent or an adult child, or through the child support  
5 enforcement agency as its rules permit, or through an  
6 individual, corporation, or agency designated to administer  
7 support payments for the benefit of the child under the  
8 supervision of the court.

9       (c) Willful failure to obey the judgment or order of the  
10 court shall be a civil contempt of the court. All remedies for  
11 the enforcement of judgments shall apply to this chapter. When  
12 a court of competent jurisdiction issues an order compelling a  
13 parent to furnish support, including child support, medical  
14 support, or other remedial care, for the parent's child, it  
15 shall constitute prima facie evidence of a civil contempt of  
16 court upon proof that:

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

20       (2) The parent did not comply with the order, shall  
21 constitute prima facie evidence of a civil contempt of  
22 court. An order of civil contempt of court based on

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1           prima facie evidence under this subsection shall  
2           clearly state that the failure to comply with the  
3           order of civil contempt of court may subject the  
4           parent to a penalty that may include imprisonment or,  
5           if imprisonment is immediately ordered, the conditions  
6           that must be met for release from imprisonment. A  
7           party may also prove civil contempt of court by means  
8           other than prima facie evidence under this subsection.

9           §   **-507 Modification of judgment or order.** (a) The  
10          court shall have continuing jurisdiction to modify or revoke a  
11          judgment or order:

- 12           (1) For future education and support; and
- 13           (2) With respect to matters listed in section   -504(c)  
14           and (d) and section   -506(b), except that a court  
15           entering a judgment or order for the payment of a lump  
16           sum or the purchase of an annuity under  
17           section   -504(d) may specify that the judgment or  
18           order may not be modified or revoked.

19           (b) In those cases where child support payments are to  
20          continue due to the adult child's pursuance of education, the  
21          child support enforcement agency, at least three months prior to  
22          the adult child's nineteenth birthday, shall send notice by



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1 regular mail to the adult child and the custodial parent that  
2 prospective child support will be suspended unless proof is  
3 provided by the custodial parent or adult child, to the child  
4 support enforcement agency, prior to the child's nineteenth  
5 birthday, that the child is presently enrolled as a full-time  
6 student in school or has been accepted into and plans to attend  
7 as a full-time student for the next semester a post-high school  
8 university, college, or vocational school. If the custodial  
9 parent or adult child fails to do so, prospective child support  
10 payments may be automatically suspended by the child support  
11 enforcement agency, hearings officer, or court. In addition, if  
12 applicable, the child support enforcement agency, hearings  
13 officer, or court may issue an order terminating existing  
14 assignments against the responsible parent's income and income  
15 assignment orders.

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

19       § -508 **Hearings and records; confidentiality.** (a)  
20 Notwithstanding any other law concerning public hearings and  
21 records, any hearing or trial held under this chapter shall be  
22 held in closed court without admittance of any individual other

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1 than those individuals necessary to the action or proceeding.  
2 All papers and records pertaining to the action or proceeding,  
3 whether part of the permanent record of the court or of a file  
4 in the department of health or elsewhere, shall be subject to  
5 inspection only upon consent of the court and all interested  
6 individuals; provided that the court records under this chapter  
7 shall be sealed, such that the filings, caption, party names,  
8 docket, and any information identifying the type of case are not  
9 open for public inspection, or in exceptional cases only upon an  
10 order of the court for good cause shown.

11       (b) Upon parentage being established, the confidentiality  
12 requirement shall not extend to the judgment and all  
13 subsequently filed documents that are used in good faith for  
14 support and medical expenses, insurance, or enforcement  
15 purposes, except that the confidentiality requirement shall  
16 continue to apply to any references to a non-adjudicated alleged  
17 or presumed parent.

18       (c) Subsections (a) and (b) shall only apply to cases  
19 under parts VIII and IX and any other case under this chapter  
20 filed before January 1, 2021.

21       § -509 **Court filings; minutes of proceedings; posting**  
22 **requirement.** The judiciary shall post on its website the titles

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

12       §   -510 **Birth records.** (a) Upon order of a court of  
13 this State or upon request or order of a court of another state,  
14 or following acknowledgment as provided in section     -401, the  
15 department of health shall prepare a new certificate of birth  
16 consistent with the findings of the court or in cases of  
17 acknowledgment under section     -401, consistent with the  
18 acknowledgment, and shall substitute the new certificate for the  
19 original certificate of birth.

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

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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**



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1           (3) Declines to submit to genetic testing ordered by the  
2                   court or the child support enforcement agency, in  
3                   which case the court may adjudicate the alleged  
4                   genetic parent to be a parent of the child even if the  
5                   alleged genetic parent denies a genetic relationship  
6                   with the child;

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

10          (5) Is neither identified nor excluded as a genetic parent  
11                   by genetic testing and, based on other evidence, the  
12                   court determines the alleged genetic parent to be a  
13                   parent of the child.

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

20           **§ -602 Adjudicating parentage of child with presumed**

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

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

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

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

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

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

11          (c) Except as otherwise provided by law, the following  
12 rules apply in a proceeding to adjudicate a presumed parent's  
13 parentage of a child if the individual who gave birth to the  
14 child is the only other individual with a claim to parentage of  
15 the child:

16          (1) If no party to the proceeding challenges the presumed  
17          parent's parentage of the child, the court shall  
18          adjudicate the presumed parent to be a parent of the  
19          child;

20          (2) If the presumed parent is identified under  
21          section       -705 as a genetic parent of the child and  
22          that identification is not successfully challenged

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1           under section       -705, the court shall adjudicate the  
2           presumed parent to be a parent of the child; and

3           (3) If the presumed parent is not identified under  
4           section       -705 as a genetic parent of the child and  
5           the presumed parent or the individual who gave birth  
6           to the child challenges the presumed parent's  
7           parentage of the child, the court shall adjudicate the  
8           parentage of the child in the best interest of the  
9           child based on the factors under section       -607(a)  
10          and (b).

11          (d) If in a proceeding to adjudicate a presumed parent's  
12          parentage of a child, another individual in addition to the  
13          individual who gave birth to the child asserts a claim to  
14          parentage of the child, the court shall adjudicate parentage  
15          under section       -607, unless a valid denial of parentage is  
16          filed in accordance with section       -608.

17          §   -603   **Adjudicating claim of functional parentage of**

18          **child.** (a) A proceeding to establish parentage of a child  
19          under this section may be commenced only by an individual who:

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

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



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1           (b) An individual who claims to be a functional parent of  
2 a child must commence a proceeding to establish parentage of a  
3 child under this section:

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

5           (2) While the child is alive.

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

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

12           The verified pleading must be served on all parents  
13 and legal guardians of the child and any other party  
14 to the proceeding;

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

19           (3) Unless the court finds a hearing is necessary to  
20 determine disputed facts material to the issue of  
21 standing, the court shall determine, based on the  
22 pleadings under paragraphs (1) and (2), whether the

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1           individual has alleged facts sufficient to satisfy by  
2           a preponderance of the evidence the requirements of  
3           paragraphs (1) through (7) of subsection (d). If the  
4           court holds a hearing under this subsection, the  
5           hearing shall be held on an expedited basis.

6           (d) In a proceeding to adjudicate parentage of an  
7           individual who claims to be a functional parent of the child, if  
8           there is only one other individual who is a parent or has a  
9           claim to parentage of the child, the court shall adjudicate the  
10          individual who claims to be a functional parent to be a parent  
11          of the child if the individual demonstrates by clear and  
12          convincing evidence that:

13          (1) The individual resided with the child as a regular  
14          member of the child's household for a significant  
15          period;

16          (2) The individual engaged in consistent caretaking of the  
17          child;

18          (3) The individual undertook full and permanent  
19          responsibilities of a parent of the child without  
20          expectation of financial compensation;

21          (4) The individual held out the child as the individual's  
22          child;

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1           (5) The individual established a bonded and dependent  
2           relationship with the child which is parental in  
3           nature;

4           (6) Another parent of the child fostered or supported the  
5           bonded and dependent relationship required under  
6           paragraph (5); and

7           (7) Continuing the relationship between the individual and  
8           the child is in the best interest of the child.

9           (e) Subject to other limitations in this part, if in a  
10          proceeding to adjudicate parentage of an individual who claims  
11          to be a functional parent of the child, there is more than one  
12          other individual who is a parent or has a claim to parentage of  
13          the child and the court determines that the requirements of  
14          subsection (d) are satisfied, the court shall adjudicate  
15          parentage under section       -607, unless a valid denial of  
16          parentage is filed in accordance with section       -608.

17          §    **-604 Adjudicating parentage of child with acknowledged**

18 **parent.** (a) If a child has an acknowledged parent, a  
19 proceeding to challenge the acknowledgment of parentage, brought  
20 by a signatory to the acknowledgment, is governed by  
21 section       -403(g).

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1           (b) If a child has an acknowledged parent, the following  
2 rules apply in a proceeding to challenge the acknowledgment of  
3 parentage brought by an individual, other than the child, who  
4 has standing under section       -203 and was not a signatory to  
5 the acknowledgment:

6           (1) The individual shall commence the proceeding not later  
7 than two years after the effective date of the  
8 acknowledgment, unless good cause is shown;

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

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

15       §   -605   **Adjudicating parentage of child with adjudicated**

16 **parent.** (a) If a child has an adjudicated parent, a proceeding  
17 to challenge the adjudication, brought by an individual who was  
18 a party to the adjudication or received notice under  
19 section       -201, is governed by the rules governing a collateral  
20 attack on a judgment.

21           (b) If a child has an adjudicated parent, the following  
22 rules apply to a proceeding to challenge the adjudication of

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1 parentage brought by an individual, other than the child, who  
2 has standing under section -203 and was not a party to the  
3 adjudication and did not receive notice under section -201:

4 (1) The individual shall commence the proceeding not later  
5 than two years after the effective date of the  
6 adjudication, unless good cause is shown;

7 (2) The court may permit the proceeding only if the court  
8 finds permitting the proceeding is in the best  
9 interest of the child pursuant to section 571-46(b);  
10 and

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

13 **§ -606 Adjudicating parentage of a child of assisted**  
14 **reproduction.** (a) An individual who is a parent under part  
15 VIII or the individual who gave birth to the child may bring a  
16 proceeding to adjudicate parentage. If the court determines the  
17 individual is a parent under part VIII, the court shall  
18 adjudicate the individual to be a parent of the child.

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

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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, -603, -604, or -605 to, parentage of a  
7 child by two or more individuals, the court shall adjudicate  
8 parentage in 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.

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

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

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

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





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1 individual in a proceeding to adjudicate parentage, whether the  
2 individual:

- 3       (1) Voluntarily submits to testing; or  
4       (2) Is tested under an order of the court or the child  
5       support enforcement agency.

6       (b) Genetic testing may not be used:

- 7       (1) To challenge the parentage of an individual who is a  
8       parent under part VIII or IX; or  
9       (2) To establish the parentage of an individual who is a  
10      donor.

11       § -702 **Authority to order or deny genetic testing.** (a)

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

- 17       (1) Alleging a reasonable possibility that the individual  
18       is the child's genetic parent; or  
19       (2) Denying genetic parentage of the child and stating  
20       facts establishing a reasonable possibility that the  
21       individual is not a genetic parent.

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1           (b) The child support enforcement agency may order genetic  
2 testing only if there is no presumed, acknowledged, or  
3 adjudicated parent of a child other than the individual who gave  
4 birth to the child.

5           (c) The court or the child support enforcement agency may  
6 not order in utero genetic testing.

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

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

17          (f) In a proceeding to adjudicate the parentage of a child  
18 having a presumed parent or an individual who claims to be a  
19 parent under section       -602, or to challenge an acknowledgment  
20 of parentage, the court may deny a motion for genetic testing of  
21 the child and any other individual after considering the factors  
22 in section       -607(a) and (b).

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1           (g) If an individual requesting genetic testing is barred  
2 under section     -403(g),     -604(b), or     -605(b) from  
3 establishing the individual's parentage, the court shall deny  
4 the request for genetic testing.

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

7           **§ -703 Requirements for genetic testing.** (a) Genetic  
8 testing shall be of a type reasonably relied on by experts in  
9 the field of genetic testing and performed in a testing  
10 laboratory accredited by:

11           (1) The AABB, formerly known as the American Association  
12           of Blood Banks, or a successor to its functions; or

13           (2) An accrediting body designated by the Secretary of the  
14           United States Department of Health and Human Services.

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

20           (c) Based on the ethnic or racial group of an individual  
21 undergoing genetic testing, a testing laboratory shall determine  
22 the databases from which to select frequencies for use in

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1 calculating a relationship index. If an individual or the child  
2 support enforcement agency objects to the laboratory's choice,  
3 the following rules apply:

4       (1) Not later than thirty days after receipt of the report  
5           of the test, the objecting individual or the child  
6           support enforcement agency may request the court to  
7           require the laboratory to recalculate the relationship  
8           index using an ethnic or racial group different from  
9           that used by the laboratory.

10       (2) The individual or the child support enforcement agency  
11           objecting to the laboratory's choice under this  
12           subsection shall:

13           (A) If the requested frequencies are not available to  
14               the laboratory for the ethnic or racial group  
15               requested, provide the requested frequencies  
16               compiled in a manner recognized by accrediting  
17               bodies; or

18           (B) Engage another laboratory to perform the  
19               calculations.

20       (3) The laboratory may use its own statistical estimate if  
21           there is a question which ethnic or racial group is  
22           appropriate. The laboratory shall calculate the

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1           frequencies using statistics, if available, for any  
2           other ethnic or racial group requested.

3           (d) If, after recalculation of the relationship index  
4 under sub-section (c) using a different ethnic or racial group,  
5 genetic testing under section -705 does not identify an  
6 individual as a genetic parent of a child, the court may require  
7 an individual who has been tested to submit to additional  
8 genetic testing to identify a genetic parent.

9           **§ -704 Report of genetic testing.** (a) In any hearing  
10 or trial brought under this chapter, a report of the facts and  
11 results of genetic tests ordered by the court under this chapter  
12 shall be admissible in evidence by affidavit of the person whose  
13 name is signed to the report, attesting to the procedures  
14 followed in obtaining the report. A report of the facts and  
15 results of genetic tests shall be admissible as evidence of  
16 parentage without the need for foundation testimony or other  
17 proof of authenticity or accuracy, unless objection is made.

18           (b) Documentation from a testing laboratory of the  
19 following information is sufficient to establish a reliable  
20 chain of custody and allow the results of genetic testing to be  
21 admissible without testimony:

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- 1           (1) The name and photograph of each individual whose  
2                   specimen has been taken;
- 3           (2) The name of the individual who collected each  
4                   specimen;
- 5           (3) The place and date each specimen was collected;
- 6           (4) The name of the individual who received each specimen  
7                   in the testing laboratory; and
- 8           (5) The date each specimen was received.
- 9           (c) An alleged genetic parent or party to the parentage  
10           action who objects to the admission of the report concerning the  
11           genetic test results must file a motion no later than twenty  
12           days after receiving a copy of the report and shall show good  
13           cause as to why a witness is necessary to lay the foundation for  
14           the admission of the report as evidence. The court may, sua  
15           sponte, or at a hearing on the motion determine whether a  
16           witness shall be required to lay the foundation for the  
17           admission of the report as evidence. The right to call  
18           witnesses to rebut the report is reserved to all parties.

19           **§ -705 Genetic testing results; challenge to results.**

20           (a) Subject to a challenge under subsection (b), an individual  
21           is identified under this chapter as a genetic parent of a child

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1 if genetic testing complies with this part and the results of  
2 the testing disclose:

3       (1) The individual has at least a ninety-nine percent  
4           probability of parentage, using a prior probability of  
5           0.50, as calculated by using the combined relationship  
6           index obtained in the testing; and

7       (2) A combined relationship index of at least one hundred  
8           to one.

9       (b) An individual identified under subsection (a) as a  
10 genetic parent of the child may challenge the genetic testing  
11 results only by other genetic testing satisfying the  
12 requirements of this part which:

13       (1) Excludes the individual as a genetic parent of the  
14           child; or

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

17           (A) The individual who gave birth to the child; or

18           (B) The individual identified under subsection (a).

19       (c) If more than one individual other than the individual  
20 who gave birth is identified by genetic testing as a possible  
21 genetic parent of the child, the court shall order each

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1 individual to submit to further genetic testing to identify a  
2 genetic parent.

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

6           **§ -706 Genetic testing when specimen not available. (a)**

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

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

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



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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  
9 parent 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:

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- 1           (1) The individual giving birth to a child or the other  
2                   individual proves by clear and convincing evidence the  
3                   existence of an express agreement entered into before  
4                   conception that the individual giving birth and the  
5                   other individual intended they both would be parents  
6                   of the child; or
- 7           (2) The individual giving birth to the child and the other  
8                   individual for the first two years of the child's  
9                   life, including any period of temporary absence,  
10                  resided together in the same household with the child  
11                  and both openly held out the child as the individual's  
12                  child; provided, however, that if an individual dies  
13                  or becomes incapacitated before the child attains two  
14                  years of age or the child dies before the child  
15                  attains two years of age, the court may find consent  
16                  under this subsection to parentage if a party proves  
17                  by clear and convincing evidence that the individual  
18                  giving birth to the child and the other individual  
19                  intended to reside together in the same household with  
20                  the child and both intended the individual would  
21                  openly hold out the child as the individual's child,

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1           but the individual was prevented from carrying out  
2           that intent by death or incapacity.

3           **§ -805 Limitation on spouse's dispute of parentage. (a)**

4 Except as otherwise provided in subsection (b), an individual  
5 who, at the time of the child's birth, is the spouse of an  
6 individual who gave birth to the child by assisted reproduction  
7 may not challenge the individual's own parentage of the child  
8 unless:

- 9           (1) Not later than two years after the birth of the child  
10           or the date of which the individual first learns of  
11           the birth of the child, whichever is later, the  
12           individual commences a proceeding to adjudicate the  
13           individual's parentage of the child; and  
14           (2) The court finds the individual did not consent to the  
15           assisted reproduction, before, on, or after the birth  
16           of the child, or withdrew consent under  
17           section -807.

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

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

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

4           (3) The spouse never openly held out the child as the  
5           spouse's child.

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

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

21           **§ -807 Withdrawal of consent.** (a) An individual who  
22 consents under section -804 to assisted reproduction may

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1 withdraw consent any time before a transfer, by giving notice in  
2 a record of the withdrawal of consent to the individual who  
3 agreed to give birth to a child conceived by assisted  
4 reproduction and to any clinic or health-care provider  
5 facilitating the assisted reproduction. Failure to give notice  
6 to the clinic or health-care provider does not affect a  
7 determination of parentage under this part.

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

10           § **-808 Parental status of deceased individual.** (a) If  
11 an individual who intends to be a parent of a child conceived by  
12 assisted reproduction dies during the period between the  
13 transfer of a gamete or embryo and the birth of the child, the  
14 individual's death does not preclude the establishment of the  
15 individual's parentage of the child if the individual otherwise  
16 would be a parent of the child under this chapter.

17           (b) If an individual who consented in a record to assisted  
18 reproduction by an individual who agreed to give birth to a  
19 child dies before a transfer of gametes or embryos, the deceased  
20 individual is a parent of a child conceived by the assisted  
21 reproduction only if:

22           (1) Either:

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1           (A) The individual consented in a record that if  
2                    assisted reproduction were to occur after the  
3                    death of the individual, the individual would be  
4                    a parent of the child; or

5           (B) The individual's intent to be a parent of a child  
6                    conceived by assisted reproduction after the  
7                    individual's death is established by clear-and-  
8                    convincing evidence; and

9           (2) Either:

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

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

14                           **PART IX. SURROGACY AGREEMENT**

15                                   **SUBPART A. General Provisions**

16           § -901 **Definitions.** As used in this part:

17           "Genetic surrogate" means an individual who is capable of  
18 carrying a pregnancy to term and giving birth to a child, who is  
19 not an intended parent and who agrees to become pregnant through  
20 assisted reproduction using the individual's own gamete, under a  
21 genetic surrogacy agreement as provided in this part.

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1           "Gestational surrogate" means an individual who is capable  
2 of carrying a pregnancy to term and giving birth to a child, who  
3 is not an intended parent and who agrees to become pregnant  
4 through assisted reproduction using gametes that are not the  
5 individual's own, under a gestational surrogacy agreement as  
6 provided in this part.

7           "Surrogacy agreement" means an agreement between one or two  
8 intended parents and an individual who is capable of carrying a  
9 pregnancy to term and giving birth to a child and who is not an  
10 intended parent in which said individual agrees to become  
11 pregnant through assisted reproduction and which provides that  
12 any intended parent is a parent of a child conceived under the  
13 agreement. Unless otherwise specified, the term refers to both  
14 a gestational surrogacy agreement and a genetic surrogacy  
15 agreement.

16           **§ -902 Eligibility to enter gestational or genetic**  
17 **surrogacy agreement.** (a) To execute an agreement to act as a  
18 gestational or genetic surrogate, an individual who is capable  
19 of carrying a pregnancy to term and giving birth to a child  
20 shall:

- 21           (1) Have attained twenty-one years of age;  
22           (2) Previously have given birth to at least one child;

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1           (3) Complete a medical evaluation related to the surrogacy  
2                   arrangement by a licensed medical doctor;

3           (4) Complete a mental health consultation by a licensed  
4                   mental health professional; and

5           (5) Have independent legal representation of the  
6                   individual's choice throughout the surrogacy  
7                   arrangement regarding the terms of the surrogacy  
8                   agreement and the potential legal consequences of the  
9                   agreement.

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

12           (1) Have attained twenty-one years of age; and

13           (2) Have independent legal representation of the intended  
14                   parent's or parents' choice throughout the surrogacy  
15                   arrangement regarding the terms of the surrogacy  
16                   agreement and the potential legal consequences of the  
17                   agreement; provided that the intended parents may be  
18                   jointly represented if desired.

19           § -903 **Requirements of gestational or genetic surrogacy**  
20 **agreement; process.** A surrogacy agreement shall be executed in  
21 compliance with the following rules:



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

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

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

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

19           §   **-904 Requirements of gestational or genetic surrogacy**  
20 **agreement; content.** (a) A surrogacy agreement shall comply  
21 with the following requirements:

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- 1           (1) A surrogate shall agree to attempt to become pregnant  
2                    by 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                    shall have no claim to parentage of a child conceived  
7                    by 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

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1           responsibility for the financial support of the child,  
2           regardless of the number of children born, or the  
3           gender or mental or physical condition of each child;

4           (6) The surrogacy agreement shall provide for payment by  
5           the intended parent or parents of reasonable legal,  
6           medical and ancillary expenses, including:

7           (A) Premiums for a health insurance policy that  
8           covers medical treatment and hospitalization for  
9           the person acting as surrogate unless otherwise  
10          mutually agreed upon by the parties, pursuant to  
11          the terms of the surrogacy agreement;

12          (B) Payment of all uncovered medical expenses;

13          (C) Payment of legal fees for the legal  
14          representation of the person acting as surrogate;

15          (D) Payment of life insurance premiums, pursuant to  
16          the terms of the surrogacy agreement; and

17          (E) Any other reasonable financial arrangements  
18          mutually agreed upon by the parties, including  
19          any applicable reimbursement and compensation  
20          schedule, pursuant to the terms of the surrogacy  
21          agreement.

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1           (7) The intended parent or parents shall be liable for the  
2                    surrogacy-related expenses of the individual acting as  
3                    surrogate, including expenses for health care provided  
4                    for assisted reproduction, prenatal care, labor and  
5                    delivery and for the medical expenses of the resulting  
6                    child that are not paid by insurance. This paragraph  
7                    shall not be construed to supplant any health  
8                    insurance coverage that is otherwise available to the  
9                    person acting as surrogate or an intended parent for  
10                  the coverage of health care costs. This paragraph  
11                  shall not change the health insurance coverage of the  
12                  person acting as surrogate or the responsibility of  
13                  the insurance company to pay benefits under a policy  
14                  that covers a person acting as surrogate.

15           (8) The agreement shall permit the surrogate to make all  
16                    health and welfare decisions regarding themselves and  
17                    their pregnancy. This chapter does not enlarge or  
18                    diminish the surrogate's constitutional or other legal  
19                    right to terminate the pregnancy;

20           (9) The agreement shall include information about each  
21                    party's right under this part to terminate the  
22                    surrogacy agreement;

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1           (10) The agreement shall address confidentiality between  
2                           the parties to the agreement; and

3           (11) The agreement shall address whether the intended  
4                           parents will complete a mental health consultation by  
5                           a licensed mental health professional.

6           (b) A surrogacy agreement may provide for:

7           (1) Payment of consideration to, and payment or  
8                           reimbursement of reasonable expenses to, the  
9                           surrogate; and

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

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

15          §   -905   **Surrogacy agreement; effect of subsequent change**  
16 **of marital status.** (a) Unless a surrogacy agreement expressly  
17 provides otherwise:

18          (1) The marriage of a surrogate after the agreement is  
19                           signed by all parties does not affect the validity of  
20                           the agreement, the surrogate's spouse's consent to the  
21                           agreement is not required, and the surrogate's spouse

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1           is not a presumed parent of a child conceived by  
2           assisted reproduction under the agreement; and

3           (2) The divorce, dissolution, annulment, declaration of  
4           invalidity, or legal separation, of the surrogate  
5           after the agreement is signed by all parties does not  
6           affect the validity of the agreement.

7           (b) Unless a surrogacy agreement expressly provides  
8 otherwise:

9           (1) The marriage of an intended parent after the agreement  
10          is signed by all parties does not affect the validity  
11          of a surrogacy agreement, the consent of the spouse of  
12          the intended parent is not required, and the spouse of  
13          the intended parent is not, based on the agreement  
14          alone, a parent of a child conceived by assisted  
15          reproduction under the agreement; and

16          (2) The divorce, dissolution, annulment, declaration of  
17          invalidity, or legal separation of an intended parent  
18          after the agreement is signed by all parties does not  
19          affect the validity of the agreement and, except as  
20          otherwise provided in section       -913, the intended  
21          parents are the parents of the child.

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1           **§ -906 Exclusive, continuing jurisdiction.** During the  
2 period after the execution of a surrogacy agreement until ninety  
3 days after the birth of a child conceived by assisted  
4 reproduction under the agreement, a court of this State  
5 conducting a proceeding under this chapter has exclusive,  
6 continuing jurisdiction over all matters arising out of the  
7 agreement. This section does not give the court jurisdiction  
8 over a child custody or child support proceeding if jurisdiction  
9 is not otherwise authorized by a law of this State other than  
10 this chapter.

11           **SUBPART B. SPECIAL RULES OF GESTATIONAL SURROGACY AGREEMENT**

12           **§ -907 Termination of gestational surrogacy agreement.**

13 (a) A party to a gestational surrogacy agreement may terminate  
14 the agreement, at any time before an embryo transfer, by giving  
15 notice of termination in a record to all other parties. If an  
16 embryo transfer does not result in a pregnancy, a party may  
17 terminate the agreement at any time before a subsequent embryo  
18 transfer.

19 (b) Unless a gestational surrogacy agreement provides  
20 otherwise, on termination of the agreement under subsection (a),  
21 the parties are released from the agreement, except that each  
22 intended parent remains responsible for expenses that are



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1 reimbursable under the agreement and incurred by the gestational  
2 surrogate through the date of termination.

3       (c) Except in a case involving fraud, neither a  
4 gestational surrogate nor the surrogate's spouse or former  
5 spouse, if any, is liable to the intended parent or parents for  
6 a penalty or liquidated damages, for terminating a gestational  
7 surrogacy agreement under this section.

8       **§ -908 Parentage under gestational surrogacy agreement.**

9       (a) Except as otherwise provided in subsection (c),  
10 section -909(b), or section -911, on birth of a child  
11 conceived by assisted reproduction under a gestational surrogacy  
12 agreement, each intended parent is, by operation of law, a  
13 parent of the child.

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

18       (c) If a child is alleged to be a genetic child of the  
19 individual who agreed to be a gestational surrogate, the court  
20 shall order genetic testing of the child. If the child is a  
21 genetic child of said individual who agreed to be a gestational

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1 surrogate, parentage shall be determined based on parts I  
2 through VII.

3         (d) Except as otherwise provided in subsection (c),  
4 section -909(b), or section -911, if, due to a clinical or  
5 laboratory error, a child conceived by assisted reproduction  
6 under a gestational surrogacy agreement is not genetically  
7 related to either intended parent or to a donor who donated  
8 gametes to the intended parent or parents, each intended parent,  
9 and not the gestational surrogate and the surrogate's spouse or  
10 former spouse, if any, is a parent of the child, subject to any  
11 other claim of parentage.

12         § -909 **Gestational surrogacy agreement; parentage of**  
13 **deceased intended parent.** (a) Section -908 applies to an  
14 intended parent even if the intended parent dies 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 -911, an  
18 intended parent is not a parent of a child conceived by assisted  
19 reproduction under a gestational surrogacy agreement if the  
20 intended parent dies before the transfer of a gamete or embryo  
21 unless:

22         (1) The agreement provides otherwise; and

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1           (2) The transfer of a gamete or embryo occurs not later  
2                    than thirty-six months after the death of the intended  
3                    parent or the birth of the child occurs not later than  
4                    forty-five months after the death of the intended  
5                    parent.

6           §    **-910 Gestational surrogacy agreement; order of**  
7 **parentage.** (a) Except as otherwise provided in  
8 section       -908(c) or       -911, before, on, or after the birth of  
9 a child conceived by assisted reproduction under a gestational  
10 surrogacy agreement, a party to the agreement may commence a  
11 proceeding in the appropriate court for an order or judgment:

12           (1) Declaring that each intended parent is a parent of the  
13                    child and ordering that parental rights and duties  
14                    vest immediately on the birth of the child exclusively  
15                    in each intended parent;

16           (2) Declaring that the gestational surrogate and the  
17                    surrogate's spouse or former spouse, if any, are not  
18                    the parents of the child;

19           (3) Designating the content of the birth record in  
20                    accordance with chapter 338, and directing the  
21                    department of health to designate each intended parent  
22                    as a parent of the child;

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

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

10          (6) For other relief the court determines necessary and  
11          proper.

12          (b) The court may issue an order or judgment under  
13          subsection (a) before the birth of the child. The court shall  
14          stay enforcement of the order or judgment until the birth of the  
15          child.

16          (c) Neither the State nor the department of health is a  
17          necessary party to a proceeding under subsection (a).

18          **§ -911 Effect of gestational surrogacy agreement. (a)**

19          A gestational surrogacy agreement that complies with  
20          sections -902, -903, and -904 is enforceable.

21          (b) If a child was conceived by assisted reproduction  
22          under a gestational surrogacy agreement that does not comply

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1 with sections -902, -903, and -904, the court shall  
2 determine the rights and duties of the parties to the agreement  
3 consistent with the intent of the parties at the time of  
4 execution of the agreement. Each party to the agreement and any  
5 individual who at the time of the execution of the agreement was  
6 a spouse of a party to the agreement has standing to maintain a  
7 proceeding to adjudicate an issue related to the enforcement of  
8 the agreement.

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

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

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

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1           (1) Breach of the agreement by a gestational surrogate or  
2                    gestational surrogate's spouse that 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 that 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           **SUBPART C. SPECIAL RULES FOR GENETIC SURROGACY AGREEMENT**

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

11 **agreement.** (a) Except as otherwise provided in  
12 section    -915, 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 is initiated.

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.

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1           (c) An individual who terminates under section -913 a  
2 genetic surrogacy agreement shall file notice of the termination  
3 with the court. On receipt of the notice, the court shall  
4 vacate any order issued under subsection (b). An individual who  
5 terminates a genetic surrogacy agreement under this section but  
6 does not notify the court of the termination of the agreement is  
7 subject to sanctions.

8           **§ -913 Termination of genetic surrogacy agreement.** (a)

9 A party to a genetic surrogacy agreement may terminate the  
10 agreement as follows:

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

20           (2) A genetic surrogate who is a party to the agreement  
21 may withdraw consent to the agreement any time before  
22 seventy-two hours after the birth of a child conceived

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1           by assisted reproduction under the agreement. To  
2           withdraw consent, the genetic surrogate shall execute  
3           a notice of termination in a record stating the  
4           surrogate's intent to terminate the agreement. The  
5           notice of termination shall be attested by a notarial  
6           officer or witnessed and be delivered to each intended  
7           parent any time before seventy-two hours after the  
8           birth of the child.

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

18          (c) Except in a case involving fraud, neither a genetic  
19          surrogate nor the surrogate's spouse or former spouse, if any,  
20          is liable to the intended parent or parents for a penalty or  
21          liquidated damages, for terminating a genetic surrogacy  
22          agreement under this section.



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1           §   -914   **Parentage under validated genetic surrogacy**

2 **agreement.** (a) Unless a genetic surrogate exercises the right  
3 under section   -913 to terminate a genetic surrogacy  
4 agreement, each intended parent is a parent of a child conceived  
5 by assisted reproduction under an agreement validated under  
6 section   -912.

7           (b) Unless a genetic surrogate exercises the right under  
8 section   -913 to terminate the genetic surrogacy agreement, on  
9 proof of a court order issued under section   -912 validating  
10 the agreement, the court shall make an order:

11           (1) Declaring that each intended parent is a parent of a  
12 child conceived by assisted reproduction under the  
13 agreement and ordering that parental rights and duties  
14 vest exclusively in each intended parent;

15           (2) Declaring that the gestational surrogate and the  
16 surrogate's spouse or former spouse, if any, are not  
17 parents of the child;

18           (3) Designating the contents of the birth certificate in  
19 accordance with chapter 338 and directing the  
20 department of health to designate each intended parent  
21 as a parent of the child;

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

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

10          (6) For other relief the court determines necessary and  
11                    proper.

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

16          (d) If a child born to a genetic surrogate is alleged not  
17 to have been conceived by assisted reproduction, the court shall  
18 order genetic testing to determine the genetic parentage of the  
19 child. If the child was not conceived by assisted reproduction,  
20 parentage shall be determined under parts I through VII. Unless  
21 the genetic surrogacy agreement provides otherwise, if the child  
22 was not conceived by assisted reproduction, the surrogate is not

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1 entitled to any non-expense related compensation paid for  
2 serving as a surrogate.

3       (e) Unless a genetic surrogate exercises the right under  
4 section § -913 to terminate the genetic surrogacy agreement,  
5 if an intended parent fails to file notice required under  
6 section -913(a), the genetic surrogate or the department of  
7 health may file with the court, not later than sixty days after  
8 the birth of a child conceived by assisted reproduction under  
9 the agreement, notice that the child has been born to the  
10 genetic surrogate. Unless the genetic surrogate has properly  
11 exercised the right under section -913 to withdraw consent to  
12 the agreement, on proof of a court order issued under  
13 section -912 validating the agreement, the court shall order  
14 that each intended parent is a parent of the child.

15       **§ -915 Effect of nonvalidated genetic surrogacy**  
16 **agreement.** (a) A genetic surrogacy agreement, whether or not  
17 in a record, that is not validated under section -912 is  
18 enforceable only to the extent provided in this section and  
19 section -917.

20       (b) If all parties agree, a court may validate a genetic  
21 surrogacy agreement after assisted reproduction has occurred but

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1 before the birth of a child conceived by assisted reproduction  
2 under the agreement.

3       (c) If a child conceived by assisted reproduction under a  
4 genetic surrogacy agreement that is not validated under  
5 section -912 is born and the genetic surrogate, consistent  
6 with section -913(a)(2), withdraws their consent to the  
7 agreement before seventy-two hours after the birth of the child,  
8 the court shall adjudicate the parentage of the child under  
9 parts I through VII.

10       (d) If a child conceived by assisted reproduction under a  
11 genetic surrogacy agreement that is not validated under  
12 section -912 is born and a genetic surrogate does not  
13 withdraw their consent to the agreement, consistent with  
14 section -913(a)(2), before seventy-two hours after the birth  
15 of the child, the genetic surrogate is not automatically a  
16 parent and the court shall adjudicate parentage of the child  
17 based on the best interest of the child, taking into account the  
18 factors in section -607(a) and the intent of the parties at  
19 the time of the execution of the agreement.

20       (e) The parties to a genetic surrogacy agreement have  
21 standing to maintain a proceeding to adjudicate parentage under  
22 this section.

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1           **§ -916 Genetic surrogacy agreement; parentage of**  
2 **deceased intended parent.** (a) Except as otherwise provided in  
3 section -914 or -915, on birth of a child conceived by  
4 assisted reproduction under a genetic surrogacy agreement, each  
5 intended parent is, by operation of law, a parent of the child,  
6 notwithstanding the death of an intended parent during the  
7 period between the transfer of a gamete or embryo and the birth  
8 of the child.

9           (b) Except as otherwise provided in section -914  
10 or -915, an intended parent is not a parent of a child  
11 conceived by assisted reproduction under a genetic surrogacy  
12 agreement if the intended parent dies before the transfer of a  
13 gamete or embryo unless:

- 14           (1) The agreement provides otherwise; and  
15           (2) The transfer of the gamete or embryo occurs not later  
16 than thirty-six months after the death of the intended  
17 parent, or the birth of the child occurs not later  
18 than forty-five months after the death of the intended  
19 parent.

20           **§ -917 Breach of genetic surrogacy agreement.** (a)  
21 Subject to section -913(b), if a genetic surrogacy agreement  
22 is breached by a genetic surrogate or one or more intended

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1 parents, the non-breaching party is entitled to the remedies  
2 available at law or in equity.

3       (b) Specific performance is not a remedy available for  
4 breach by a genetic surrogate of a requirement of a validated or  
5 non-validated genetic surrogacy agreement that the surrogate  
6 undergo insemination or embryo transfer, terminate or not  
7 terminate a pregnancy, or submit to medical procedures.

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

10       (1) Breach of a validated genetic surrogacy agreement by a  
11 genetic surrogate of a requirement that prevents an  
12 intended parent from exercising the full rights of  
13 parentage seventy-two hours after the birth of the  
14 child; or

15       (2) Breach by an intended parent that prevents the  
16 intended parent's acceptance of duties of parentage  
17 seventy-two hours after the birth of the child.

18                   **PART X. INFORMATION ABOUT DONOR**

19       § -1001 **Definitions.** In this part:

20       "Identifying information" means:

- 21       (1) The full name of a donor;  
22       (2) The date of birth of the donor; and

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1           (3) The permanent and, if different, current address of  
2           the donor at the time of the donation.

3           "Medical history" means information regarding any:

4           (1) Present illness of a donor;

5           (2) Past illness of the donor; and

6           (3) Social, genetic, and family history pertaining to the  
7           health of the donor.

8           §   -1002   **Applicability.** This part applies only to  
9 gametes collected on or after the effective date of this  
10 chapter.

11          §   -1003   **Collection of information.** (a) A gamete bank  
12 or fertility clinic licensed in this State shall collect from a  
13 donor the donor's identifying information and medical history at  
14 the time of the donation.

15          (b) A gamete bank or fertility clinic licensed in this  
16 State that receives gametes of a donor collected by another  
17 gamete bank or fertility clinic shall collect the name, address,  
18 telephone number, and electronic mail address of the gamete bank  
19 or fertility clinic from which it received the gametes.

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

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1           **§ -1004 Declaration regarding identity disclosure.** (a)

2 A gamete bank or fertility clinic licensed in this State that  
3 collects gametes from a donor shall:

4           (1) Provide the donor with information in a record about  
5           the donor's choice regarding identity disclosure; and

6           (2) Obtain a declaration from the donor regarding identity  
7           disclosure.

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

11           (1) States that the donor agrees to disclose the donor's  
12           identity to a child conceived by assisted reproduction  
13           with the donor's gametes on request once the child  
14           attains eighteen years of age; or

15           (2) States that the donor does not agree presently to  
16           disclose the donor's identity to the child.

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

21           **§ -1005 Disclosure of identifying information and**

22 **medical history.** (a) On request of a child conceived by



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

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

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

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

20       "(f) Effective July 1, 1990, the functions, authority, and  
21 obligations, together with the limitations imposed thereon and  
22 the privileges and immunities conferred thereby, exercised by a

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1 "sheriff", "sheriffs", a "sheriff's deputy", "sheriff's  
2 deputies", a "deputy sheriff", "deputy sheriffs", or a "deputy",  
3 under sections 21-8, 47-18, 105-4, 134-51, 183D-11, 187A-14,  
4 231-25, 281-108, 281-111, 286-52, 286-52.5, 321-1, 322-6, 325-9,  
5 353-11, 356D-54, 356D-94, 383-71, 445-37, 482E-4, 485A-202, 501-  
6 42, 501-171, 501-218, 521-78, 578-4, [~~584-67~~]           -203, 603-29,  
7 604-6.2, 606-14, 607-2, 607-4, 607-8, 633-8, 634-11, 634-12,  
8 634-21, 634-22, 651-33, 651-37, 651-51, 654-2, 655-2, 657-13,  
9 660-16, 666-11, 666-21, 803-23, 803-34, 803-35, 804-14, 804-18,  
10 804-41, 805-1, 806-71, and 832-23 shall be exercised to the same  
11 extent by the department of public safety; and effective January  
12 1, 2024, those functions, authority, and obligations shall be  
13 exercised to the same extent by the department of law  
14 enforcement."

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

17           "**§338-12 Evidentiary character of certificates.**

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

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

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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

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1 of appropriate jurisdiction or pursuant to a legal establishment  
2 of parenthood pursuant to chapter [584.] \_\_\_\_\_. Amendments that  
3 change or establish the identity of a registrant's parent that  
4 are made in accordance with this section shall not be considered  
5 corrections of personal records pursuant to chapter 92F."

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

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

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

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1 so stipulated. The child or children or the parents thereof may  
2 petition the department of health to issue a new original  
3 certificate of birth, and not a duplicate of the original  
4 certificate that has been amended, altered, or modified, in the  
5 new name of the child, and the department shall issue the new  
6 original certificate of birth. As used in this section "name"  
7 includes the first name, middle name, or last name."

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

9         "(d) Nothing in this section shall be construed to limit  
10 the power of the courts to order the department of health to  
11 prepare new certificates of birth under section [~~584-23.~~]       -  
12 510."

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

15         "**§532-6 To child born to parents not married to each**  
16 **other.** Every child born to parents not married to each other at  
17 the time of the child's birth and for whom the parent and child  
18 relationship has not been established pursuant to chapter  
19 [~~584~~]        shall be considered as an heir to the child's mother,  
20 and shall inherit her estate, in whole or in part, as the case  
21 may be, in like manner as if the child had been born in lawful  
22 wedlock."

**.B. NO.**           

1           SECTION 8. Section 571-14, Hawaii Revised Statutes, is  
2 amended by amending subsection (a) to read as follows:

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

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

12           (2) To try any adult charged with:

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

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

17           (C) Any violation of an order issued pursuant to  
18 chapter 586; or

19           (D) Any violation of an order issued by a family  
20 court judge.

.B. NO.          

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

4           (3) In all proceedings under chapter 580, and in all  
5           proceedings under chapter ~~[584;]~~       ;

6           (4) In proceedings under chapter 575, the Uniform  
7           Desertion and Nonsupport Act, and under chapter 576B,  
8           the Uniform Interstate Family Support Act;

9           (5) For commitment of an adult alleged to be mentally  
10          defective or mentally ill;

11          (6) In all proceedings for support between parent and  
12          child or between ~~[husband and wife;]~~ spouses;

13          (7) In all proceedings for pre-trial detention or waiver  
14          of jurisdiction over an adult who was a child at the  
15          time of an alleged criminal act as provided in section  
16          571-13 or 571-22;

17          (8) In all proceedings under chapter 586, Domestic Abuse  
18          Protective Orders; and

19          (9) For the protection of vulnerable adults under chapter  
20          346, part X.

21          In any case within paragraph (3), (4), or (6), the attorney  
22          general, through the child support enforcement agency, may



.B. NO.          

1           exercise concurrent jurisdiction as provided in chapter  
2           576E."

3           SECTION 9. Section 571-50, Hawaii Revised Statutes, is  
4 amended to read as follows:

5           "**§571-50 Modification of decree, rehearing.** Except as  
6 otherwise provided by this chapter, any decree or order of the  
7 court may be modified at any time.

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

17           A parent, guardian, custodian, or next friend of any child  
18 whose status has been adjudicated by the court, or any adult  
19 affected by a decree of the court, at any time may petition the  
20 court for a rehearing on the ground that new evidence, which was  
21 not known or not available through the exercise of due diligence  
22 at the time of the original hearing and which might affect the

.B. NO.          

1 decree, has been discovered. Upon a satisfactory showing of  
2 this evidence, the court shall order a new hearing and make any  
3 disposition of the case that the facts and the best interests of  
4 the child warrant.

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

.B. NO.          

1           Notwithstanding the foregoing provisions of this section  
2 the court's authority with respect to the review, rehearing,  
3 renewal, modification, or revocation of decrees, judgments, or  
4 orders entered in the herein below listed classes of proceedings  
5 shall be limited by any specific limitations set forth in the  
6 statutes governing these proceedings or in any other  
7 specifically applicable statutes or rules. These proceedings  
8 are as follows:

- 9           (1) Annulment, divorce, separation, and other proceedings  
10           under chapter 580;
- 11           (2) Adoption proceedings under chapter 578;
- 12           (3) [~~Paternity~~] Parentage proceedings under chapter  
13           [~~584~~]       ;
- 14           (4) Termination of parental rights proceedings under this  
15           chapter; and
- 16           (5) State hospital commitment proceedings under chapter  
17           334.

18           A decree, judgment, or order committing a child to the care  
19 of the director of human services shall be reviewable under this  
20 section at the instance of others other than duly authorized  
21 representatives of the department only after a lapse of thirty

.B.NO.          

1 days following the date of the decree, judgment, or order, and  
2 thereafter only at intervals of not less than one year.

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

6 SECTION 10. Section 571-52.6, Hawaii Revised Statutes, is  
7 amended to read as follows:

8 **"§571-52.6 Child support order, judgment, or decree;**  
9 **accident and health or sickness insurance coverage.** Each order,  
10 judgment, or decree under this chapter or chapter 576B, 580, or  
11 [~~584~~] \_\_\_ ordering a person to pay child support shall include  
12 the following provisions:

- 13 (1) Both the obligor and the obligee are required to file  
14 with the state case registry, through the child  
15 support enforcement agency, upon entry of the child  
16 support order and to update as appropriate,  
17 information on the identity and location of the party,  
18 including social security number, residential and  
19 mailing addresses, telephone number, driver's license  
20 number if different from social security number, and  
21 name, address, and telephone number of the party's  
22 employer; and

.B. NO.          

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

4           SECTION 11. Section 571-84, Hawaii Revised Statutes, is  
5 amended by amending subsection (a) to read as follows:

6           "(a) The court shall maintain records of all cases brought  
7 before it. Except as provided in sections 571-84.6 and [~~584-~~  
8 ~~20-57~~]       -509, in proceedings under section 571-11 and in  
9 [~~paternity~~] parentage proceedings under chapter [~~5847~~]       , the  
10 following records shall be withheld from public inspection: the  
11 court docket, petitions, complaints, motions, and other papers  
12 filed in any case; transcripts of testimony taken by the court;  
13 and findings, judgments, orders, decrees, and other papers other  
14 than social records filed in proceedings before the court. The  
15 records other than social records shall be open to inspection:  
16 by the parties and their attorneys, by an institution or agency  
17 to which custody of a minor has been transferred, and by an  
18 individual who has been appointed guardian; with consent of the  
19 judge, by persons having a legitimate interest in the  
20 proceedings from the standpoint of the welfare of the minor;  
21 and, pursuant to order of the court or the rules of court, by  
22 persons conducting pertinent research studies, and by persons,

\_\_\_\_.B. NO.\_\_\_\_\_

1 institutions, and agencies having a legitimate interest in the  
2 protection, welfare, treatment, or disposition of the minor."

3 SECTION 12. Section 571-84.5, Hawaii Revised Statutes, is  
4 amended to read as follows:

5 "§571-84.5 Support order, decree, judgment, or  
6 acknowledgment; social security number. The social security  
7 number of any individual who is a party to a divorce decree, or  
8 subject to a support order or [~~paternity~~] parentage  
9 determination, or has made an acknowledgment of [~~paternity~~]  
10 parentage issued under this chapter or chapter 576B, 580, or  
11 [584] \_\_\_ shall be placed in the records relating to the  
12 matter."

13 SECTION 13. Section 571-87, Hawaii Revised Statutes, is  
14 amended by amending subsection (c) to read as follows:

15 "(c) The maximum allowable fee shall not exceed the  
16 following schedule:

- 17 (1) Cases arising under chapters [~~+~~]587A[~~+~~] and 346,  
18 part X:
  - 19 (A) Predisposition.....\$3,000;
  - 20 (B) Postdisposition review hearing.....\$1,000;
- 21 (2) Cases arising under chapters 560, 571, 580, and  
22 [584] .....\$3,000.

.B.NO.          

1           Payments in excess of any maximum provided for under  
2 paragraphs (1) and (2) may be made whenever the court in which  
3 the representation was rendered certifies, based upon  
4 representations of extraordinary circumstances, attested to by  
5 the applicant, that the amount of the excess payment is  
6 necessary to provide fair compensation in light of those  
7 circumstances, and the payment is approved by the administrative  
8 judge of that court."

9           SECTION 14. Section 571-92, Hawaii Revised Statutes, is  
10 amended to read as follows:

11           "**§571-92 Application.** This part shall only apply to  
12 actions under chapters 580 and [~~584.~~] \_\_\_\_\_. Nothing in this part  
13 shall supersede any provision of any existing state or federal  
14 law. The provisions in this part shall be interpreted  
15 consistently with other relevant laws and the standard of "best  
16 interest of the child" shall remain paramount."

17           SECTION 15. Section 574-3, Hawaii Revised Statutes, is  
18 amended to read as follows:

19           "**§574-3 Children born to parents not married to each**  
20 **other.** The registrar of births shall register any child born to  
21 parents not married to each other at the time of the child's  
22 birth and where either the natural parents have not married each

.B. NO.          

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 16. 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~~]       -403;
- 20 (7) The [~~mother~~] individual who gave birth to the  
21 child; or



**.B. NO.**           

1           (8) An individual who has been ordered to pay child  
2                   support in a previous proceeding and the order has not  
3                   been reversed or vacated."

4           SECTION 17. Section 576B-402, Hawaii Revised Statutes, is  
5 amended by amending subsection (b) to read as follows:

6           "(b) In a proceeding to determine parentage, a responding  
7 tribunal of this State shall apply chapter [~~584~~] \_\_\_ and the  
8 rules of this State on choice of law."

9           SECTION 18. Section 576E-2, Hawaii Revised Statutes, is  
10 amended to read as follows:

11           "**§576E-2 Attorney general; powers.** Notwithstanding any  
12 other law to the contrary, the attorney general, through the  
13 agency and the office, shall have concurrent jurisdiction with  
14 the court in all proceedings in which a support obligation is  
15 established, modified, or enforced, including but not limited to  
16 proceedings under chapters 571, 580, [~~584,~~]\_\_\_, and 576B. The  
17 attorney general, through the agency and the office, may  
18 establish, modify, suspend, terminate, and enforce child support  
19 obligations and collect or enforce spousal support using the  
20 administrative process provided in this chapter on all cases for  
21 which the department has a responsibility under Title IV-D of  
22 the Social Security Act, including but not limited to welfare

.B. NO.          

1 and nonwelfare cases in which the responsible parent is subject  
2 to the department's jurisdiction, regardless of the residence of  
3 the children for whom support is sought. These powers shall  
4 include but not be limited to the power to:

5       (1) Conduct investigations into the ability of parties to  
6             pay support and into nonpayment of support;

7       (2) Administer oaths, issue subpoenas, and require  
8             production of books, accounts, documents, and  
9             evidence;

10       (3) Establish, modify, suspend, terminate, or enforce a  
11            child support order and to collect or enforce a  
12            spousal support order in conjunction with a child  
13            support order;

14       (4) Determine that a party has not complied with a court  
15            or administrative order of support and make  
16            recommendations to the court or other agency with  
17            respect to contempt or other appropriate proceedings;

18       (5) Establish arrearage;

19       (6) Establish an order for child support for periods which  
20            public assistance was provided to the child or  
21            children by the department of human services;

.B. NO.          

- 1           (7) Order and enforce assignment of future income under  
2                    section 576E-16, chapter 571, and section 576D-14;
- 3           (8) Exercise the powers and authority described in this  
4                    section, notwithstanding the existence of a prior  
5                    court or administrative order of support issued by  
6                    another state or foreign jurisdiction, except as  
7                    modified or limited by this chapter;
- 8           (9) Determine that an obligor owes past-due support with  
9                    respect to a child receiving assistance under a state  
10                   program funded under Title IV-A of the Social Security  
11                   Act, including Aid to Families with Dependent Children  
12                   and Temporary Assistance to Needy Families and  
13                   petition the court to issue an order that requires the  
14                   obligor to pay such support in accordance with a plan  
15                   approved by the court or, if the obligor is subject to  
16                   such a plan and is not incapacitated, participate in  
17                   work activities, as defined in 42 U.S.C. §607(d), as  
18                   the court deems appropriate;
- 19          (10) Order genetic testing pursuant to chapter  
20                   [584] \_\_\_ for the purpose of establishing [~~paternity,~~  
21                   parentage, with payment of costs to be made by the  
22                   agency, subject to recoupment by the State from [~~the~~

.B. NO.          

1           ~~father or the mother,~~] a parent, if appropriate, if  
2           ~~[paternity]~~ parentage is established, and to also  
3           order additional testing in any case if an original  
4           test result is contested, upon request and advance  
5           payment by the contestant;

6           (11) Exercise the powers and authority described in this  
7           section, notwithstanding the existence of a prior  
8           court or administrative order of support issued by  
9           another state or foreign jurisdiction, except as  
10          modified or limited by this chapter and chapter 576B;  
11          and

12          (12) Delegate the powers and authority described in this  
13          section to hearings officers and employees of the  
14          agency."

15          SECTION 19. Section 580-47, Hawaii Revised Statutes, is  
16          amended by amending subsection (a) to read as follows:

17          "(a) Upon granting a divorce, or thereafter if, in  
18          addition to the powers granted in subsections (c) and (d),  
19          jurisdiction of those matters is reserved under the decree by  
20          agreement of both parties or by order of court after finding  
21          that good cause exists, the court may make any further orders  
22          that appear just and equitable (1) compelling the parties or

.B. NO.          

1 either of them to provide for the support, maintenance, and  
2 education of the children of the parties; (2) compelling either  
3 party to provide for the support and maintenance of the other  
4 party; (3) finally dividing and distributing the estate of the  
5 parties, real, personal, or mixed, whether community, joint, or  
6 separate; and (4) allocating, as between the parties, the  
7 responsibility for the payment of the debts of the parties  
8 whether community, joint, or separate, and the attorney's fees,  
9 costs, and expenses incurred by each party by reason of the  
10 divorce. In making these further orders, the court shall take  
11 into consideration: the respective merits of the parties, the  
12 relative abilities of the parties, the condition in which each  
13 party will be left by the divorce, the burdens imposed upon  
14 either party for the benefit of the children of the parties, the  
15 concealment of or failure to disclose income or an asset, or  
16 violation of a restraining order issued under section 580-10(a)  
17 or (b), if any, by either party, and all other circumstances of  
18 the case. In establishing the amounts of child support, the  
19 court shall use the guidelines established under section 576D-7.  
20 Provision may be made for the support, maintenance, and  
21 education of an adult or minor child and for the support,  
22 maintenance, and education of an incompetent adult child

.B. NO.          

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

.B. NO.          

1           In addition to any other relevant factors considered, the  
2 court, in ordering spousal support and maintenance, shall  
3 consider the following factors:

- 4           (1) Financial resources of the parties;
- 5           (2) Ability of the party seeking support and maintenance  
6           to meet the party's needs independently;
- 7           (3) Duration of the marriage;
- 8           (4) Standard of living established during the marriage;
- 9           (5) Age of the parties;
- 10          (6) Physical and emotional condition of the parties;
- 11          (7) Usual occupation of the parties during the marriage;
- 12          (8) Vocational skills and employability of the party  
13          seeking support and maintenance;
- 14          (9) Needs of the parties;
- 15          (10) Custodial and child support responsibilities;
- 16          (11) Ability of the party from whom support and maintenance  
17          is sought to meet the party's own needs while meeting  
18          the needs of the party seeking support and  
19          maintenance;
- 20          (12) Other factors that measure the financial condition in  
21          which the parties will be left as the result of the

**.B. NO.**           

1           action under which the determination of maintenance is  
2           made; and

3           (13) Probable duration of the need of the party seeking  
4           support and maintenance.

5           The court may order support and maintenance to a party for  
6           an indefinite period or until further order of the court;  
7           provided that in the event the court determines that support and  
8           maintenance shall be ordered for a specific duration wholly or  
9           partly based on competent evidence as to the amount of time that  
10          will be required for the party seeking support and maintenance  
11          to secure adequate training, education, skills, or other  
12          qualifications necessary to qualify for appropriate employment,  
13          whether intended to qualify the party for a new occupation,  
14          update or expand existing qualification, or otherwise enable or  
15          enhance the employability of the party, the court shall order  
16          support and maintenance for a period sufficient to allow  
17          completion of the training, education, skills, or other  
18          activity, and shall allow, in addition, sufficient time for the  
19          party to secure appropriate employment."

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



.B.NO.          

1           "(a) In addition to the fees prescribed under section  
2 607-5 for a matrimonial action where either party has a minor  
3 child, or a family court proceeding under chapter [~~584,~~]       ,  
4 the court shall collect a surcharge of \$50 at the time of filing  
5 the initial complaint or petition. In cases where the surcharge  
6 has been initially waived, the court may collect the surcharge  
7 subsequent to the filing with [~~such~~] the surcharge to be  
8 assessed from either party or apportioned between both parties."

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

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

20           SECTION 22. Chapter 584, Hawaii Revised Statutes, is  
21 repealed.



\_\_\_\_.B. NO.\_\_\_\_

**Report Title:**

Uniform Parentage Act

**Description:**

Repeals the Uniform Parentage Act of 1973 and updates laws relating to parentage, including enacting portions of the Uniform Parentage Act of 2017.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

# APPENDIX B

## **INSTRUCTIONS for UNCONTESTED DETERMINATION OF PARENTAGE**

This process may only be used if there is an agreement between yourself and the other party/parent to determine parentage of the child(ren) in question and/or there is an agreement as to custody, visitation, and support. If there is no agreement, you must file the appropriate paperwork to request a hearing.

### **STEP 1: OPENING A CASE**

1. To open a parentage case, the person filing (Petitioner) will need to complete, sign and date the following documents:
  - a. *Complaint for Determination of Parentage; Summons to Answer Complaint*
  - b. *Parentage Action Information Form*
  - c. *Notice of Confidential Information*

If you do not have an attorney, it is suggested that your documents be reviewed at the Family Court Service Center located on the first floor of the Ronald T. Y. Moon Courthouse or on the first floor of Kaahumanu Hale. The Service Center staff will review your documents for completeness and make sure that all necessary documents have been submitted. Please note: the Service center does not provide legal advice.

2. The Petitioner must file these completed, signed and dated documents, plus pay the required filing fees with the Court.
  - If **filing in person** (self-represented Petitioners must file in person): bring the original, completed, signed and dated documents along with the filing fee to the Courthouse to be filed by the Court.
  - If **filing through the Judiciary Electronic Filing and Service System (JEFS)**: upload the required documents into JEFS. See Appendix 1 for directions on how to correctly file your documents into JEFS. Failure to correctly file your documents in JEFS may result in delays.
3. Upon filing, the Petitioner will receive a case number which will need to be included on all subsequent documents filed in the case. Self-represented Petitioners will also receive details on how to register for a JEFS account.

### **STEP 2: COMPLETE AND FILE REQUIRED DOCUMENTS**

After completing Step 1, the following documents must be completed, signed, dated and filed for an uncontested parentage case to be granted (approved) by the Court:

1. *Parentage Financial Information Sheet*
  - Required for both Petitioner and Respondent
  - The information should be current within the past six (6) months
2. *Child Support Guidelines Worksheet* (if applicable)

- The Child Support Guidelines Worksheet and instructions can be found on the Judiciary website: <https://www.courts.state.hi.us/child-support-guidelines>
- Both the Petitioner and Respondent must sign and date the worksheet.
- Child support is paid in two ways: (1) through the Child Support Enforcement Agency (CSEA) or (2) directly.
  - If **paying through the CSEA**, an *Order/Notice to Withhold Income for Support* will need to be completed.
  - If **paying directly**, a *Supplemental Affidavit RE: Direct Payment of Child Support* will need to be completed.
- The Child Support Guidelines Worksheet will not be necessary if you have an intact family (i.e., both parents live together and with the children).

### 3. *Affidavit of Birthing Parent*

- The birthing parent must sign before a notary and under the penalty of perjury that one of the following applies:
  - The Petitioner and Respondent are the biological parents of the child(ren) in question; and
  - You waive your right to have a genetic test to determine parentage of the child(ren) in question.

**OR**

  - You do not know who the non-birthing biological parent of the child(ren) is(are); and
  - You are requesting that the non-birthing party be named as the parent for the child(ren) in question.

### 4. *Affidavit of Intended Parent*

- The intended parent must sign before a notary and under the penalty of perjury that one of the following applies:
  - The Respondent and Petitioner are the biological parents of the child(ren) in question; and
  - They waive their right to have a genetic test to determine parentage of the child(ren) in question.

**OR**

  - They do not know who the non-birthing biological parent of the child(ren) is(are); and
  - They are requesting to be named as the parent for the child(ren) in question.

### 5. *Appearance and Waiver*

- Complete, sign and date the *Appearance and Waiver* (signature and date from the Respondent is required).

### 6. *Proposed Stipulated Judgment of Parentage or Stipulated Order Re: Custody, Visitation and Support Orders*

- If determining parentage use the *Proposed Stipulated Judgment of Parentage*
- If parentage has already been determined use the *Proposed Stipulated Order Re: Custody, Visitation and Support Orders*

### **STEP 3: JUDGE REVIEWS DOCUMENTS FOR APPROVAL**

- Once set for hearing, a Judge will review your uncontested parentage documents.
- **If the Judge grants (approves) your Judgment/Order** and signs your *Stipulated Judgment of Parentage* or *Stipulated Order Re: Custody, Visitation and Support Orders*, certified copies will be sent to you and the Respondent.
  - **If you filed in person:** Certified copies will be mailed to you and the Respondent in the envelopes provided by you within six (6) and ten (10) weeks of the Judge's review and approval.
    - If you do not provide envelopes, certified copies are available for you and the Respondent to download on *eCourt Kokua* or to pick up from the Courthouse.
  - **If you filed through JEFS:** Certified copies will be available for you and the Respondent to download on *eCourt Kokua*.
- **If the Judge denies your Judgment/Order**, you will receive a copy of the Court's reasons for denying your paperwork with instructions from the Judge. You must follow the Judge's instructions before your proposed judgment/order can be resubmitted to the Court.

### **STEP 4: IF CHILD SUPPORT PAYMENTS ARE BEING MADE THROUGH THE CHILD SUPPORT ENFORCEMENT AGENCY**

This step is to be completed after the Judge reviews, signs, and files the documents that you submitted.

1. Mail one (1) certified copy of the *Judgment of Parentage* or *Stipulated Order Re: Custody, Visitation and Support Orders* and *Order/Notice to Withhold Income for Child Support* to the Child Support Enforcement Agency (CSEA).
  - Send via certified mail with a return receipt requested.
2. Mail one (1) certified copy of the *Order/Notice to Withhold Income for Child Support* to the employer of the parent who will be paying child support.
  - Send via certified mail with a return receipt requested.
3. Complete the *Statement of Mailing: Exhibits "1" and "2" (Re: Order for Income Withholding)* for the employer mailout.
  - Exhibit 1: white and green receipt for Certified Mail received upon mailing.
  - Exhibit 2: green card Domestic return receipt signed by the employer.
  - Completion serves as proof that a certified copy of the *Order/Notice to Withhold Income for Child Support* was mailed to the employer.
4. File the *Statement of Mailing: Exhibits "1" and "2" (Re: Order for Income Withholding)*.
  - **If filing in person**, bring the original to the Courthouse.
  - **If filing through JEFS**, upload the required documents into JEFS.

5. Mail one (1) file-stamped copy of the *Statement of Mailing: Exhibits "1" and "2" (Re: Order for Income Withholding)* for the employer mailout to the (1) Child Support Enforcement Agency (CSEA) and (2) to the Respondent.

- If this document was **filed in person**, you will receive a file-stamped copy immediately upon filing at the courthouse.

- If this document was **filed through JEFIS**, you will need to print-off through *eCourt Kokua* a copy of the *Statement of Mailing: Exhibits "1" and "2" (Re: Order for Income Withholding)* to mail.



**AFFIDAVIT OF BIRTHING PARENT**

I am the  Petitioner  Respondent in the above-entitled action, and being first duly sworn on oath, depose and say that:

1. Full name and address is: \_\_\_\_\_

2. Legal Representation:

Birthing parent is  representing themselves  represented by attorney  
\_\_\_\_\_.

3. Appearance and Waiver: Respondent acknowledged receipt of a filed copy of the *Complaint for Parentage and Summons to Answer Complaint*; and signed an *Appearance and Waiver* on \_\_\_\_\_ . Petitioner recognizes signature on the *Appearance and Waiver*.

4. Jurisdiction: (check all that apply)

4a.  Birthing Parent has been domiciled on the Island of Oahu, State of Hawaii, since the commencement of this action.

4b.  Sexual intercourse or assisted reproduction that led to the conception of the subject child(ren) occurred in the State of Hawaii.

4c.  The subject child(ren) was/were born on the Island of Oahu, State of Hawaii.

5. I am the birthing parent of the minor child(ren) listed below:

\_\_\_\_\_ (name) \_\_\_\_\_ (sex) \_\_\_\_\_ (birth date)

6. As the birthing parent, I acknowledge the following: (check all that apply)

that  Petitioner  Respondent is the genetic parent of the minor child(ren).  Petitioner  Respondent waives their right to genetic testing.

the birthing parent was not married at the time of birth or at least 300 days prior to birth of the subject child(ren).

a Voluntary Establishment of Parentage has been signed by the  Petitioner  Respondent and their name and the birthing parent's name appear on the subject child(ren)'s birth certificate.

a Voluntary Establishment of Parentage has not been signed and no one other than the birthing parent is named on the subject child(ren)'s birth certificate.

no individual other than the  Petitioner  Respondent resided in the same household with the child prior to the child reaching the age of majority, including any period of temporary absence, and openly held out the child as the individual's child.

the birthing parent is not aware of any person who was determined to be the genetic parent of the minor child(ren) following court-ordered genetic testing.

the birthing parent is not aware of the identity of the other genetic parent of the minor child(ren), because

the subject child(ren) was/were conceived by assisted reproductive technology and the use of a gamete bank.

\_\_\_\_\_

the birthing parent requests the  Petitioner  Respondent be deemed to be the legal parent of the minor children listed above.

7.  Petitioner  Respondent has carefully reviewed the proposed  *Stipulated Judgment of Parentage*  *Stipulated Order Re: Custody, Visitation, and Support Orders* and agrees to the provisions included in the documents.

8.  Petitioner  Respondent signed the proposed *Judgment/Order*.  Petitioner  Respondent recognizes Respondent's signature on the *Judgment/Order*.

9. Language Comprehension:

Petitioner  Respondent fully understands the English language.

Although Petitioner/Respondent does not fully comprehend written English, this document has been explained to them by \_\_\_\_\_ and based on that explanation Petitioner/Respondent understands this document.

10.  Petitioner  Respondent requests that the court grant and enter this *Judgment/Order* without their appearance in court.

11.  Petitioner  Respondent has read this document and signs it voluntarily and without coercion and duress and not because he/she/they was told to sign it.

12. Prior or Pending Custody/Support Proceedings

12a.  I have not participated in any capacity in any lawsuit or proceeding in any state concerning custody of the minor child(ren) involved in this action. I have no information of any pending custody or support proceeding or of any person not a party to this proceeding who has physical custody or claims to have custody or visitation rights concerning any minor child(ren) involved in this action.

12b.  Prior court case involving the subject child(ren):

Case Name: \_\_\_\_\_

Case Number: \_\_\_\_\_

Location (City, State) of Court: \_\_\_\_\_

Date Filed: \_\_\_\_\_

Date Concluded: \_\_\_\_\_

Type of Case: \_\_\_\_\_

12c.  Other pending court case involving the subject child(ren):

13. Child Support (select one)

13a.  Petitioner and Respondent are an intact family, and as such, child support orders are not necessary.

13b.  Petitioner  Respondent believes that the information provided in the completed Child Support Guidelines Worksheet is accurate to the best of the Petitioner's knowledge and the proposed child support is consistent with the Child Support Guidelines Worksheet.

13c.  The proposed child support varies from the Child Support Guidelines Worksheet because of the following exceptional circumstance(s): \_\_\_\_\_

14. Other: \_\_\_\_\_

Petitioner  Respondent declares that they understand that their signature under oath before a notary public is their solemn statement that they read this Affidavit and know and understand the content and that these statements are true, correct, and completed to the best of their knowledge and belief.

**AFFIDAVIT OF INTENDED PARENT**

I am the  Petitioner  Respondent in the above-entitled action, and being first duly sworn on oath, depose and say that:

1. Full name and address is: \_\_\_\_\_

2. Legal Representation:

Intended parent is  representing themselves  represented by attorney  
\_\_\_\_\_.

3.  Appearance and Waiver: Respondent acknowledged receipt of a filed copy of the *Complaint for Parentage* and *Summons to Answer Complaint*; and signed an *Appearance and Waiver* on \_\_\_\_\_. Petitioner recognizes the signature on the *Appearance and Waiver*.

4. Jurisdiction: (check all that apply)

4a.  Intended Parent has been domiciled on the Island of Oahu, State of Hawaii, since the commencement of this action.

4b.  Sexual intercourse or assisted reproduction that led to the conception of the subject child(ren) occurred in the State of Hawaii.

4c.  The subject child(ren) was/were born on the Island of Oahu, State of Hawaii.

5. I am the intended parent of the minor child(ren) listed below:

\_\_\_\_\_ (name) \_\_\_\_\_ (sex) \_\_\_\_\_ (birth date)

6. As the intended parent, I acknowledge the following: (check all that apply)

that  Petitioner  Respondent is the genetic parent of the minor child(ren).  Petitioner  Respondent waives their right to genetic testing.

the birthing parent was not married at the time of birth or at least 300 days prior to birth of the subject child(ren).

a Voluntary Establishment of Parentage has been signed by the  Petitioner  Respondent and both parents' names appears on the subject child(ren)'s birth certificate.

a Voluntary Establishment of Parentage has not been signed and no one other than the birthing parent is named on the subject child(ren)'s birth certificate.

no individual other than the  Petitioner  Respondent resided in the same household with the child prior to the child reaching the age of majority, including any period of temporary absence, and openly held out the child as the individual's child.

the intended parent is not aware of any person who was determined to be the genetic parent of the minor child(ren) following court-ordered genetic testing.

the intended parent is not aware of the identity of the other genetic parent of the minor child(ren), because

the subject child(ren) was/were conceived by assisted reproductive technology and the use of a gamete bank.

\_\_\_\_\_

the intended parent requests the  Petitioner  Respondent be deemed to be the legal parent of the minor children listed above.

7.  Petitioner  Respondent has carefully reviewed the proposed  *Stipulated Judgment of Parentage*  *Stipulated Order Re: Custody, Visitation, and Support Orders* and agrees to the provisions included in the documents.

8.  Petitioner  Respondent signed the proposed *Judgment/Order*.  Petitioner  Respondent recognizes Respondent's signature on the *Judgment/Order*.

9. Language Comprehension:

Petitioner  Respondent fully understands the English language.

Although Petitioner/Respondent does not fully comprehend written English, this document has been explained to them by \_\_\_\_\_ and based on that explanation Petitioner/Respondent understands this document.

10.  Petitioner  Respondent requests that the court grant and enter this *Judgment/Order* without their appearance in court.

11.  Petitioner  Respondent has read this document and signs it voluntarily and without coercion and duress and not because he/she/they was told to sign it.

12. Prior or Pending Custody/Support Proceedings

12a.  I have not participated in any capacity in any lawsuit or proceeding in any state concerning custody of the minor child(ren) involved in this action. I have no information of any pending custody or support proceeding or of any person not a party to this proceeding who has physical custody or claims to have custody or visitation rights concerning any minor child(ren) involved in this action.

12b.  Prior court case involving the subject child(ren):

Case Name: \_\_\_\_\_

Case Number: \_\_\_\_\_

Location (City, State) of Court: \_\_\_\_\_

Date Filed: \_\_\_\_\_

Date Concluded: \_\_\_\_\_

Type of Case: \_\_\_\_\_

12c.  Other pending court case involving the subject child(ren):

13. Child Support (select one)

13a.  Petitioner and Respondent are an intact family, and as such, child support orders are not necessary.

13b.  Petitioner  Respondent believes that the information provided in the completed Child Support Guidelines Worksheet is accurate to the best of the Petitioner's knowledge and the proposed child support is consistent with the Child Support Guidelines Worksheet.

13c.  The proposed child support varies from the Child Support Guidelines Worksheet because of the following exceptional circumstance(s): \_\_\_\_\_

14. Other: \_\_\_\_\_

Petitioner  Respondent declares that they understand that their signature under oath before a notary public is their solemn statement that they read this Affidavit and know and understand the contents and that these statements are true, correct, and completed to the best of their knowledge and belief.

APPEARANCE AND WAIVER

I, the Respondent, acknowledge receipt of a filed copy of the *Complaint for Determination of Parentage; Summons to Answer Complaint*, in the above-entitled action, submit myself to the Court's jurisdiction and have agreed with the Plaintiff on the matters set forth in:

*Proposed Stipulated Judgment of Parentage*

*Stipulated Order Re: Custody, Visitation and Support Orders*

I consent to a hearing on the *Complaint* by a judge at any time without further notice and without my presence so long as the Judgment/Order issued incorporates the provisions I have approved. If such Judgment/Order is not entered by the Court, I request to be notified.

I understand that I am not required to sign this paper and that by doing so I am permitting the Court, without opposition from me, to proceed with the above-entitled matter at this time unless there is reason for the Court to alter our agreement.

I am not in the military service of the United states

I am in the military service of the United States, but I do not request a stay of proceedings herein, and I do waive any rights I may have under the Servicemembers Civil Relief Act, 50 U.S.C. App. §§501-597b (2003).

DATED: \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_

\_\_\_\_\_  
Respondent Signature

# APPENDIX C



## [ARTICLE] 9

### INFORMATION ABOUT DONOR

#### Comment

Article 9 is a new addition to the UPA. The content of this article was not included in UPA (2002). The content of new Article 9 is premised on a Washington State provision. Wash. Rev. Code § 26.26.750. A revision to Article 9 was approved in December 2023.

#### **SECTION 901. DEFINITIONS.** In this [article]:

(1) “Identifying information” means:

(A) the full name of a donor;

(B) the date of birth of the donor; and

(C) the permanent and, if different, current address, telephone number, and

electronic mail address of the donor at the time of the donation.

(2) “Medical history” means information regarding any:

(A) present illness of a donor;

(B) past illness of the donor; and

(C) social, genetic, and family history pertaining to the health of the donor.

**SECTION 902. APPLICABILITY.** This [article] applies only to gametes collected on or after [the effective date of this [act]].

**SECTION 903. COLLECTION OF INFORMATION.**

(a) A gamete bank or fertility clinic licensed in this state shall collect from a donor the donor's identifying information and medical history at the time of the donation.

(b) A gamete bank or fertility clinic licensed in this state which receives gametes of a donor collected by another gamete bank or fertility clinic shall collect the name, address, telephone number, and electronic mail address of the gamete bank or fertility clinic from which it received the gametes.

(c) A gamete bank or fertility clinic licensed in this state shall disclose the information collected under subsections (a) and (b) as provided under Section 905.

**SECTION 904. (RESERVED).**

**SECTION 905. DISCLOSURE OF IDENTIFYING INFORMATION AND MEDICAL HISTORY.**

(a) On request of a child conceived by assisted reproduction who attains 18 years of age, a gamete bank or fertility clinic licensed in this state which collected the gametes used in the assisted reproduction shall provide the child with identifying information of the donor who provided the gametes.

(b) Regardless whether a child has made a request under Section 905(a), on request of a child conceived by assisted reproduction who attains 18 years of age, or, if the child is a minor, of a parent or guardian of the child, a gamete bank or fertility clinic licensed in this state which collected the gametes used in the assisted reproduction shall provide the child or, if the child is a minor, the parent or guardian of the child, access to nonidentifying medical history of the donor.

(c) On request of a child conceived by assisted reproduction who attains 18 years of age, or, if the child is a minor, of a parent or guardian of the child, a gamete bank or fertility clinic licensed in this state which received the gametes used in the assisted reproduction from another gamete bank or fertility clinic shall disclose to the child or, if the child is a minor, the parent or guardian of the child, the name, address, telephone number, and electronic mail address of the gamete bank or fertility clinic from which it received the gametes.

**SECTION 906. RECORDKEEPING.**

(a) A gamete bank or fertility clinic licensed in this state which collects gametes for use in assisted reproduction shall maintain identifying information and medical history about each gamete donor. The gamete bank or fertility clinic shall maintain records of gamete screening and testing and comply with reporting requirements, in accordance with federal law and applicable law of this state other than this [act].

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