

LAWS OF DELAWARE
VOLUME 85
CHAPTER 276
153rd GENERAL ASSEMBLY
FORMERLY
SENATE BILL NO. 250

AN ACT TO AMEND TITLE 10, TITLE 13, AND TITLE 16 OF THE DELAWARE CODE RELATING TO THE UNIFORM PARENTAGE ACT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend § 8-101, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 8-101. Short Title.

This chapter may be cited as the “Uniform Parentage ~~Act.~~” Act (2017)”.

Section 2. Amend § 8-102, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 8-102. Definitions.

In this chapter:

(1) “Acknowledged ~~father~~” parent” means ~~a man~~ an individual who has established a ~~father-child~~ parent-child relationship under subchapter III of this chapter.

(2) “Adjudicated ~~father~~” parent” means ~~a man~~ an individual who has been adjudicated by a court of competent jurisdiction to be the ~~father~~ parent of a child.

(3) “Alleged ~~father~~” genetic parent” means ~~a man~~ an individual who alleges ~~himself~~ to be, or is alleged to be, ~~the~~ a genetic father parent or a possible genetic ~~father~~ parent of a ~~child, but~~ child whose ~~paternity~~ parentage has not been ~~determined.~~ adjudicated. The term includes an alleged genetic father and alleged genetic mother.

The term does not include:

(i) a. A presumed ~~father;~~ parent;

(ii) b. ~~A man~~ An individual whose parental rights have been terminated or declared not to exist; or

(iii) c. A ~~male~~ donor.

(4) “Assisted reproduction” means a method of causing pregnancy other than sexual intercourse. The term ~~includes, but is not limited to:~~ includes:

(i) a. Insemination;

~~(ii)~~ b. Donation of eggs; gametes;

~~(iii)~~ c. Donation of embryos;

~~(iv)~~ d. In-vitro fertilization and transfer of embryos; and

~~(v)~~ e. Intracytoplasmic sperm injection.

~~(5)~~ “Birth” includes stillbirth.

~~(5)~~~~(6)~~ “Child” means an individual of any age whose parentage may be determined under this chapter.

~~(7)~~ “Child-support agency” means a government entity, public official, or private agency, authorized to provide parentage-establishment services under Title IV-D of the Social Security Act, 42 U.S.C. Sections 651 through 669.

~~(6)~~~~(8)~~ “Commence” means to file the initial pleading seeking an adjudication of parentage in the Family Court of the State of Delaware. “Commenced” and “commencement” have a similar meaning.

~~(7)~~~~(9)~~a. “Compensation” means payment of any valuable consideration for services in addition to consideration.

b. “Compensation” does not include payment for reasonable medical and ancillary costs.

~~(8)~~~~(10)~~ “Determination of parentage” means the establishment of the a parent-child relationship by a judicial or administrative proceeding or the signing of a valid acknowledgment of paternity parentage under subchapter III of this chapter or adjudication by the Court. chapter.

~~(9)~~~~(11)~~ “Donor” means an individual who produces eggs or sperm, or who provides embryos used for assisted reproduction, provides gametes or embryos intended for use in assisted reproduction, whether or not for consideration. The term does not include:

~~(i)~~ A husband who provides sperm, or a wife who provides eggs, to be used for assisted reproduction by the wife;

~~(ii)~~ a. A woman an individual who gives birth to a child conceived by means of assisted reproduction, or reproduction, except as otherwise provided in subchapter VIII of this chapter; or

~~(iii)~~ b. A parent under subchapter VII of this chapter or an intended parent under subchapter VIII of this chapter.

~~(10)~~ “Embryo transfer” means all medical and laboratory procedures that are necessary to effectuate the transfer of an embryo in the uterine cavity.

~~(11) “Ethnic or racial group” means, for purposes of genetic testing, a recognized group that an individual identifies as all or part of the individual’s ancestry or that is so identified by other information.~~

~~(12) “Gamete” means either a human egg or sperm. sperm, egg, or any part of a sperm or egg.~~

~~(13) “Genetic testing” means an analysis of genetic markers to ~~exelude or identify a man as the father or a woman as the mother of a child.~~ identify or exclude a genetic relationship. The term includes an analysis of 1 or a combination of the following:~~

~~(i) Deoxyribonucleic acid; and~~

~~(ii) Blood group antigens, red cell antigens, human leukocyte antigens, serum enzymes, serum proteins or red cell enzymes.~~

~~(14) “Gestational carrier” means a woman who is neither an intended parent nor a donor, who agrees to become pregnant for an intended parent by assisted reproduction with the intention of gestating and delivering the intended parent’s child.~~

~~(15) “Gestational carrier agreement” means a written agreement between the gestational carrier, her spouse or partner, if any, and the intended parent, pursuant to which the intended parent agrees to become the parent of the child resulting from the assisted reproduction.~~

~~(16) “Gestational carrier arrangement” means the process by which a woman attempts to carry and give birth to a child created through assisted reproduction using the gamete(s) provided by the intended parents which may or may not be genetically related to either of the intended parents, and to which the gestational carrier has made no genetic contribution.~~

~~(17) “Health care provider” means a person who is duly licensed to provide health care, including all medical, psychological, or counseling professionals.~~

~~(14) “Individual” means a natural person of any age.~~

~~(18)(15) “Intended parent” means a person or persons who enters into a gestational carrier agreement with a gestational carrier to become a parent of any resulting child. In the case of a married couple, any reference to an intended parent shall include both spouses for all purposes of this chapter. This term shall include the intended mother(s), intended father(s), or both. means an individual, married or unmarried, who manifests an intent to be legally bound as a parent of a child conceived by assisted reproduction.~~

~~(19)~~(16) “In vitro fertilization” means all ~~medical and laboratory procedures that are necessary to~~ effectuate the ~~extracorporeal fertilization of egg and sperm.~~ the fertilization of egg with sperm outside of the human body.

(20) “Man” means a male individual of any age.

(21) “Married couple” includes 2 people who are parties to a civil union.

(17) “Notarial officer” means a notary public or other individual authorized under Subchapter II of Chapter 43 of Title 29 to perform a notarial act.

~~(22)~~(18) “Parent” means an individual who has established a parent-child relationship under § 8-201 of this title.

~~(23)~~(19) “~~Parent-child relationship~~” “Parentage” or “parent-child relationship” means the legal relationship between a child and a parent of the child. ~~The term includes the mother-child relationship and the father-child relationship.~~

(24) “Paternity index” means the likelihood of paternity calculated by computing the ratio between:

(i) The likelihood that the tested man is the father, based on the genetic markers of the tested man, mother, and child, conditioned on the hypothesis that the tested man is the father of the child; and

(ii) The likelihood that the tested man is not the father, based on the genetic markers of the tested man, mother, and child, conditioned on the hypothesis that the tested man is not the father of the child and that the father is of the same ethnic or racial group as the tested man.

(25) “Physician” means a person licensed to practice medicine in any or all of its branches in Delaware.

~~(26)~~(20) “Presumed father” parent” means a man who, by operation of law an individual who, under § 8-204 of this title, is ~~recognized as the father~~ presumed to be a parent of a child until that status is ~~rebutted or confirmed in a judicial proceeding.~~ child, unless the presumption is overcome in a judicial proceeding, a valid denial of parentage is made under subchapter III of this chapter, or a court adjudicates the individual to be a parent.

(27) “Probability of paternity” means the measure, for the ethnic or racial group to which the alleged father belongs, of the probability that the man in question is the father of the child, compared with a random, unrelated man of the same ethnic or racial group, expressed as a percentage incorporating the paternity index and a prior probability.

~~(28)~~(21) “Record” means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

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

a. To execute or adopt a tangible symbol; or

b. To attach to or logically associate with the record an electronic symbol, sound, or process.

~~(29)~~(23) “Signatory” means an individual who authenticates a record and is bound by its terms. signs a record.

~~(30)~~(24) “State” means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands Islands, or any territory or insular possession subject to under the jurisdiction of the United States. The term includes a federally recognized Indian tribe.

~~(31) “Support enforcement agency” means a public official or agency authorized to seek:~~

~~(i) Enforcement of support orders or laws relating to the duty of support;~~

~~(ii) Establishment or modification of child support;~~

~~(iii) Determination of parentage; or~~

~~(iv) Location of child support obligors and their income and assets.~~

(25) “Transfer” means a procedure for assisted reproduction by which an embryo or sperm is placed in the body of the individual who will give birth to the child.

(26) “Witnessed” means that at least one individual who is authorized to sign has signed a record to verify that the individual personally observed a signatory sign the record.

Section 3. Amend § 8-103, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 8-103. Scope of chapter; choice of law.

(a) This chapter applies to ~~determinations~~ an adjudication or determination of parentage in this State.

(b) The court shall apply the law of this State to adjudicate the parent-child relationship. The applicable law does not depend on:

(1) The place of birth of the child; or

(2) The past or present residence of the child.

(c) This chapter does not create, affect, enlarge, or diminish parental rights or duties under ~~other~~ law of this State. State other than this chapter.

(d) ~~This chapter authorizes an agreement between a woman and another person, an unmarried couple, or a married couple in which the woman relinquishes all rights as a parent of a child conceived by means of assisted reproduction, and which provides that the person or married or unmarried couple become the parents of the child. If a birth results under such an agreement and the agreement is unenforceable under the law of this State, the parent-child relationship is determined as provided in subchapter II of this chapter. This chapter authorizes a surrogacy agreement as provided in subchapter VIII of this chapter. If a birth results under a surrogacy agreement and the agreement is unenforceable under the law of this State, the parent-child relationship is determined as provided in subchapter VIII of this chapter.~~

Section 4. Amend § 8-104, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 8-104. Court of this State.

The Family Court of the State of Delaware ~~is authorized to~~ may adjudicate parentage under this chapter.

Section 5. Amend § 8-105, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 8-105. Protection of participants.

(a) Notwithstanding any other law concerning public hearings and records, any hearing or trial under this chapter ~~shall~~ must be held in closed court without admittance of any person other than those necessary to the action or proceeding, unless the court otherwise directs for good cause.

(b) ~~Except as provided in § 8-633 of this title, all papers and~~ All records, other than the final judgment, pertaining to the action or proceeding, whether part of the permanent record of the court or of a file in the appropriate public agency or elsewhere, are subject to inspection by persons other than the parties only ~~upon~~ with consent of the court, for good cause.

Section 6. Amend § 8-106, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 8-106. ~~Determination of maternity.~~ Determination of maternity and paternity.

Provisions of this chapter relating to determination of paternity apply to determinations of maternity. To the extent practicable, a provision of this chapter applicable to a father-child relationship applies to a mother-child relationship and a provision of this chapter applicable to a mother-child relationship applies to a father-child relationship.

Section 7. Amend Subchapter I, Chapter 8, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 8-107. Child's right to determination of parentage.

A child has the same rights and protections under law to parentage without regard to the marital status, age, gender, gender identity, or sexual orientation of the child's parents or the circumstances of the child's birth, including whether the child was born as a result of gestational or genetic surrogacy under subchapter VIII of this chapter or assisted reproduction.

Section 8. Amend § 8-201, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 8-201. Establishment of parent-child relationship.

(a) The mother-child relationship is established between a woman and a child by:

(1) The woman's having given birth to the child, unless she is not the intended parent pursuant to a gestational carrier arrangement;

(2) An adjudication of the woman's maternity;

(3) Adoption of the child by the woman;

(4) A determination by the court that the woman is a de facto parent of the child; or

(5) The woman's intending to be the mother of a child born pursuant to a gestational carrier arrangement;

or

(6) The woman's having consented to assisted reproduction by another woman under subchapter VII of this chapter which resulted in the birth of the child.

(b) The father-child relationship is established between a man and a child by:

(1) An un rebutted presumption of the man's paternity of the child under § 8-204 of this title;

(2) An effective acknowledgment of paternity by the man under subchapter III of this chapter, unless the acknowledgment has been rescinded or successfully challenged;

- ~~(3) An adjudication of the man's paternity;~~
- ~~(4) Adoption of the child by the man;~~
- ~~(5) The man's having consented to assisted reproduction by a woman under subchapter VII of this chapter which resulted in the birth of the child; or~~
- ~~(6) A determination by the court that the man is a de facto parent of the child~~
- ~~(e) De facto parent status is established if the Family Court determines that the de facto parent:~~
 - ~~(1) Has had the support and consent of the child's parent or parents who fostered the formation and establishment of a parent-like relationship between the child and the de facto parent;~~
 - ~~(2) Has exercised parental responsibility for the child as that term is defined in § 1101 of this title; and~~
 - ~~(3) Has acted in a parental role for a length of time sufficient to have established a bonded and dependent relationship with the child that is parental in nature.~~

A parent-child relationship is established between an individual and a child if:

- (1) The individual gives birth to the child, except as otherwise provided in subchapter VIII of this chapter;
- (2) There is a presumption under § 8-204 of this title of the individual's parentage of the child, unless the presumption is overcome in a judicial proceeding or a valid denial of parentage is made under subchapter III of this chapter;
- (3) The individual is adjudicated a parent of the child under subchapter VI of this chapter, including as a de facto parent under § 8-609 of this title;
- (4) The individual adopts the child;
- (5) The individual acknowledges parentage of the child under subchapter III of this chapter, unless the acknowledgment is rescinded under § 8-307 of this title or successfully challenged under subchapter III or VI of this chapter;
- (6) The individual's parentage of the child is established under subchapter VII of this chapter; or
- (7) The individual's parentage of the child is established under subchapter VIII of this chapter.

Section 9. Amend § 8-202, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 8-202. No discrimination based on marital ~~status~~: status of parent.

~~A child born to parents who are not married to each other has the same rights under the law as a child born to parents who are married to each other.~~ A parent-child relationship extends equally to every child and parent, regardless of the marital status of the parent.

Section 10. Amend § 8-203, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 8-203. Consequences of establishment of parentage.

Unless parental rights are terminated, a parent-child relationship established under this chapter applies for all purposes, except as otherwise specifically provided by ~~other law of this State.~~ State other than this chapter.

Section 11. Amend § 8-204, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 8-204. Presumption of ~~paternity in context of marriage.~~ parentage.

(a) ~~A man is presumed to be the father of a child if:~~

(1) ~~He and the mother of the child are married to each other and the child is born during the marriage;~~

(2) ~~He and the mother of the child were married to each other and the child is born within 300 days after the marriage is terminated by death, annulment, declaration of invalidity, or divorce;~~

(3) ~~Before the birth of the child, he and the mother of the child married each other in apparent compliance with law, even if the attempted marriage is or could be declared invalid, and the child is born during the invalid marriage or within 300 days after its termination by death, annulment, declaration of invalidity or divorce;~~

(4) ~~After the birth of the child, he and the mother of the child married each other in apparent compliance with law, whether or not the marriage is or could be declared invalid, and he voluntarily asserted his paternity of the child, and:~~

(i) ~~The assertion is in a record filed with the Office of Vital Statistics;~~

(ii) ~~He agreed to be and is named as the child's father on the child's birth certificate; or~~

(iii) ~~He promised in a record to support the child as his own; or~~

(5) ~~For the first 2 years of the child's life, he resided in the same household with the child and openly held out the child as his own.~~

(a) An individual is presumed to be a parent of a child if:

(1) Except as otherwise provided under subchapter VIII of this chapter or law of this State other than this chapter:

a. The individual and the individual who gave birth to the child are married to each other and the child is born during the marriage, whether the marriage is or could be declared invalid;

b. The individual and the individual who gave birth to the child were married to each other and the child is born not later than 300 days after the marriage is terminated by death, annulment, declaration of invalidity, or divorce, whether the marriage is or could be declared invalid; or

c. The individual and the individual who gave birth to the child married each other after the birth of the child, whether the marriage is or could be declared invalid, the individual at any time asserted parentage of the child, and:

1. The assertion is in a record filed with the Office of Vital Statistics; or

2. The individual agreed to be and is named as a parent of the child on the birth certificate of the child; or

3. The individual agreed in a record to support the child as the individual's own child; or

(2) The individual resided in the same household with the child for the first 2 years of the life of the child, including any period of temporary absence, and openly held out the child as the individual's child.

(b) A presumption of ~~paternity established~~ parentage under this section may be ~~rebutted~~ overcome, and competing claims of parentage may be resolved, only by an adjudication under subchapter VI of this ~~chapter~~ chapter or a valid denial of parentage under subchapter III of this chapter.

Section 12. Amend Subchapter III, Chapter 8, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

Subchapter III. Voluntary ~~Acknowledgement of Paternity~~ Acknowledgment of Parentage.

Section 13. Amend § 8-301, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 8-301. ~~Acknowledgement of paternity.~~ Acknowledgment of parentage.

~~The mother of a child and a man claiming to be the genetic father of the child may sign an acknowledgment of paternity with intent to establish the man's paternity.~~ An individual who gave birth to a child and an alleged genetic

parent of the child, parent under subchapter VII of this chapter, or presumed parent may sign an acknowledgment of parentage to establish the parentage of the child.

Section 14. Amend § 8-302, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 8-302. Execution of acknowledgment of ~~paternity~~; parentage.

(a) ~~An acknowledgment of paternity must:~~

- ~~(1) Be in a record;~~
- ~~(2) Be signed, or otherwise authenticated, under penalty of perjury by the mother and by the man seeking to establish the man's own paternity;~~
- ~~(3) State that the child whose paternity is being acknowledged:~~
 - ~~(i) Does not have a presumed father, or has a presumed father whose full name is stated; and~~
 - ~~(ii) Does not have another acknowledged or adjudicated father.~~
- ~~(4) State whether there has been genetic testing and, if so, that the acknowledging man's claim of paternity is consistent with the results of the testing; and~~
- ~~(5) State that the signatories understand that the acknowledgement is the equivalent of a judicial adjudication of paternity of the child and that a challenge to the acknowledgement is permitted only under limited circumstances and is barred after 2 years.~~

(b) ~~An acknowledgment of paternity is void if it:~~

- ~~(1) States that another man is a presumed father, unless a denial of paternity signed or otherwise authenticated by the presumed father is filed with the Office of Vital Statistics;~~
- ~~(2) States that another man is an acknowledged or adjudicated father;~~
- ~~(3) Falsely denies the existence of a presumed, acknowledged or adjudicated father of the child; or~~
- ~~(4) Is signed by the mother or a man seeking to establish the man's own paternity who is a minor at the time of signing the acknowledgment of paternity.~~

(c) ~~A presumed father may sign or otherwise authenticate an acknowledgment of paternity.~~

(a) An acknowledgment of parentage under § 8-301 of this title must:

- (1) Be in a record signed by the individual who gave birth to the child and by the individual seeking to establish a parent-child relationship, and the signatures must be attested by a notarial officer;

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

a. Does not have a presumed parent other than the individual seeking to establish the parent-child relationship or has a presumed parent whose full name is stated; and

b. Does not have another acknowledged parent, adjudicated parent, or individual who is a parent of the child under subchapter VII or VIII of this chapter other than the individual who gave birth to the child; and

(3) State that the signatories understand that the acknowledgment is the equivalent of an adjudication of parentage of the child and that a challenge to the acknowledgment is permitted only under limited circumstances and is barred 2 years after the effective date of the acknowledgment.

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

(1) An individual, other than the individual seeking to establish parentage, is a presumed parent, unless a denial of parentage by the presumed parent in a signed record is filed with the Office of Vital Statistics;

(2) An individual, other than the individual who gave birth to the child or the individual seeking to establish parentage, is an acknowledged or adjudicated parent or a parent under subchapter VII or VIII of this chapter; or

(3) The individual who gave birth to the child or the individual seeking to establish parentage is a minor.

Section 15. Amend § 8-303, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 8-303. Denial of ~~paternity~~. parentage.

~~A presumed father may sign a denial of paternity. The denial is valid only if:~~

~~(1) An acknowledgment of paternity signed, or otherwise authenticated, by another man is filed pursuant to § 8-305 of this title;~~

~~(2) The denial is in a record, and is signed, or otherwise authenticated, under penalty of perjury; and~~

~~(3) The presumed father has not previously:~~

~~(i) Acknowledged paternity, unless the previous acknowledgment has been rescinded pursuant to § 8-307 of this title or successfully challenged pursuant to § 8-308 of this title; or~~

~~(ii) Been adjudicated to be the father of the child.~~

A presumed parent may sign a denial of parentage in a record. The denial of parentage is valid only if:

(1) An acknowledgment of parentage by another individual is filed under § 8-305 of this title;

(2) The signature of the presumed parent is attested by a notarial officer; and

(3) The presumed parent has not previously:

a. Completed a valid acknowledgment of parentage, unless the previous acknowledgment was rescinded under § 8-307 of this title or challenged successfully under § 8-308 of this title; or

b. Been adjudicated to be a parent of the child.

Section 16. Amend § 8-304, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 8-304. Rules for ~~acknowledgement and acknowledgment or denial of paternity.~~ parentage.

(a) An acknowledgment of ~~paternity parentage~~ and a denial of ~~paternity parentage~~ may be contained in a single document or may be ~~signed in counterparts,~~ in counterparts and may be filed with the Office of Vital Statistics separately or simultaneously. If filing of the acknowledgment and denial are both ~~necessary,~~ required under this chapter, neither is ~~valid effective~~ until both are filed.

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

(c) Subject to subsection (a) of this section, an acknowledgment of ~~paternity parentage~~ or denial of ~~paternity parentage~~ takes effect on the birth of the child or ~~the~~ filing of the document with the Office of Vital Statistics, whichever occurs later.

(d) [Repealed.]

Section 17. Amend § 8-305, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 8-305. Effect of ~~acknowledgement~~ acknowledgment or denial of ~~paternity.~~ parentage.

(a) Except as otherwise provided in §§ 8-307 and 8-308 of this title, ~~a valid~~ an acknowledgment of ~~paternity parentage that complies with this subchapter and is~~ filed with the Office of Vital Statistics is equivalent to an adjudication of ~~paternity of a parentage of the~~ child and confers ~~upon~~ on the acknowledged ~~father~~ parent all of the rights and duties of a parent.

(b) Except as otherwise provided in §§ 8-307 and 8-308 of this title, a ~~valid~~ denial of ~~paternity parentage~~ by a presumed ~~father~~ parent that complies with this subchapter and is filed with the Office of Vital Statistics ~~in~~

~~conjunction with a valid acknowledgment of paternity~~ an acknowledgment of parentage that complies with this subchapter is equivalent to an adjudication of the ~~nonpaternity nonparentage~~ of the presumed ~~father~~ parent and discharges the presumed ~~father~~ parent from all rights and duties of a parent.

Section 18. Amend § 8-306, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 8-306. No filing fee.

The Office of Vital Statistics may not charge a fee for filing an acknowledgment of ~~paternity~~ parentage or denial of ~~paternity~~ parentage.

Section 19. Amend § 8-307, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 8-307. Proceeding for rescission.

(a) A signatory may rescind an acknowledgment of ~~paternity~~ parentage or denial of ~~paternity~~ parentage by commencing a proceeding to rescind before the earlier of:

(1) Sixty days after the effective date under § 8-304 of this title of the acknowledgment or ~~denial, as provided in § 8-304; denial~~; or

(2) The date of the first hearing, in a proceeding to which the signatory is a party, hearing before a court in a proceeding, to which the signatory is party, to adjudicate an issue relating to the child, including a proceeding that establishes support.

(b) If an acknowledgment of parentage is rescinded under subsection (a) of this section, an associated denial of parentage is invalid, and the Office of Vital Statistics shall notify the individual who gave birth to the child and the individual who signed a denial of parentage of the child that the acknowledgment has been rescinded. Failure to give the notice required by this subsection does not affect the validity of the rescission.

Section 20. Amend § 8-308, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 8-308. Challenge after expiration of period for rescission.

(a) After the period for rescission under § 8-307 of this title ~~has expired,~~ expires, but not later than 2 years after the effective date under § 8-304 of this title of an acknowledgment of parentage or denial of parentage, a signatory

of ~~an~~ the acknowledgment of ~~paternity~~ or denial of ~~paternity~~ may commence a proceeding to challenge the acknowledgment or ~~denial only~~; denial only on the basis of fraud, duress, or material mistake of fact.

(1) ~~On the basis of fraud, duress, or material mistake of fact; and~~

(2) ~~Within 2 years after the acknowledgment or denial is filed with the Office of Vital Statistics.~~

(b) ~~A party challenging an acknowledgment of paternity or denial of paternity has the burden of proof. A challenge to an acknowledgment of parentage or denial of parentage by an individual who was not a signatory to the acknowledgment or denial is governed by § 8-610 of this title.~~

Section 21. Amend § 8-309, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 8-309. Procedure for ~~rescission or challenge~~; rescission or challenge by signatory.

(a) Every signatory to an acknowledgment of ~~paternity~~ parentage and any related denial of ~~paternity~~ parentage must be made a party to a proceeding to rescind or challenge the acknowledgment or denial.

(b) ~~For the purpose of rescission of, or challenge to, an acknowledgment of paternity or denial of paternity, By signing an acknowledgment of parentage or denial of parentage a signatory submits to personal jurisdiction of in this State by signing the acknowledgment or denial, in a proceeding to rescind or challenge the acknowledgment or denial, effective upon on the filing of the document acknowledgment or denial with the Office of Vital Statistics.~~

(c) ~~Except for good cause shown, during the pendency of a proceeding to rescind or challenge an acknowledgment of paternity or denial of paternity, the The court may not suspend the legal responsibilities of a signatory arising from the acknowledgment, an acknowledgment of parentage, including the duty to pay child support. support, during the pendency of a proceeding to rescind or challenge the acknowledgment or a related denial of parentage, unless the party challenging the acknowledgment or denial shows good cause.~~

(d) ~~A proceeding to rescind or to challenge an acknowledgment of paternity or denial of paternity must be conducted in the same manner as a proceeding to adjudicate parentage under subchapter VI of this chapter. A party seeking to rescind or challenge an acknowledge of parentage or denial of parentage has the burden of proof.~~

(e) ~~At the conclusion of a proceeding to rescind or challenge an acknowledgment of paternity or denial of paternity, If the court determines that a party has satisfied the burden of proof under subsection (d) of this section, the court shall order the Office of Vital Statistics to amend the birth record of the child, if appropriate. child to reflect the legal parentage of the child.~~

(f) A proceeding to rescind or challenge an acknowledgment of parentage or denial of parentage must be conducted under subchapter VI of this chapter.

Section 22. Amend § 8-310, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 8-310. Ratification barred.

A court ~~or administrative agency~~ conducting a judicial proceeding or an administrative agency conducting an administrative proceeding is not required or permitted to ratify an unchallenged acknowledgment of ~~paternity-~~parentage.

Section 23. Amend § 8-311, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 8-311. Full faith and credit.

A court of this State shall give full faith and credit to an acknowledgment of ~~paternity~~ parentage or denial of ~~paternity~~ parentage effective in another state if the acknowledgment or denial ~~has been signed~~ was in a signed record and is otherwise in compliance with the law of the other state.

Section 24. Amend § 8-312, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 8-312. Forms for ~~acknowledgement~~ acknowledgment and denial of ~~paternity-~~ parentage.

(a) ~~To facilitate compliance with this subchapter, the~~ The Division of Child Support Services shall prescribe forms for ~~the an~~ an acknowledgment of ~~paternity~~ parentage and ~~the~~ the denial of ~~paternity-~~ parentage.

(b) A valid acknowledgment of ~~paternity~~ parentage or denial of ~~paternity~~ parentage is not affected by a later modification of the ~~prescribed form-~~ form under subsection (a) of this section.

Section 25. Amend § 8-313, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 8-313. Release of information.

The Division of Child Support Services may release information relating to the acknowledgment of ~~paternity~~ parentage or denial of ~~paternity~~ parentage to a signatory of the acknowledgment or ~~denial and to courts and agencies~~ denial, a court, authorized by ~~other law of this State or another state to receive the information of this or another state-~~ denial, a court, federal agency, and child support agency of this State or another state.

Section 26. Amend § 8-314, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 8-314. Adoption of rules.

The Division of Child Support Services may adopt rules under Chapter 101 of Title 29 to implement this subchapter.

Section 27. Amend § 8-402, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 8-402. Registration for notification.

(a) Except as otherwise provided in subsection (b) of § 8-405 of this title, a man who desires to be notified of a proceeding for adoption of, or termination of parental rights regarding, ~~a child that he may have fathered~~ the man's genetic child must register in the registry of paternity established by § 8-401 of this title before the birth of the child or ~~within not later than 30 days after the birth of the child.~~ birth.

(b) A man is not required to register under subsection (a) of this section if:

(1) A ~~father-child~~ parent-child relationship between the man and the child has been established under this chapter or ~~other law;~~ the law of this State other than this chapter; or

(2) The man commences a proceeding to adjudicate ~~his paternity~~ the man's parentage before ~~the a~~ a court has terminated ~~his~~ the man's parental rights.

(c) ~~A registrant~~ A man who registers under subsection (a) of this section shall ~~promptly~~ promptly notify the registry promptly in a record of any change in the information registered. The Office of Vital Statistics shall incorporate ~~all~~ new information received into ~~its the~~ the Office's records but need not ~~affirmatively~~ affirmatively seek to obtain current information for incorporation in the registry.

Section 28. Amend § 8-403, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 8-403. Notice of proceeding.

(a) ~~Notice of a proceeding for the adoption of, or termination of parental rights regarding, a child must be given to a registrant who has timely registered.~~ An individual who seeks to adopt a child or terminate parental rights to the child shall give notice of the proceeding to a man who has registered timely under § 8-402(a) of this title regarding the child.

(b) Notice must be given in a manner prescribed for service of process in a civil ~~action~~ proceeding in this State.

Section 29. Amend § 8-404, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 8-404. Termination of parental rights; child under 1 year of age.

~~The parental rights of a man who may be the father of a child may be terminated without notice if: An individual who seeks to adopt a child or terminate parental rights to the child is not required to give notice of the proceeding to a man who may be the genetic father of the child if:~~

(1) The child ~~has not attained~~ is under 1 year of age at the time of the termination of parental rights;

(2) The man did not register timely with the Office of Vital ~~Statistics~~; Statistics under § 8-402(a) of this title; and

(3) The man is not exempt from registration under ~~§ 8-402~~ § 8-402(b) of this title.

Section 30. Amend § 8-405, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 8-405. Termination of parental rights; child at least 1 year of age.

(a) If a child ~~has attained~~ is at least 1 year of age, ~~notice of a proceeding for adoption of, or termination of parental rights regarding the child must be given to every alleged father of the child, whether or not he has registered with the Office of Vital Statistics.~~ an individual seeking to adopt or terminate parental rights to the child shall give notice of the proceeding to each alleged genetic father of the child, whether or not the alleged genetic father has registered under § 8-402(a) of this title unless the alleged genetic father's parental rights have already been terminated.

(b) Notice must be given in a manner prescribed for service of process in a civil ~~action~~ proceeding in this State.

Section 31. Amend § 8-411, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

~~§ 8-411.~~ § 8-406. Required form.

(a) The Office of Vital Statistics shall ~~prepare~~ prescribe a form for registering ~~with the agency.~~ under § 8-402(a) of this title. ~~The form must require the signature of the registrant. The form must state that the form is signed under penalty of perjury. The form must also state that:~~

(1) The man who registers signs the form under penalty of perjury.

~~(1)(2)~~ Timely registration entitles the registrant man who registers to notice of a proceeding for adoption of the child or termination of the registrant's man's parental rights;

~~(2)(3)~~ Timely registration does not commence a proceeding to establish paternity; parentage;

~~(3)(4)~~ The information disclosed on the form may be used against the registrant man to establish paternity; parentage;

~~(4)(5)~~ Services to assist in establishing paternity parentage are available to the registrant man who registers through the support-enforcement child-support agency;

~~(5)(6)~~ The registrant should also man who registers also may register in a registry of paternity in another State state if conception or birth of the child occurred in the other State; state.

~~(6)(7)~~ Information on registries of paternity of other States states is available from the Office of Vital Statistics and the support-enforcement child-support agency; and

~~(7)(8)~~ Procedures exist to rescind the registration of a claim of paternity. registration.

(b) A man who registers under § 8-402(a) of this title shall sign the form described in subsection (a) of this section under penalty of perjury.

Section 32. Amend § 8-412, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

~~§ 8-412.~~ § 8-407. Furnishing of information; confidentiality.

(a) The Office of Vital Statistics ~~need not seek to locate the mother of a child~~ is not required to seek to locate the individual who gave birth to the child who is the subject of a ~~registration;~~ registration under § 8-402(a) of this title, but the Office of Vital Statistics shall ~~send a copy of the~~ give notice of the registration to ~~a mother if she has provided an address.~~ that individual if the Office of Vital Statistics has that individual's address.

(b) Information contained in the registry established by § 8-401 of this title is confidential and may be released on request only to:

(1) A court or ~~a person~~ an individual designated by the court;

(2) The ~~mother of the child~~ individual who gave birth to the child who is the subject of the registration;

(3) An agency authorized by ~~other law~~ law of this State other than this chapter, law of another state, or federal law to receive the information;

(4) A licensed child-placing agency;

(5) A ~~support-enforcement~~ child-support agency;

(6) A party or the party's attorney of record in a proceeding under this chapter or in a proceeding ~~for adoption of, or for termination of~~ to adopt or to terminate parental rights regarding, a to the child who is the subject of the registration; and

(7) ~~The~~ A registry of paternity in another state.

Section 33. Part 2, Subchapter IV, Chapter 8, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 8-408. Penalty for releasing information.

(a) An individual may not intentionally release information from the registry established by § 8-401 of this title to an individual or agency not authorized under § 8-407(b) of this title to receive the information.

(b) A violation of this section is a class A misdemeanor.

(c) The Superior Court has exclusive jurisdiction over a violation of this section.

Section 34. Amend § 8-413, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

~~§ 8-413. § 8-409.~~ Rescission of registration.

~~A registrant~~ A man who registers under § 8-402(a) of this title may rescind registration at any time by sending to filing with the registry established by § 8-401 of this title a rescission in a signed record signed or otherwise authenticated by the registrant, and witnessed or notarized. that is attested by a notarial officer or witnessed.

Section 35. Amend § 8-414, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

~~§ 8-414. § 8-410.~~ Untimely registration.

If a man registers under § 8-402(a) of this title more than 30 days after the birth of the child, the Office of Vital Statistics shall notify the registrant that on its face his registration man that, based on a review of the registration, the registration was not filed timely.

Section 36. Amend § 8-415, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

~~§ 8-415. § 8-411.~~ Fees for registry.

(a) ~~A fee~~ The Office of Vital Statistics may not be charged charge a fee for filing a registration under § 8-402(a) of this title or a rescission of ~~registration.~~ registration under § 8-409 of this title.

(b) Except as otherwise provided in subsection (c) of this section, the Office of Vital Statistics may charge a reasonable fee ~~for making a search of the registry and for furnishing a certificate.~~ to search the registry established by § 8-401 of this title and for furnishing a certificate of search under § 8-414 of this title.

(c) ~~A support-enforcement~~ child-support agency and ~~an agency other appropriate agencies~~ of the State of Delaware this State, if any, are not required to pay a fee authorized by subsection (b) of this section.

Section 37. Part 3, Subchapter IV, Chapter 8, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 8-412. Child born through assisted reproduction; search of registry inapplicable.

This Part does not apply to a child born through assisted reproduction.

Section 38. Amend § 8-421, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

~~§ 8-421.~~ § 8-413. Search of appropriate registry.

(a) ~~If a father-child~~ parent-child relationship has not been established under this chapter ~~for a child under 1 year of age, a petitioner for adoption of, or termination of parental rights regarding, the child must obtain a certificate of search of the registry of paternity.~~ between a child who is under 1 year of age and an individual other than the individual who gave birth to the child:

(1) An individual seeking to adopt or terminate parental rights to the child shall obtain a certificate of search under § 8-414 of this title to determine if a registration has been filed in the registry established by § 8-401 of this title regarding the child; and

(b)(2) If a petitioner for adoption of, or termination of parental rights regarding, a child the individual has reason to believe that the conception or birth of the child may have occurred in another state, the petitioner must also individual shall obtain a certificate of search from the ~~registry of paternity,~~ registry, if any, in that state.

Section 39. Amend § 8-422, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

~~§ 8-422.~~ § 8-414. Certificate of search of registry.

(a) The Office of Vital Statistics shall furnish ~~to the requester~~ a certificate of search of the registry established by § 8-401 of this title on request of to an individual, court, or agency identified in § 8-412 of this title. 8-407(b) of this title or an individual required under § 8-413(1) of this title to obtain a certificate.

(b) A certificate ~~provided by the Office of Vital Statistics~~ furnished under subsection (a) of this section:

(1) ~~must~~ Must be signed on behalf of the Office ~~and State~~ of Vital Statistics and state that:

(1) ~~a.~~ a. A search has been made of the registry; and

(2) ~~b.~~ b. A registration under § 8-402(a) of this title containing the information required to identify the ~~registrant: man who registered under § 8-402(a) of this title:~~

(i) ~~1.~~ 1. Has been ~~found and is attached to the certificate of search;~~ found; or

(ii) ~~2.~~ 2. Has not been ~~found.~~ found; and

(2) If paragraph (b)(1)b.1. of this section applies, must have a copy of the registration attached.

(c) ~~A petitioner must file the certificate of search with the court before a proceeding for adoption of, or termination of parental rights regarding, a child may be concluded. An individual seeking to adopt or terminate parental rights to a child must file with the court the certificate of search furnished under subsection (a) of this section and § 8-413(2) of this title, if applicable, before a proceeding to adopt or terminate parental rights to the child may be concluded.~~

Section 40. Amend § 8-423, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

~~§ 8-423.~~ § 8-415. Admissibility of registered information.

A certificate of search of ~~the a~~ a registry of paternity in this or another state is admissible in a proceeding for adoption of, or termination ~~of of,~~ of, parental rights ~~regarding,~~ to a child and, if relevant, in other legal proceedings.

Section 41. Amend Subchapter V, Chapter 8, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 8-501. Definitions.

In this subchapter:

(1) “Combined relationship index” means the product of all tested relationship indices.

(2) “Ethnic or racial group” means, for the purpose of genetic testing, a recognized group that an individual identifies as the individual’s ancestry or part of the ancestry or that is identified by other information.

(3) “Hypothesized genetic relationship” means an asserted genetic relationship between an individual and a child.

(4) “Probability of parentage” means, for the ethnic or racial group to which an individual alleged to be a parent belongs, the probability that a hypothesized genetic relationship is supported, compared to the probability that a genetic relationship is supported between the child and a random individual of the ethnic or racial group used in the hypothesized genetic relationship, expressed as a percentage incorporating the combined relationship index and a prior probability.

(5) “Relationship index” means a likelihood ratio that compares the probability of a genetic marker given a hypothesized genetic relationship and the probability of the genetic marker given a genetic relationship between the child and a random individual of the ethnic or racial group used in the hypothesized genetic relationship.

Section 42. Amend § 8-501, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

~~§ 8-501.~~ § 8-502. Scope of article; limitation on use of genetic testing.

(a) This subchapter governs genetic testing of an individual ~~to determine~~ in a proceeding to adjudicate parentage, whether the individual:

(1) Voluntarily submits to testing; or

(2) Is tested ~~pursuant to~~ under an order of the court or a ~~support-enforcement~~ child-support agency.

(b) Genetic testing may not be used:

(1) To challenge the parentage of an individual who is a parent under subchapter VII or VIII of this chapter; or

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

Section 43. Amend § 8-502, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

~~§ 8-502.~~ § 8-503. Order for testing. Authority to order or deny genetic testing.

(a) Except as otherwise provided in this subchapter and ~~subchapter VII~~ subchapter VI of this chapter, in a proceeding under this chapter to determine parentage, the court shall order the child and ~~other designated individuals~~ any other individual to submit to genetic testing if ~~the~~ a request for testing is supported by the sworn statement of a ~~party to the proceeding;~~ party:

(1) ~~Alleging paternity and stating facts establishing a reasonable probability of the requisite sexual contact between the individuals; or a reasonable possibility that the individual is the child's genetic parent; or~~

(2) ~~Denying paternity genetic parentage of the child and stating facts establishing a reasonable possibility that sexual contact between the individuals, if any, did not result in the conception of the child. the individual is not a genetic parent.~~

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

(c) ~~If a request for genetic testing of a child is made before birth, the~~ The court or support-enforcement child-support agency may not order in-utero in utero genetic testing.

(d) ~~If 2 or more men individuals are subject to court-ordered genetic testing, the court may order that testing may be ordered be completed concurrently or sequentially.~~

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

(f) In a proceeding to adjudicate the parentage of a child having a presumed parent or an individual who claims to be a parent under § 8-609 of this title, or to challenge an acknowledgment of parentage, the court may deny a motion for genetic testing of the child and any other individual after considering the factors in § 8-613(a) and (b) of this title.

(g) If an individual requesting genetic testing is barred under subchapter VI of this chapter from establishing the individual's parentage, the court shall deny the request for genetic testing.

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

Section 44. Amend § 8-503, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

~~§ 8-503.~~ 8-504. Requirements for genetic testing.

(a) Genetic testing must be of a type reasonably relied ~~upon~~ on by experts in the field of genetic testing and performed in a testing laboratory accredited by:

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

(2) ~~The American Society for Histocompatibility and Immunogenetics, or a successor to its functions;~~
~~or~~

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

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

(c) Based on the ethnic or racial group of an ~~individual, the individual undergoing genetic testing,~~ a testing laboratory shall determine the databases from which to select frequencies for use in ~~calculation of the probability of paternity.~~ calculating a relationship index. If there is disagreement as to the testing an individual or a child-support agency objects to the laboratory's choice, the following rules apply:

(1) ~~The individual objecting may require the testing laboratory, within 30 days after receipt of the report of the test, to recalculate the probability of paternity.~~ Not later than 30 days after receipt of the report of the test, the objecting individual or child support agency may request the court to require the laboratory to recalculate the relationship index using an ethnic or racial group different from that used by the laboratory.

(2) The individual or child-support agency objecting to the ~~testing~~ laboratory's ~~initial~~ choice under this subsection shall:

(i)a. If the requested frequencies are not available to the ~~testing~~ laboratory for the ethnic or racial group requested, provide the requested frequencies compiled in a manner recognized by accrediting bodies;
or

(ii)b. Engage another ~~testing~~ laboratory to perform the calculations.

(3) The ~~testing~~ laboratory may use ~~its~~ the laboratory's own statistical estimate if there is a question regarding as to which ethnic or racial group is appropriate. ~~If available, the testing~~ The laboratory shall calculate the frequencies using ~~statistics~~ statistics, if possible, for any other ethnic or racial group requested.

(d) If, after recalculation of the relationship index under subsection (c) of this section using a different ethnic or racial group, genetic testing under § 8-506 of this title does not ~~rebuttably identify a man as the father of a child~~

~~under § 8-505 of this title; identify an individual as a genetic parent of a child, the court may require an individual who has been tested may be required to submit to additional genetic testing.~~ testing to identify a genetic parent.

Section 45. Amend § 8-504, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

~~§ 8-504. 8-505.~~ Report of genetic testing.

(a) A report of genetic testing must be in a record and signed under penalty of perjury by a designee of the testing laboratory. A report ~~made under~~ complying with the requirements of this subchapter is self-authenticating.

(b) Documentation from ~~the a~~ testing laboratory of the following information is sufficient to establish a reliable chain of custody ~~that and~~ allows the results of genetic testing to be admissible without testimony:

(1) The ~~names and photographs of the individuals whose specimens have~~ name and photograph of each individual whose specimen has been taken;

(2) The ~~names of the individuals who collected the specimens;~~ name of the individual who collected each specimen;

(3) The ~~places and dates the specimens were~~ place and date each specimen was collected;

(4) The ~~names of the individuals~~ name of the individual who received ~~the specimens~~ each specimen in the testing laboratory; and

(5) The ~~dates the specimens were~~ date each specimen was received.

Section 46. Amend § 8-505, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

~~§ 8-505. 8-506.~~ Genetic testing results; rebuttal. challenge to results.

(a) ~~Under this chapter, a man is rebuttably identified as the father of a child if the~~ Subject to a challenge under subsection (b) of this section, an individual is identified under this chapter as a genetic parent of a child if genetic testing complies with this subchapter and the results disclose that: of the testing disclose:

(1) The ~~man~~ individual has at least a 99 percent probability of ~~paternity,~~ parentage, using a prior probability of 0.50, as calculated by using the combined ~~paternity~~ relationship index obtained in the testing; and

(2) A combined ~~paternity~~ relationship index of at least 100 to 1.

(b) ~~A man~~ An individual identified under subsection (a) of this section as ~~the father~~ a genetic parent of the child may ~~rebut~~ challenge the genetic testing results only by other genetic testing satisfying the requirements of this subchapter which:

(1) Excludes the ~~man~~ individual as a genetic ~~father~~ parent of the child; or

(2) Identifies another ~~man as the possible father of the child.~~ individual as a possible genetic parent of the child other than:

a. The individual who gave birth to the child; or

b. The individual identified under subsection (a) of this section.

(c) Except as otherwise provided in § ~~8-510~~ 8-511 of this title, if more than 1 ~~man~~ individual other than the individual who gave birth is identified by genetic testing as ~~the possible father~~ a possible genetic parent of the child, the court shall order ~~them~~ each individual to submit to further genetic testing to identify ~~the genetic father.~~ a genetic parent.

Section 47. Amend § 8-506, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ ~~8-506.~~ 8-507. Costs of genetic testing.

(a) Subject to assessment of ~~costs~~ fees under subchapter VI of this chapter, payment of the cost of initial genetic testing must ~~be advanced;~~ be made in advance:

(1) By a ~~support-enforcement~~ child-support agency in a proceeding in which the ~~support-enforcement~~ child-support agency is providing services;

(2) By the individual who made the ~~request;~~ request for genetic testing;

(3) As agreed by the parties; or

(4) As ordered by the court.

(b) ~~In cases in which~~ If the cost is advanced by the support-enforcement of genetic testing is paid by a child-support agency, the agency may seek reimbursement from ~~a man who is rebuttably identified as the father.~~ the genetic parent whose parent-child relationship is established.

Section 48. Amend § 8-507, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ ~~8-507.~~ 8-508. Additional genetic testing.

The Court or ~~the support-enforcement~~ child-support agency shall order additional genetic testing ~~upon the~~ on request of a party an individual who contests the result of the ~~original testing;~~ initial testing under § 8-506 of this title. If the ~~previous~~ initial genetic testing under § 8-506 of this title identified a ~~man as the father of the child under § 8-505 of this title;~~ an individual as a genetic parent of the child, the court or agency may not order additional testing unless the ~~party provides advance payment for the testing;~~ contesting individual pays for the testing in advance.

Section 49. Amend § 8-508, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

~~§ 8-508.~~ 8-509. Genetic testing when specimen is not available.

(a) Subject to subsection (b) of this section, if a genetic-testing specimen is not available from ~~a man who may be the father of a child, for good cause and under circumstances the court considers to be just,~~ an alleged genetic parent of a child, for good cause and under circumstances the court considers to be just, the court may order any of the following individuals to submit specimens for genetic testing:

- (1) ~~The parents of the man;~~ A parent of the alleged genetic parent;
- (2) ~~Brothers and sisters of the man;~~ A sibling of the alleged genetic parent;
- (3) ~~Other children of the man and their mothers; and~~ Another child of the alleged genetic parent and the individual who gave birth to the other child; and
- (4) ~~Other relatives of the man~~ Another relative of the alleged genetic parent necessary to complete genetic testing.

(b) ~~Issuance of an order under this section requires a finding~~ To issue an order under this section, the court must find that a need for genetic testing outweighs the legitimate interests of the individual sought to be tested.

Section 50. Amend § 8-509, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

~~§ 8-509.~~ 8-510. Deceased individual.

~~For good cause shown,~~ If an individual seeking genetic testing demonstrates good cause, the court may order genetic testing of a deceased individual.

Section 51. Amend § 8-510, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

~~§ 8-510.~~ 8-511. Identical ~~brothers;~~ siblings.

(a) ~~The~~ If the court finds there is reason to believe that an alleged genetic parent has an identical sibling and evidence that the sibling may be a genetic parent of the child, the court may order genetic testing of a brother of a man identified as the father of a child if the man is commonly believed to have an identical brother and evidence suggests that the brother may be the genetic father of the child. the sibling.

(b) ~~If each brother satisfies the requirements as the identified father of the child under § 8-505 of this title without consideration of another identical brother being identified as the father of the child, If more than one sibling is identified under § 8-506 of this title as a genetic parent of the child,~~ the court may rely on nongenetic evidence to adjudicate which brother is the father of the child. sibling is a genetic parent of the child.

Section 52. Amend Subchapter V, Chapter 8, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 8-512. Confidentiality of genetic testing.

(a) Release of a report of genetic testing for parentage is controlled by law of this State other than this chapter.

(b) An individual may not intentionally release an identifiable specimen of another individual collected for genetic testing under this subchapter for a purpose not relevant to a proceeding regarding parentage, without a court order or written permission of the individual who furnished the specimen.

(c) A violation of this section is a class A misdemeanor.

(d) The Superior Court has exclusive jurisdiction over a violation of this section.

Section 53. Amend § 8-601, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 8-601. Proceeding authorized.

A civil proceeding may be ~~maintained~~ commenced to adjudicate the parentage of a child. ~~The~~ Except as otherwise provided in this chapter, the proceeding is governed by the Family Court Rules of Civil Procedure.

Section 54. Amend § 8-602, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 8-602. Standing to maintain proceeding.

~~Subject to~~ Except as otherwise provided in subchapter III of this chapter and §§ ~~8-607 and 8-609~~ 8-608 through 8-611 of this title, a proceeding to adjudicate parentage may be maintained by:

(1) The child;

~~(2) The mother of the child;~~ individual who gave birth to the child, unless a court has adjudicated that the individual is not a parent;

(3) An individual who is a parent of the child under this chapter;

~~(3)(4) A man whose paternity~~ An individual whose parentage of the child is to be adjudicated;

~~(4)(5) The support enforcement~~ A child-support agency;

~~(5)(6) An authorized adoption agency authorized by law of this State other than this chapter~~ or licensed child-placing agency; or

~~(6)(7) A representative authorized by law~~ of this State other than this chapter to act for an individual who otherwise would ~~otherwise~~ be entitled to maintain a proceeding but who is deceased, incapacitated, or a minor.

Section 55. Amend § 8-603, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 8-603. ~~Parties to proceeding.~~ Notice of proceeding.

~~The following individuals must be joined as parties in a proceeding to adjudicate parentage:~~

~~(1) The mother of the child; and~~

~~(2) A man whose paternity of the child is to be adjudicated.~~

(a) The petitioner shall give notice of a proceeding to adjudicate parentage to the following individuals:

(1) The individual who gave birth to the child, unless a court has adjudicated that the individual is not a parent;

(2) An individual who is a parent of the child under this chapter;

(3) A presumed, acknowledged, or adjudicated parent of the child; and

(4) An individual whose parentage of the child is to be adjudicated.

(b) An individual entitled to notice under subsection (a) of this section has a right to intervene in the proceeding.

(c) Lack of notice required by subsection (a) of this section does not render a judgment void. Lack of notice does not preclude an individual entitled to notice under subsection (a) of this section from bringing a proceeding under § 8-611(b) of this title.

Section 56. Amend § 8-604, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 8-604. Personal jurisdiction.

(a) ~~An individual may not be adjudicated to be a parent unless~~ The court may adjudicate an individual's parentage of a child only if the court has personal jurisdiction over the individual.

(b) A court of this State ~~having~~ with jurisdiction to adjudicate parentage may exercise personal jurisdiction over a nonresident individual, or the guardian or conservator of the individual, if the conditions prescribed in ~~§ 610 § 6-201~~ of this title are ~~fulfilled~~, satisfied.

(c) Lack of jurisdiction over one individual does not preclude the court from making an adjudication of parentage binding on another ~~individual over whom the court has personal jurisdiction~~. individual.

Section 57. Amend § 8-605, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 8-605. Venue.

~~Venue for a proceeding to adjudicate parentage is in the county of this State in which:~~

~~(1) The child resides or is found;~~

~~(2) The respondent resides or is found if the child does not reside in this State; or~~

~~(3) A proceeding for probate or administration of the presumed or alleged father's estate has been commenced.~~

If the court has personal jurisdiction under § 8-604 of this title, venue for a proceeding to adjudicate parentage is proper in any county of this State.

Section 58. Amend Subchapter VI, Chapter 8, Title 13 of the Delaware Code by transferring §§ 8-606 through 8-612 of Title 13 of the Delaware Code from Part 1, Subchapter VI, Chapter 8 of Title 13 of the Delaware Code to Part 2, Subchapter VI, Chapter 8 of Title 13.

Section 59. Amend § 8-606, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 8-606. ~~Statute of limitations~~. Admissibility of results of genetic testing.

~~(a) Subject to the provisions of subsection (b) of this section and §§ 8-607 and 8-609 of this title, a proceeding under this subchapter may be commenced at any time until the child reaches the age of majority, except as provided in §§ 501(d) and 503 of this title.~~

~~(b) A proceeding to adjudicate the parentage of a child having no presumed, acknowledged, adjudicated or adoptive father may be commenced at any time, even after:~~

~~(1) The child becomes an adult but only if the child initiates the proceeding; or~~

~~(2) An earlier proceeding to adjudicate paternity has been dismissed based upon the application of a statute of limitation then in effect.~~

~~(c) In a proceeding under subsection (b) of this section, the court may deny a motion for genetic testing based on principles of estoppel as established in § 8-608 of this title.~~

~~(d) This section shall not extend the time within which a right of inheritance or a right to succession may be asserted beyond the time provided by law relating to distribution and closing of decedents' estates, nor to the determination of heirship, or otherwise.~~

~~(e) Notwithstanding the 2-year period of limitation recited in this chapter or other affirmative defense, an action for parentage may proceed despite a prior adjudication, acknowledgement or presumption of parentage when shown by clear and convincing evidence to be in the best interest of the particular child, and where the prior adjudication, acknowledgement or presumption of parentage was based on fraud or duress or material mistake of fact.~~

(a) Except as otherwise provided in § 8-502(b) of this title, the court shall admit a report of genetic testing ordered by the court under § 8-503 of this title as evidence of the truth of the facts asserted in the report.

(b) A party may object to the admission of a report described in subsection (a) of this section, not later than 14 days after the party receives the report. The party shall cite specific grounds for exclusion.

(c) A party that objects to the results of genetic testing may call a genetic-testing expert to testify in person or by another method approved by the court. Unless the court orders otherwise, the party offering the testimony bears the expense for the expert testifying.

(d) Admissibility of a report of genetic testing is not affected by whether the testing was performed:

(1) Voluntarily or under an order of the court or a child-support agency; or

(2) Before, on, or after commencement of the proceeding.

Section 60. Amend § 8-607, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 8-607. ~~Limitation: Child having presumed father.~~ Adjudicating parentage of child with alleged genetic parent.

(a) Except as otherwise provided in subsection (b) of this section, a proceeding brought by a presumed father, the mother or another individual to adjudicate the parentage of a child having a presumed father must be commenced not later than 2 years after the birth of the child.

(b) A proceeding seeking to disprove the father-child relationship between a child and the child's presumed father may be maintained at any time if the Court determines that:

(1) a. ~~The presumed father and the mother of the child neither cohabited nor engaged in sexual intercourse with each other during the probable time of conception; and~~

~~b. The presumed father never openly held out the child as his own; or~~

(2) ~~The presumed father did not commence an action within the limitation period in reliance on the mother's failure to disclose the possibility of any other alleged fathers.~~

(a) A proceeding to determine whether an alleged genetic parent who is not a presumed parent is a parent of a child may be commenced:

(1) Before the child becomes an adult; or

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

(b) This subsection applies in a proceeding described in subsection (a) of this title if the individual who gave birth to the child is the only other individual with a claim to parentage of the child. The court shall adjudicate an alleged genetic parent to be a parent of the child if the alleged genetic parent:

(1) Is identified under § 8-506 of this title as a genetic parent of the child and the identification is not successfully challenged under § 8-506 of this title;

(2) Admits parentage in a pleading, when making an appearance, or during a hearing, the court accepts the admission, and the court determines the alleged genetic parent to be a parent of the child;

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

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

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

(c) Subject to other limitations in this Part, if in a proceeding involving an alleged genetic parent, at least one other individual in addition to the individual who gave birth to the child has a claim to parentage of the child, the court shall adjudicate parentage under § 8-613 of this title.

Section 61. Amend § 8-608, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 8-608. ~~Authority to deny motion for genetic testing.~~ Adjudicating parentage of child with presumed parent.

~~(a) In a proceeding to adjudicate the parentage of a child having a presumed father or to challenge the paternity of a child having an acknowledged father, the court may deny a motion seeking an order for genetic testing of the mother, the child and the presumed or acknowledged father if the court determines that:~~

~~(1) The conduct of the mother or the presumed or acknowledged father estops that party from denying parentage; and~~

~~(2) It would be inequitable to disprove the father-child relationship between the child and the presumed or acknowledged father.~~

~~(b) In determining whether to deny or to grant a motion seeking an order for genetic testing under this section, the court shall consider the best interest of the child, including the following factors:~~

~~(1) The length of time between the proceeding to adjudicate parentage and the time that the presumed or acknowledged father was placed on notice that he might not be the genetic father;~~

~~(2) The length of time during which the presumed or acknowledged father has assumed the role of father of the child;~~

~~(3) The facts surrounding the presumed or acknowledged father's discovery of his possible nonpaternity;~~

~~(4) The nature of the relationship between the child and the presumed or acknowledged father;~~

~~(5) The age of the child;~~

~~(6) The harm that may result to the child if presumed or acknowledged paternity is successfully disproved;~~

~~(7) The nature of the relationship between the child and any alleged father;~~

~~(8) The extent to which the passage of time reduces the chances of establishing the paternity of another man and a child-support obligation in favor of the child;~~

~~(9) Other factors that may affect the equities arising from the disruption of the father-child relationship between the child and the presumed or acknowledged father or the chance of other harm to the child; and~~

~~(10) Whether the child has a medical condition for which an accurate family history is necessary.~~

~~(e) In a proceeding involving the application of this section, a minor or incapacitated child must be represented by a guardian ad litem.~~

~~(d) Denial of a motion seeking an order for genetic testing must be based on clear and convincing evidence.~~

~~(e) If the court denies a motion seeking an order for genetic testing, it shall issue an order adjudicating the presumed or acknowledged father to be the father of the child.~~

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

(1) Before the child becomes an adult; or

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

(b) A presumption of parentage under § 8-204 of this title cannot be overcome after the child attains 2 years of age unless the court determines:

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

(2) The child has more than 1 presumed parent.

(c) The following rules apply in a proceeding to adjudicate a presumed parent's parentage of a child if the individual who gave birth to the child is the only other individual with a claim to parentage of the child:

(1) If no party to the proceeding challenges the presumed parent's parentage of the child, the court shall adjudicate the presumed parent to be a parent of the child.

(2) If the presumed parent is identified under § 8-506 of this title as a genetic parent of the child and that identification is not successfully challenged under § 8-506 of this title, the court shall adjudicate the presumed parent to be a parent of the child.

(3) If the presumed parent is not identified under § 8-506 of this title as a genetic parent of the child and the presumed parent or the individual who gave birth to the child challenges the presumed parent's parentage of the child, the court shall adjudicate the parentage of the child in the best interest of the child based on the factors under § 8-613(a) and (b) of this title.

(d) Subject to other limitations in this Part, if in a proceeding to adjudicate a presumed parent's parentage of a child, another individual in addition to the individual who gave birth to the child asserts a claim to parentage of the child, the court shall adjudicate parentage under § 8-613 of this title.

Section 62. Amend § 8-609, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 8-609. ~~Limitation: Child having acknowledged or adjudicated father.~~ Adjudicating claim of de facto parentage of child.

~~(a) If a child has an acknowledged father, a signatory to the acknowledgment of paternity or denial of paternity may commence a proceeding seeking to rescind the acknowledgment or denial or challenge the paternity of the child only within the time allowed under §§ 8-307 or 8-308 of this title.~~

~~(b) If a child has an acknowledged father or an adjudicated father, an individual who is neither a signatory to the acknowledgment of paternity nor a party to the adjudication and who seeks an adjudication of paternity of the child must commence a proceeding not later than 2 years after the effective date of the acknowledgment or adjudication.~~

~~(c) A proceeding under this section is subject to the application of the principles of estoppel established in § 8-608 of this title.~~

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

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

(2) Claims to be a de facto parent of the child.

(b) An individual who claims to be a de facto parent of a child must commence a proceeding to establish parentage of a child under this section:

(1) Before the child attains 18 years of age; and

(2) While the child is alive.

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

(1) The individual must file an initial verified pleading alleging specific facts that support the claim to parentage of the child asserted under this section. The verified pleading must be served on all parents and legal guardians of the child and any other party to the proceeding.

(2) An adverse party, parent, or legal guardian may file a pleading in response to the pleading filed under paragraph (c)(1) of this section. A responsive pleading must be verified and must be served on parties to the proceeding.

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

(d) In a proceeding to adjudicate parentage of an individual who claims to be a de facto parent of the child, if there is only one other individual who is a parent or has a claim to parentage of the child, the court shall adjudicate the individual who claims to be a de facto parent to be a parent of the child if the individual demonstrates by clear-and-convincing evidence that:

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

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

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

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

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

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

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

(e) Subject to other limitations in this Part, if in a proceeding to adjudicate parentage of an individual who claims to be a de facto parent of the child, there is more than 1 other individual who is a parent or has a claim to

parentage of the child and the court determines that the requirements of subsection (d) of this section are satisfied, the court shall adjudicate parentage under § 8-613 of this title.

Section 63. Amend § 8-610, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

~~§ 8-610. Proceedings in which parentage may be determined.~~ Adjudicating parentage of child with acknowledged parent.

~~(a) Except as otherwise provided in subsection (c) of this section, a determination of parentage may be made in a proceeding for adoption, termination of parental rights, child custody or visitation, child support, divorce, annulment, probate or administration of an estate, or other proceeding in which the parentage or nonparentage of the child is an element of the claim for relief or a defense, and such a determination is binding as provided in § 8-637 of this title. In a proceeding to establish child support, the court is deemed to have made an adjudication of parentage of a child if the court acts under circumstances that satisfy the jurisdictional requirements of § 610 of this title and the final order provides for the support of the child by the man.~~

~~(b) Except as otherwise provided in subsection (a) of this section, a proceeding to adjudicate parentage may be joined with a proceeding for adoption, termination of parental rights, child custody or visitation, child support, divorce, annulment, probate or administration of an estate, or other appropriate proceeding.~~

~~(c) A respondent may not join a proceeding described in subsection (a) of this section with a proceeding to adjudicate parentage brought under Chapter 6 of this title.~~

(a) If a child has an acknowledged parent, a proceeding to challenge the acknowledgment of parentage or a denial of parentage, brought by a signatory to the acknowledgment or denial, is governed by §§ 8-308 and 8-309 of this title.

(b) If a child has an acknowledged parent, the following rules apply in a proceeding to challenge the acknowledgment of parentage or a denial of parentage brought by an individual, other than the child, who has standing under § 8-602 of this title and was not a signatory to the acknowledgment or denial:

(1) The individual must commence the proceeding not later than 2 years after the effective date of the acknowledgment.

(2) The court may permit the proceeding only if the court finds permitting the proceeding is in the best interest of the child.

(3) If the court permits the proceeding, the court shall adjudicate parentage under § 8-613 of this title.

Section 64. Amend § 8-611, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 8-611. ~~Proceeding before birth.~~ Adjudicating parentage of child with adjudicated parent.

~~(a) A proceeding to determine parentage may be commenced before the birth of the child, but may not be concluded until after the birth of the child.~~

~~(b) But if a child was conceived through assisted reproduction, an order or judgment may be entered before the birth of the resulting child to establish a parent-child relationship, as long as enforcement of the order or judgment shall be stayed until the birth of the child. Such an order shall be sought by filing a petition setting forth the name(s) and address(es) of the intended parent(s), the gestational carrier, if there is one, and her spouse, if there is one, and appending affidavits which:~~

~~(1) Attest that the pregnancy resulted through means other than sexual intercourse verified by the participating health care provider;~~

~~(2) Acknowledge parentage verified by the parent or parents; and~~

~~(3) In cases involving a gestational carrier only,~~

~~(i) Acknowledge nonparentage verified by the gestational carrier and her spouse, if there is one; and~~

~~(ii) Attest to the gestational carrier agreement signed by all the parties in accordance with § 8-807 of this title.~~

~~(c) Except in circumstances outlined in subsection (b) of this section, the following actions may be taken before the birth of any child:~~

~~(1) Service of process;~~

~~(2) Discovery; and~~

~~(3) Except as prohibited by § 8-502 of this title, collection of specimens for genetic testing.~~

(a) If a child has an adjudicated parent, a proceeding to challenge the adjudication, brought by an individual who was a party to the adjudication or received notice under § 8-603 of this title, is governed by the rules governing a collateral attack on a judgment.

(b) If a child has an adjudicated parent, the following rules apply to a proceeding to challenge the adjudication of parentage brought by an individual, other than the child, who has standing under § 8-602 of this title

and was not a party to the adjudication and did not receive notice under § 8-603 of this title:

(1) The individual must commence the proceeding not later than 2 years after the effective date of the adjudication.

(2) The court may permit the proceeding only if the court finds permitting the proceeding is in the best interest of the child.

(3) If the court permits the proceeding, the court shall adjudicate parentage under § 8-613 of this title.

Section 65. Amend § 8-612, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

~~§ 8-612. Child as party; representation.~~ Adjudicating parentage of child of assisted reproduction.

~~(a) A minor child is a permissible party, but is not a necessary party to a proceeding under this subchapter.~~

~~(b) The court shall appoint a guardian ad litem to represent a minor or incapacitated child if the child is a party or the court finds that the interests of the child are not adequately represented.~~

~~(c) Where all necessary parties to a parentage action agree to genetic testing despite the availability of affirmative defenses, they shall be presumed to be adequately representing the interests of the child subject to the court's consideration of the factors recited in § 8-608(b) of this title.~~

(a) An individual who is a parent under subchapter VII of this chapter or the individual who gave birth to the child may bring a proceeding to adjudicate parentage. If the court determines the individual is a parent under subchapter VII of this chapter, the court shall adjudicate the individual to be a parent of the child.

(b) In a proceeding to adjudicate an individual's parentage of a child, if another individual other than the individual who gave birth to the child is a parent under subchapter VII of this chapter, the court shall adjudicate the individual's parentage of the child under § 8-613 of this title.

Section 66. Amend Part 2, Subchapter VI, Chapter 8, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 8-613. Adjudicating competing claims of parentage.

(a) In a proceeding to adjudicate competing claims of, or challenges under § 8-608(c) of this title, § 8-610 of this title, or § 8-611 of this title to, parentage of a child by 2 or more individuals, the court shall adjudicate parentage in the best interest of the child, based on:

(1) The age of the child;

- (2) The length of time during which each individual assumed the role of parent of the child;
- (3) The nature of the relationship between the child and each individual;
- (4) The harm to the child if the relationship between the child and each individual is not recognized;
- (5) The basis for each individual's claim to parentage of the child; and
- (6) Other equitable factors arising from the disruption of the relationship between the child and each individual or the likelihood of other harm to the child.

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

- (1) The facts surrounding the discovery the individual might not be a genetic parent of the child; and
- (2) The length of time between the time that the individual was placed on notice that the individual might not be a genetic parent and the commencement of the proceeding.

(c)(1) The court may adjudicate a child to have more than 2 parents under this chapter if the court finds that failure to recognize more than 2 parents would be detrimental to the child.

(2) A finding of detriment to the child under paragraph (c)(1) of this section does not require a finding of unfitness of any parent or individual seeking an adjudication of parentage.

(3) In determining detriment to the child under paragraph (c)(1) of this section, the court shall consider all relevant factors, including the harm if the child is removed from a stable placement with an individual who has fulfilled the child's physical needs and psychological needs for care and affection and has assumed the role for a substantial period.

§ 8-614. [Reserved].

Section 67. Amend Part 3, Subchapter VI, Chapter 8, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 8-615. Temporary order.

(a) In a proceeding under this subchapter, the court may issue a temporary order for child support if the order is consistent with law of this State other than this chapter and the individual ordered to pay support is:

- (1) A presumed parent of the child;
- (2) Petitioning to be adjudicated a parent;
- (3) Identified as a genetic parent through genetic testing under § 8-506 of this title;

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

(5) Shown by clear-and-convincing evidence to be a parent of the child; or

(6) A parent under this chapter.

(b) The court may issue a temporary order for custody and visitation under law of this State other than this chapter.

§ 8-616. Combining proceedings.

Unless the court would not otherwise have jurisdiction over the proceeding, the court may combine a proceeding to adjudicate parentage under this chapter with a proceeding for adoption, termination of parental rights, child custody or visitation, child support, divorce, annulment, declaration of invalidity, administration of an estate, or other appropriate proceeding.

§ 8-617. Proceeding before birth.

(a) Except as provided in Part 3 of subchapter VIII of this chapter and subject to subsections (b) and (c) of this section, a proceeding to adjudicate parentage may be commenced before the birth of the child, but may not be concluded until after the birth of the child.

(b) If a child is conceived through assisted reproduction, an order or judgment may be entered before the birth of the resulting child to establish a parent-child relationship, if enforcement of the order or judgment is stayed until the birth of the child. The order or judgment must be sought by filing a petition containing all of the following:

(1) The names and addresses of the intended parents;

(2) The name and address of the gestational carrier, if any, and the gestational carrier's spouse, if any;

and

(3) An affidavit that does the following:

a. Acknowledges parentage verified by the parents; and

b. In cases involving a gestational carrier:

1. Acknowledges nonparentage verified by the gestational carrier and the gestational carrier's spouse, if any; and

2. Attests to the gestational carrier agreement signed by all the parties in accordance with § 8-811 of this title.

(c) Except in circumstances under subsection (b) of this section, the following actions may be taken before the birth of a child:

(1) Service of process;

(2) Discovery; and

(3) Except as prohibited by § 8-503 of this title, collection of specimens for genetic testing.

§ 8-618. Child as party; representation.

(a) A minor child is a permissive party but not a necessary party to a proceeding under this subchapter.

(b) The court shall appoint a guardian ad litem to represent a child in a proceeding under this subchapter, if the court finds that the interests of the child are not adequately represented.

§ 8-619. Court to adjudicate parentage.

The court shall adjudicate parentage of a child without a jury.

Section 68. Amend Subchapter VI, Chapter 8, Title 13 of the Delaware Code by transferring §§ 8-621 through 8-624 of Title 13 of the Delaware Code from Part 2, Subchapter VI, Chapter 8 of Title 13 of the Delaware Code to Part 3, Subchapter VI, Chapter 8 of Title 13.

Section 69. Amend § 8-621, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 8-621. Admissibility of results of genetic testing; expenses. Dismissal for want of prosecution.

~~(a) Except as otherwise provided in subsection (c) of this section, a record of a genetic testing expert is admissible as evidence of the truth of the facts asserted in the report unless a party objects to its admission within 14 days after its receipt by the objecting party and cites specific grounds for exclusion. The admissibility of the report is not affected by whether the testing was performed:~~

~~(1) Voluntarily or pursuant to an order of the court or a support enforcement agency; or~~

~~(2) Before or after the commencement of the proceeding.~~

~~(b) A party objecting to the results of genetic testing may call 1 or more genetic testing experts to testify in person or by telephone, videoconference, deposition or another method approved by the court. Unless otherwise ordered by the court, the party offering the testimony bears the expense for the expert testifying.~~

~~(c) If a child has a presumed, acknowledged or adjudicated father, the results of genetic testing are inadmissible to adjudicate parentage unless performed:~~

(1) ~~With the consent of both the mother and the presumed, acknowledged or adjudicated father; or~~

(2) ~~Pursuant to an order of the court under § 8-502 of this title.~~

(d) ~~Copies of bills for genetic testing and for prenatal and postnatal health care for the mother and child which are furnished to the adverse party not less than 10 days before the date of a hearing are admissible to establish:~~

(1) ~~The amount of the charges billed; and~~

(2) ~~That the charges were reasonable, necessary and customary.~~

The court may dismiss a proceeding under this chapter for want of prosecution only without prejudice. An order of dismissal for want of prosecution purportedly with prejudice is void and has only the effect of a dismissal without prejudice.

Section 70. Amend § 8-622, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 8-622. ~~Consequences of declining genetic testing.~~ Order adjudicating parentage.

(a) ~~An order for genetic testing is enforceable by contempt.~~

(b) ~~If an individual whose paternity is being determined declines to submit to genetic testing ordered by the court, the court for that reason may adjudicate parentage contrary to the position of that individual.~~

(c) ~~Genetic testing of the mother of a child is not a condition precedent to testing the child and a man whose paternity is being determined. If the mother is unavailable or declines to submit to genetic testing, the court may order the testing of the child and every man whose paternity is being adjudicated.~~

(a) An order adjudicating parentage must identify the child in a manner provided by law of this State other than this chapter.

(b) Except as otherwise provided in subsection (c) of this section, the court may assess filing fees, reasonable attorney's fees, fees for genetic testing, other costs, and necessary travel and other reasonable expenses incurred in a proceeding under this subchapter. Attorney's fees awarded under this subsection may be paid directly to the attorney, and the attorney may enforce the order in the attorney's own name.

(c) The court may not assess fees, costs, or expenses in a proceeding under this subchapter against a child-support agency of this State or another state, except as provided by law of this State other than this chapter.

(d) In a proceeding under this subchapter or under § 513 of this title, a copy of a bill for genetic testing or prenatal or postnatal health care for the individual who gave birth to the child and the child, provided to the adverse

party not later than 10 days before a hearing, is admissible to establish:

- (1) The amount of the charge billed; and
- (2) That the charge is reasonable and necessary.

(e) On request of a party and for good cause, the court in a proceeding under this subchapter may order the name of the child changed. If the court order changing the name varies from the name on the birth certificate of the child, the court shall order the Office of Vital Statistics to issue an amended birth certificate.

Section 71. Amend § 8-623, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

~~§ 8-623. Admission of paternity authorized.~~ Binding effect of determination of parentage.

~~(a) A respondent in a proceeding to adjudicate parentage or in a proceeding for child support or in any other proceeding in which the parentage of the child is an element of the claim for relief or a defense may admit to the paternity of a child by filing a pleading to that effect or by admitting paternity under penalty of perjury when making an appearance or during a hearing.~~

~~(b) If the court finds that the admission of paternity satisfies the requirements of this section and finds that there is no reason to question the admission, the court shall issue an order adjudicating the child to be the child of the man admitting paternity.~~

(a) Except as otherwise provided in subsection (b) of this section:

(1) A signatory to an acknowledgment of parentage or denial of parentage is bound by the acknowledgment and denial as provided in subchapter III of this chapter; and

(2) A party to an adjudication of parentage by a court acting under circumstances that satisfy the jurisdiction requirements of § 6-201 of this title and any individual who received notice of the proceeding are bound by the adjudication.

(b) A child is not bound by a determination of parentage under this chapter unless:

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

(2) The determination was based on a finding consistent with the results of genetic testing, and the consistency is declared in the determination or otherwise shown;

(3) The determination of parentage was made under subchapter VII or VIII of this chapter; or

(4) The child was a party or was represented by a guardian ad litem in the proceeding.

(c) In a proceeding for divorce, dissolution, annulment, or declaration of invalidity, the court is deemed to have made an adjudication of parentage of a child if the court acts under circumstances that satisfy the jurisdiction requirements of § 6-201 of this title and the final order:

(1) Expressly identifies the child as a “child of the marriage” or “issue of the marriage” or includes similar words indicating that both spouses are parents of the child; or

(2) Provides for support of the child by a spouse unless that spouse’s parentage is disclaimed specifically in the order.

(d) Except as otherwise provided in subsection (b) of this section or § 8-611 of this title, a determination of parentage may be asserted as a defense in a subsequent proceeding seeking to adjudicate parentage of an individual who was not a party to the earlier proceeding.

(e) A party to an adjudication of parentage may challenge the adjudication only under law of this State other than this chapter relating to appeal, vacation of judgment, or other judicial review.

Section 72. Amend § 8-624, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 8-624. Temporary order.

(a) In a proceeding under this subchapter, the court shall issue a temporary order for support of a child if the order is appropriate and the individual ordered to pay support is:

(1) A presumed father of the child;

(2) Petitioning to have paternity adjudicated;

(3) Identified as the father through genetic testing under § 8-505 of this title;

(4) An alleged father who has declined to submit to genetic testing;

(5) Shown by clear and convincing evidence to be the father of the child; or

(6) The mother of the child.

(b) A temporary order may include provisions for custody and visitation as provided by other law of this State.

Section 73. Amend § 8-631, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

~~§ 8-631. Rules for adjudication of paternity.~~

The court shall apply the following rules to adjudicate the paternity of a child:

(1) ~~The paternity of a child having a presumed, acknowledged or adjudicated father may be disproved only by admissible results of genetic testing excluding that man as the father of the child or identifying another man as the father of the child.~~

(2) ~~Unless the results of genetic testing are admitted to rebut other results of genetic testing, a man identified as the father of a child under § 8-505 of this title must be adjudicated the father of the child.~~

(3) ~~If the court finds that genetic testing under § 8-505 of this title neither identifies nor excludes a man as the father of a child, the court may not dismiss the proceeding. In that event, the results of genetic testing, and other evidence, are admissible to adjudicate the issue of paternity.~~

(4) ~~Unless the results of genetic testing are admitted to rebut other results of genetic testing, a man excluded as the father of a child by genetic testing must be adjudicated not to be the father of the child.~~

(5) ~~Paternity may not be established with regard to an alleged father without the assistance of genetic testing unless the mother of the child swears or affirms on the record or by affidavit, under penalty of perjury, that she did not have sexual intercourse with any other man at or about the time the child was conceived.~~

Section 74. Amend § 8-632, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

~~§ 8-632. Jury prohibited.~~

~~The court, without a jury, shall adjudicate paternity of a child.~~

Section 75. Amend § 8-633, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

~~§ 8-633. Inspection of records.~~

~~A final order in a proceeding under this subchapter is available for public inspection.~~

Section 76. Amend § 8-634, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

~~§ 8-634. Order on default.~~

The court shall issue an order adjudicating the paternity of a man who:

(1) ~~After service of process, is in default; and~~

~~(2) Is found by the court to be the father of a child.~~

Section 77. Amend § 8-635, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

~~§ 8-635. Dismissal for want of prosecution.~~

~~The court may issue an order dismissing a proceeding commenced under this subchapter for want of prosecution only without prejudice. An order of dismissal for want of prosecution purportedly with prejudice is void and has only the effect of a dismissal without prejudice.~~

Section 78. Amend § 8-636, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

~~§ 8-636. Order adjudicating parentage.~~

~~(a) The court shall issue an order adjudicating whether a man alleged or claiming to be the father is the parent of the child.~~

~~(b) An order adjudicating parentage must identify the child by name and date of birth except an order pursuant to § 8-611(a) of this title and health care providers shall report the person(s) determined by Family Court to be the parent(s) to the Office of Vital Statistics as required by § 3-121 of Title 16, Registration of Births.~~

~~(c) Except as otherwise provided in subsection (d) of this section, the court may assess filing fees, reasonable attorney's fees, fees for genetic testing, other costs and necessary travel and other reasonable expenses incurred in a proceeding under this subchapter. The court may award attorney's fees, which may be paid directly to the attorney, who may enforce the order in the attorney's own name.~~

~~(d) The court may not assess fees, costs or expenses against the support enforcement agency of this State or another state, except as provided by other law.~~

~~(e) On request of a party and for good cause shown, the court may order that the name of the child be changed.~~

~~(f) If the order of the court is at variance with the child's birth certificate, the court shall order the Office of Vital Statistics to issue an amended birth registration.~~

Section 79. Amend § 8-637, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

~~§ 8-637. Binding effect of determination of parentage.~~

~~(a) Except as otherwise provided in subsection (b) of this section, a determination of parentage is binding on:~~

~~(1) All signatories to an acknowledgment or denial of paternity as provided in subchapter III of this chapter;~~

~~(2) All parties to an adjudication by a court acting under circumstances that satisfy the jurisdictional requirements of § 6-201 of this title;~~

~~(3) The child.~~

~~(b) In a proceeding to dissolve a marriage, the court is deemed to have made an adjudication of the parentage of a child if the court acts under circumstances that satisfy the jurisdictional requirements of § 6-201 of this title and the final order:~~

~~(1) Expressly identifies a child as a “child of the marriage,” “issue of the marriage,” or similar words indicating that the husband is the father of the child; or~~

~~(2) Provides for support of the child by the husband unless paternity is specifically disclaimed in the order.~~

~~(c) Except as otherwise provided in subsection (b) of this section, a determination of parentage may be a defense in a subsequent proceeding seeking to adjudicate parentage by an individual who was not a party to the earlier proceeding.~~

~~(d) A party to an adjudication of paternity may challenge the adjudication only under law of this State relating to appeal, vacation of judgments or other judicial review.~~

Section 80. Amend § 8-638, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

~~§ 8-638.~~ § 8-624. No right to reimbursement.

If the court determines that an individual is not the parent of a child, the individual ~~shall have no~~ does not have a right to reimbursement for any child support or medical expenses paid ~~prior to~~ before the date on which the other party or the public agency to which the payments were or are being made was served with notice of the proceeding in which the determination of nonparentage was made.

Section 81. Amend § 8-639, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

~~§ 8-639.~~ 8-625. Full faith and credit.

A court of this State shall give full faith and credit to a determination of parentage or nonparentage or denial of parentage made by a court or administrative agency of another state if the determination is made in compliance with the law of the other state.

Section 82. Amend § 8-701, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 8-701. Scope of article.

This subchapter does not apply to the birth of a child conceived by ~~means of sexual intercourse.~~ sexual intercourse or assisted reproduction under a surrogacy agreement under subchapter VIII of this chapter.

Section 83. Amend § 8-702, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 8-702. Parental status of donor.

A donor is not a parent of a child conceived by ~~means of~~ assisted reproduction.

Section 84. Amend § 8-703, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 8-703. ~~Paternity~~ Parentage of a child of assisted reproduction.

~~(a) A man who provides sperm for, or consents to, assisted reproduction by a woman as provided in § 8-704 of this title with intent to be the parent of her child, is a parent of the resulting child;~~

~~(b) The child shall be considered the child of the intended parent or parents immediately upon the birth of the child;~~

~~(c) Parental rights shall vest in the intended parent or parents immediately upon the birth of the child;~~

~~(d) Custody of the child shall vest with the intended parent or parents immediately upon the birth of the child;~~

and

~~(e) Neither the gestational carrier, if any, nor her spouse, shall be the parent of the child.~~

An individual who consents under § 8-704 of this title to assisted reproduction with the intent to be a parent of a child conceived by the assisted reproduction is a parent of the child.

Section 85. Amend § 8-704, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 8-704. Consent to assisted reproduction.

~~(a) Consent by a woman and an intended parent of a child conceived via assisted reproduction must be in a record signed by the woman and the intended parent. This requirement does not apply to a donor. Except as otherwise provided in subsection (b) of this section, the consent described in § 8-703 of this title must be in a record signed by an individual giving birth to a child conceived by assisted reproduction and another individual who intends to be a parent of the child.~~

~~(b) Failure to sign a consent in a record as required by subsection (a) of this section, before, on, or after birth of the child, does not preclude a finding of paternity pursuant to § 8-201 of this title. the court from finding consent to parentage if:~~

~~(1) The individual giving birth to the child or the other individual proves by clear-and-convincing evidence the existence of an express agreement entered into before transfer of gametes or embryos that the individual giving birth to the child and the other individual intended that both would be parents of the child; or~~

~~(2) For the first 2 years of the child's life, including any period of temporary absence, the individual giving birth to the child and the other individual resided together in the same household with the child and both openly held out the child as the child of the other individual, unless the other individual dies or becomes incapacitated before the child attains 2 years of age or the child dies before the child attains 2 years of age, in which case the court may find consent under this subsection to parentage if a party proves by clear-and-convincing evidence that the individual giving birth to the child and the other individual intended to reside together in the same household with the child and both intended the other individual would openly hold out the child as the child of the other individual, but the other individual was prevented from carrying out that intent by death or incapacity.~~

Section 86. Amend § 8-705, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 8-705. Limitation on ~~husband's dispute of paternity;~~ spouse's dispute of parentage.

(a) Except as otherwise provided in subsection (b) of this section, ~~the husband of a wife who gives an individual who,~~ at the time of a child's birth, is the spouse of the individual who gave birth to a child by means of assisted reproduction may not challenge his paternity the individual's parentage of the child unless:

(1) ~~Within~~ Not later than 2 years after ~~learning of the birth of the child~~ he child, the individual commences a proceeding to adjudicate ~~his paternity;~~ the individual's parentage of the child; and

(2) The court finds that ~~he~~ the individual did not consent to the assisted reproduction, ~~before~~ before, on, or after birth of the ~~child.~~ child, or withdrew consent under § 8-707 of this title.

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

(1) The ~~husband did not provide sperm for, or before or after the birth of the child consent to assisted reproduction by his wife;~~ spouse neither provided a gamete for, nor consented to, the assisted reproduction;

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

(3) The ~~husband~~ spouse never openly held out the child as ~~his own.~~ the spouse's child.

(c) ~~The limitation provided in this~~ This section applies to a spouse's dispute of parentage even if the spouse's marriage is declared invalid after assisted reproduction. ~~reproduction occurs.~~

Section 87. Amend § 8-706, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 8-706. Effect of ~~dissolution of marriage or withdrawal of consent.~~ certain legal proceedings regarding marriage.

(a) ~~If a marriage is dissolved before placement of eggs, sperm or embryos, the former spouse is not a parent of the resulting child unless the former spouse consented in a record that if assisted reproduction were to occur after a divorce, the former spouse would be a parent of the child.~~

(b) ~~The consent of a woman or a man to assisted reproduction may be withdrawn by that individual in a record at any time before placement of eggs, sperm or embryos. An individual who withdraws consent under this section is not a parent of the resulting child.~~

If a marriage of an individual who gives birth to a child conceived by assisted reproduction is terminated through divorce or dissolution, declared invalid, or annulled before transfer of gametes or embryos to the individual, a former spouse of the individual is not a parent of the child unless the former spouse consented in a record that the former spouse would be a parent of the child if assisted reproduction were to occur after a divorce, dissolution, annulment, or declaration of invalidity, and the former spouse did not withdraw consent under § 8-707 of this title.

Section 88. Amend § 8-707, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 8-707. Parental status of deceased individual. Withdrawal of consent.

~~If an individual who consented in a record to be a parent by assisted reproduction dies before placement of eggs, sperm, or embryos, the deceased individual is not a parent of the resulting child unless the deceased individual consented in a record that if assisted reproduction were to occur after death, the deceased individual would be a parent of the child.~~

(a) An individual who consents under § 8-704 of this title to assisted reproduction may withdraw consent any time before a transfer that results in a pregnancy, by giving notice in a record of the withdrawal of consent to the individual who agreed to give birth to a child conceived by assisted reproduction and to any clinic or health-care provider facilitating the assisted reproduction. Failure to give notice to the clinic or health-care provider does not affect a determination of parentage under this chapter.

(b) An individual who withdraws consent under subsection (a) of this section is not a parent of the child under this subchapter.

Section 89. Amend Subchapter VII, Chapter 8, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 8-708. Parental status of deceased individual.

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

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

(1) Either:

a. The individual consented in a record that if assisted reproduction were to occur after the death of the individual, the individual would be a parent of the child; or

b. The individual's intent to be a parent of a child conceived by assisted reproduction after the individual's death is established by clear-and-convincing evidence; and

(2) Either:

a. The embryo is in utero not later than 36 months after the individual's death; or

b. The child is born not later than 45 months after the individual's death.

Section 90. Amend Subchapter VIII, Chapter 8, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

Subchapter VIII. Gestational and Genetic Carrier Agreement Act

Part 1. General Requirements.

§ 8-801. Short title.

This subchapter may be cited as the “Gestational and Genetic Carrier Agreement Act.”

§ 8-802. Definitions.

In this subchapter:

(1) “Genetic carrier” means an individual who is not an intended parent and who agrees to become pregnant through assisted reproduction using the individual's own gamete with the intention of gestating and delivering the intended parent's child.

(2) “Genetic carrier agreement” means a written agreement between the genetic carrier, the genetic carrier's spouse or partner, if any, and the intended parent, under which the intended parent agrees to become the parent of the child resulting from the assisted reproduction.

(3) “Genetic carrier arrangement” means the process by which an individual attempts to carry and give birth to a child created through assisted reproduction using the individual's own gamete and a gamete provided by the intended parents which may or may not be genetically related to either of the intended parents.

(4) “Gestational carrier” means a individual who is neither an intended parent nor a donor, who agrees to become pregnant for an intended parent by assisted reproduction with the intention of gestating and delivering the intended parent's child.

(5) “Gestational carrier agreement” means a written agreement between the gestational carrier, the gestational carrier's spouse or partner, if any, and the intended parent, under which the intended parent agrees to become the parent of the child resulting from the assisted reproduction.

(6) “Gestational carrier arrangement” means the process by which an individual attempts to carry and give birth to a child created through assisted reproduction using the gamete provided by the intended parents

which may or may not be genetically related to either of the intended parents, and to which the gestational carrier has made no genetic contribution.

(7) “Health care provider” means an individual who is duly licensed to provide health care, including all medical, psychological, or counseling professionals.

(8) “Physician” means an individual licensed to practice medicine in any or all of its branches in this State.

§ ~~8-802~~ 8-803. Scope and purpose.

(a) The purpose of this subchapter is to establish consistent standards and procedural safeguards for the protection of all parties to a gestational or genetic carrier agreement in this State and to confirm the legal status of children born as a result of these agreements. These standards and safeguards are meant to facilitate the use of this type of reproductive agreement in accordance with the public policy of this State.

(b) This subchapter does not apply to the birth of a child conceived by means of sexual intercourse.

§ ~~8-803~~ 8-804. Bases for jurisdiction over nonresident.

In a proceeding to enforce a gestational or genetic carrier agreement, a tribunal of this State may exercise personal jurisdiction over a nonresident individual or the individual’s guardian or conservator if:

- ~~(a)~~(1) The individual is personally served with notice within this State;
- ~~(b)~~(2) The individual submits to the jurisdiction of this State by consent, by entering a general appearance, or by filing a responsive document having the effect of waiving any contest to personal jurisdiction;
- ~~(c)~~(3) The individual resided in this State at the time the individual executed the gestational or genetic carrier agreement or consented to the embryo transfer;
- ~~(d)~~(4) The individual executed a gestational or genetic carrier agreement with ~~a person or persons~~ an individual who resided in this State at the time the gestational or genetic carrier agreement was executed and voluntarily submitted to the jurisdiction of this State in the gestational or genetic carrier agreement;
- ~~(e)~~(5) The nonresident gestational or genetic carrier had, or is expected to have an embryo transfer performed in this State ~~pursuant to~~ under a gestational or genetic carrier agreement;
- ~~(f)~~(6) The nonresident intended ~~parent(s)~~ parents consented to a gestational carrier having an embryo transfer in this State ~~pursuant to~~ under a gestational carrier agreement;

(7) The nonresident intended parents consented to a genetic carrier undergoing assisted reproduction in this State under a genetic carrier agreement;

~~(8)~~ (8) The child was, or is expected to be born in this State as demonstrated by a provision in the gestational or genetic carrier agreement;

~~(9)~~ (9) The child resides in this State as a result of the acts or directives of the individual; or

~~(10)~~ (10) There is any other basis consistent with the Constitutions of this State and the United States for the exercise of personal jurisdiction.

§ 8-805. Effect of subsequent change of marital status.

(a) Unless a gestational or genetic carrier agreement expressly provides otherwise:

(1) The marriage of a gestational or genetic carrier after the agreement is signed by all parties does not affect the validity of the agreement, the consent of the gestational or genetic carrier's spouse to the agreement is not required, and the gestational or genetic carrier's spouse is not a presumed parent of a child conceived by assisted reproduction under the agreement; and

(2) The divorce, dissolution, annulment, or declaration of invalidity of the marriage of the gestational or genetic carrier after the agreement is signed by all parties does not affect the validity of the agreement.

(b) Unless a gestational or genetic carrier agreement expressly provides otherwise:

(1) The marriage of an intended parent after an agreement is signed by all parties does not affect the validity of a gestational or genetic carrier agreement, the consent of the spouse of the intended parent is not required, and the spouse of the intended parent is not, based on the agreement, a parent of the child conceived by assisted reproduction under the agreement; and

(2) The divorce, dissolution, annulment, or declaration of invalidity of an intended parent after the agreement is signed by all parties does not affect the validity of the agreement and, except as otherwise provided in § 8-817 of this title, the intended parents are the parents of the child.

§ 8-806. Gestational and genetic carrier agreements: parentage of deceased intended parent.

(a) Section 8-811 of this title applies to an intended parent under a gestational carrier agreement even if the intended parent died during the period between the transfer of a gamete or embryo and the birth of the child.

(b) Except as otherwise provided in § 8-818, § 8-819, or § 8-820 of this title, on birth of a child conceived by assisted reproduction under a genetic carrier agreement, each intended parent is, by operation of law, a parent of the

child, notwithstanding the death of an intended parent during the period between the transfer of a gamete or embryo and the birth of the child.

(c) Except as otherwise provided in § 8-811, § 8-818, § 8-819, or § 8-820 of this title, an intended parent is not a parent of a child conceived by assisted reproduction under a gestational or genetic carrier agreement if the intended parent dies before the transfer of a gamete or embryo unless:

(1) The agreement provides otherwise; and

(2) The transfer of the gamete or embryo occurs not later than 36 months after the death of the intended parent, or birth of the child occurs not later than 45 months after the death of the intended parent.

§ 8-807. Inspection of documents.

Notwithstanding § 1063 of Title 10 and unless the court orders otherwise, a petition and any other document related to a gestational or genetic carrier agreement filed with the court under this part are not open to inspection by any individual other than the parties to the proceeding, a child conceived by assisted reproduction under the agreement, their attorneys, and the Department of Health and Social Services. A court may not authorize an individual to inspect a document related to the agreement, unless required by exigent circumstances. The individual seeking to inspect the document may be required to pay the expense of preparing a copy of the document to be inspected.

Part 2. Special Rules for Gestational Carrier Agreements.

§ 8-804 ~~8-808~~. Parental status of gestational carrier.

A gestational carrier is not a parent of a child born as a result of a gestational carrier arrangement.

§ 8-805 ~~8-809~~. Rights and responsibilities of parents under a gestational carrier agreement.

(a) ~~Any person~~ An individual who is considered to be the parent of a child ~~pursuant to~~ under this chapter ~~shall have~~ has all the rights, ~~responsibilities~~ responsibilities, and obligations set forth in Chapter 7 of this title.

(b) The breach of the gestational carrier agreement by the intended ~~parent(s) shall~~ parents does not relieve ~~such~~ the intended parent(s) parents of the support obligations imposed by this chapter.

(c) ~~In the event of~~ If a laboratory error occurs in which the child conceived through means other than sexual intercourse is not genetically related to either of the intended parents, when the intent was for the child to be genetically related to 1 or both intended parents, the intended parents ~~will be~~ are the parents of the child unless otherwise determined by a court of competent jurisdiction in an action which can only be brought by 1 or more of the genetic parents within 60 days of the date of the child's birth.

§ ~~8-806~~ 8-810. Eligibility to enter a gestational carrier agreement.

(a) ~~Prior to~~ Before executing an agreement to act as a gestational carrier, ~~a woman~~ an individual must meet all of the following requirements:

- (1) ~~She is~~ Be at least 21 years of ~~age~~; age.
- (2) ~~She has~~ Have given birth to at least 1 ~~child~~; child.
- (3) ~~She has~~ Have completed a medical ~~evaluation~~; evaluation.
- (4) ~~She has~~ Have completed a mental health ~~evaluation~~; evaluation.
- (5) ~~She has~~ Have been represented by independent legal counsel licensed to practice law in this State regarding the terms of the gestational carrier agreement and been advised of the potential legal consequences of the gestational carrier ~~arrangement which legal expense shall~~ arrangement. The legal counsel must be paid for by the intended parent(s) if requested; and parents, if requested by the gestational carrier.
- (6) ~~She has or obtains prior to~~ Have or obtain before the embryo transfer a health insurance policy that covers major medical treatments and hospitalization and ~~the health insurance policy that~~ has a term that extends throughout the duration of the expected pregnancy and for 8 weeks after the birth of the child; provided, however, that the policy child. The health insurance policy may be procured by the intended ~~parent(s)~~ parents on behalf of the gestational carrier ~~pursuant to~~ under the gestational carrier agreement.

(b) An individual ~~or individuals~~ intending to become a ~~parent or parents~~, parent, whether genetically related to the child or not, must meet the following requirements at the time the gestational carrier agreement is executed:

- (1) ~~The individual or individuals have~~ Have completed a mental health evaluation; and
- (2) ~~The individual or individuals have~~ Have been represented by independent legal ~~representation~~ counsel licensed to practice law in this State regarding the terms of the gestational carrier agreement and have been advised of the potential legal consequences of the gestational carrier arrangement.

§ ~~8-807~~ 8-811. Requirements for a gestational carrier agreement.

(a) A gestational carrier agreement ~~shall be~~ is enforceable if:

- (1) It meets the requirements set forth in subsection (b) of this section, and
- (2) It contains at a minimum each of the terms set forth in subsection (c) of this section.

(b) A gestational carrier agreement ~~shall~~ must meet the following requirements:

- (1) ~~It shall be~~ Be in writing;

(2) ~~It shall be~~ Be executed ~~prior to~~ before the initiation of an embryo transfer in furtherance of the gestational carrier arrangement; arrangement by the following, who have been represented in all matters concerning the gestational carrier arrangement and the gestational carrier agreement by independent legal counsel licensed to practice law in this State:

(i)a. ~~By a~~ A gestational carrier meeting the eligibility requirements of § 8-806(a) 8-810(a) of this title and, if married, the gestational carrier's spouse; and

(ii)b. ~~By the~~ The intended ~~parent(s)~~ parents meeting the eligibility requirements of § 8-806(b) 8-810(b) of this title. ~~In the event~~ If an intended parent is married or a party to a civil union, both spouses must execute the gestational carrier agreement;

(3) ~~The gestational carrier shall be represented by independent legal counsel and the intended parent or parents shall have been represented by independent counsel in all matters concerning the gestational carrier arrangement and the gestational carrier agreement;~~ [Transferred to paragraph (b)(2) of this section.]

(4) ~~Each of the gestational carrier and the intended parent or parents shall have signed a written acknowledgement that such~~ Include a written acknowledgment, signed by the gestational carrier and intended parents, stating that the gestational carrier and intended parent or parents received information about the legal, financial, and contractual rights, expectations, penalties, and obligations of the gestational carrier agreement;

(5) ~~If a~~ If the gestational carrier agreement provides for the payment of compensation to the gestational carrier, require that the compensation ~~shall have been~~ be placed in escrow with an independent escrow agent pursuant to an escrow agreement ~~prior to~~ before the gestational carrier's commencement of any medical ~~procedure~~ (procedure, other than medical or mental health evaluations necessary to determine the gestational carrier's eligibility pursuant to § 8-806(a) under § 8-810(a) of this title); and title; and

(6) ~~It shall be~~ Be witnessed by 2 disinterested, competent adults.

(c) A gestational carrier agreement ~~shall~~ must expressly provide the following:

(1) The written agreement of the gestational carrier to:

(i)a. Undergo embryo transfer and attempt to carry and give birth to the child; and

(ii)b. Surrender custody of ~~all resulting children~~ the child to the intended ~~parent or~~ parents immediately ~~upon~~ on the birth of the ~~child(ren);~~ child;

(2) If the gestational carrier is married, ~~her spouse;~~ that the gestational carrier's spouse:

~~(i)a.~~ Acknowledges and agrees to abide by the obligations imposed on the gestational carrier pursuant to by the terms of the gestational carrier agreement; and

~~(ii)b.~~ Surrenders custody of ~~all resulting children~~ the child to the intended ~~parent or~~ parents immediately ~~upon~~ on the birth of the ~~child(ren);~~ child;

(3) The right of the gestational carrier to utilize the services of a health care provider of ~~her~~ the gestational carrier's choosing, after consultation with the intended parents, to provide ~~her~~ the gestational carrier's care during the pregnancy; and

(4) The written agreement of the intended ~~parent or~~ parents to:

~~(i)a.~~ Accept legal custody of ~~all resulting children~~ the child immediately ~~upon birth;~~ on the birth of the child; and

~~(ii)b.~~ Assume sole responsibility for ~~all resulting children~~ the child immediately ~~upon birth.~~ on the birth of the child.

(d) A gestational carrier agreement ~~shall be~~ is enforceable even though it contains 1 or more of the following provisions:

(1) The gestational carrier's agreement to undergo all medical exams, treatments, and fetal monitoring procedures that the physician recommends for the success of the pregnancy;

(2) The gestational carrier's agreement to abstain from any activities that the intended ~~parent or~~ parents or the physician reasonably believes to be harmful to the pregnancy and future health of the child, ~~including, without limitation,~~ including smoking, drinking alcohol, using nonprescribed drugs, using prescription drugs not authorized by a physician aware of the gestational carrier's pregnancy, exposure to radiation, or any other activities proscribed by a health care provider;

(3) The agreement of the intended ~~parent or~~ parents to pay the gestational carrier reasonable compensation; and

(4) The agreement of the intended ~~parent or~~ parents to pay for or reimburse the gestational carrier for reasonable ~~expenses (including, without limitation,~~ expenses, including medical, legal, or other professional ~~expenses) expenses,~~ expenses, related to the gestational carrier arrangement and the gestational carrier agreement.

(e) ~~In the event that~~ If any of the requirements of this section are not met, a court of competent jurisdiction shall determine parentage based on evidence of the parties' intent.

(f) An escrow agent which enters into an escrow agreement with a party to a gestational carrier agreement which is governed by Delaware law, or with a Delaware resident who is a party to a gestational carrier agreement, consents to the jurisdiction of the Delaware courts for all proceedings related to the enforcement of the escrow agreement.

§ 8-809 8-812. Effect of noncompliance with gestational carrier agreement.

Except as otherwise provided in this chapter, ~~in the event of noncompliance~~ if a party does not comply with the requirements of this subchapter, a court of competent jurisdiction shall determine the respective rights and obligations of the parties.

§ 8-810 8-813. Remedies.

(a) Except as expressly provided in the gestational carrier agreement and subsection (c) of this section, the intended ~~parent(s) shall be~~ parents are entitled to all remedies available at law or equity.

(b) Except as expressly provided in the gestational carrier agreement and subsection (c) of this section, the gestational carrier ~~shall be~~ is entitled to all remedies available at law or equity.

(c) Specific performance is not an available remedy for a breach by the gestational carrier of a gestational carrier agreement term that requires ~~her~~ the gestational carrier to be impregnated.

Part 3 – Special Rules for Genetic Carrier Agreements

§ 8-814. Eligibility to enter into a genetic carrier agreement.

(a) Before executing an agreement to act as a genetic carrier, an individual must meet all of the following requirements:

(1) Be at least 21 years of age.

(2) Have given birth to at least 1 child.

(3) Have completed a medical evaluation.

(4) Have completed a mental health evaluation.

(5) Have been represented by independent legal counsel licensed to practice law in this State regarding the terms of the genetic carrier agreement and been advised of the potential legal consequences of the genetic carrier arrangement. The legal counsel must be paid for by the intended parents, if requested by the genetic carrier.

(6) Have or obtain before the embryo transfer a health insurance policy that covers major medical treatments and hospitalization and that has a term that extends throughout the duration of the expected pregnancy

and for 8 weeks after the birth of the child. The health insurance policy may be procured by the intended parents on behalf of the genetic carrier under the genetic carrier agreement.

(b) An individual intending to become a parent, whether genetically related to the child or not, must meet the following requirements at the time the genetic carrier agreement is executed:

(1) Have completed a mental health evaluation; and

(2) Have been represented by independent legal counsel licensed to practice law in this State regarding the terms of the genetic carrier agreement and have been advised of the potential legal consequences of the genetic carrier arrangement.

§ 8-815. Requirements for a genetic carrier agreement.

(a) A genetic carrier agreement is enforceable if:

(1) It meets the requirements set forth in subsection (b) of this section; and

(2) It contains, at a minimum, each of the terms set forth in subsection (c) of this section.

(b) A genetic carrier agreement must meet the following requirements:

(1) Be in writing;

(2) Be executed before the initiation of assisted reproduction in furtherance of the genetic carrier arrangement by the following, who have been represented in all matters concerning the genetic carrier arrangement and the genetic carrier agreement:

a. A genetic carrier meeting the eligibility requirements of § 8-814(a) of this title and, if married, the genetic carrier's spouse; and

b. The intended parents meeting the eligibility requirements of § 8-814(b) of this title. If an intended parent is married or a party to a civil union, both spouses must execute the genetic carrier agreement;

(3) Include a written acknowledgment, signed by the genetic carrier and intended parents, stating that the genetic carrier and intended parents received information about the legal, financial, and contractual rights, expectations, penalties, and obligations of the genetic carrier agreement;

(4) If the genetic carrier agreement provides for the payment of compensation to the genetic carrier, require that the compensation be placed in escrow with an independent escrow agent pursuant to an escrow agreement before the genetic carrier's commencement of any medical procedure, other than medical or mental health evaluations necessary to determine the genetic carrier's eligibility under § 8-814(a) of this title; and

(5) Be witnessed by 2 disinterested, competent adults.

(c) A genetic carrier agreement must expressly provide the following:

(1) The written agreement of the genetic carrier to:

a. Undergo assisted reproduction using the genetic carrier's own gamete and attempt to carry and give birth to the child; and

b. Surrender custody of the child to the intended parents immediately on the birth of the child;

(2) If the genetic carrier is married, that the genetic carrier's spouse:

a. Acknowledges and agrees to abide by the obligations imposed on the genetic carrier by the terms of the genetic carrier agreement; and

b. Surrenders custody of the child to the intended parents immediately on the birth of the child;

(3) The right of the genetic carrier to utilize the services of a health care provider of the genetic carrier's choosing, after consultation with the intended parents, to provide the genetic carrier's care during the pregnancy; and

(4) The written agreement of the intended parents to:

a. Accept legal custody of the child immediately on birth of the child; and

b. Assume sole responsibility for the child immediately on birth of the child.

(d) A genetic carrier agreement is enforceable even though it contains 1 or more of the following provisions:

(1) The genetic carrier's agreement to undergo all medical exams, treatments, and fetal monitoring procedures that the physician recommends for the success of the pregnancy;

(2) The genetic carrier's agreement to abstain from any activities that the intended parents or the physician reasonably believes to be harmful to the pregnancy and future health of the child, including smoking, drinking alcohol, using nonprescribed drugs, using prescription drugs not authorized by a physician aware of the genetic carrier's pregnancy, exposure to radiation, or any other activities proscribed by a health care provider;

(3) The agreement of the intended parents to pay the genetic carrier reasonable compensation; and

(4) The agreement of the intended parents to pay for or reimburse the genetic carrier for reasonable expenses, including medical, legal, or other professional expenses, related to the genetic carrier arrangement and the genetic carrier agreement.

(e) An escrow agent which enters into an escrow agreement with a party to a genetic carrier agreement which is governed by Delaware law, or with a Delaware resident who is a party to a genetic carrier agreement, consents to the jurisdiction of the Delaware courts for all proceedings related to the enforcement of the escrow agreement.

§ 8-816. Requirements to validate genetic carrier agreement.

(a) Except as otherwise provided in § 8-820 of this title, to be enforceable, a genetic carrier agreement must be validated by the court. A proceeding to validate the agreement must be commenced before assisted reproduction related to the genetic carrier agreement.

(b) The court shall issue an order validating the genetic carrier agreement if the court finds that:

(1) Sections 8-814 and 8-815 of this title are satisfied; and

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

(c) An individual who terminates under § 8-817 of this title a genetic carrier agreement shall file notice of the termination with the court. On receipt of the notice, the court shall vacate any order issued under subsection (b) of this section. An individual who does not notify the court of the termination of the agreement is subject to sanctions.

§ 8-817. Termination of genetic carrier agreement.

(a) A party to a genetic carrier agreement may terminate the agreement as follows:

(1) An intended parent who is a party to the agreement may terminate the agreement at any time before a gamete or embryo transfer by giving notice of termination in a record to all other parties. If a gamete or embryo transfer does not result in a pregnancy, a party may terminate the agreement at any time before a subsequent gamete or embryo transfer. The notice of termination must be attested by a notarial officer or witnessed.

(2) A genetic carrier who is a party to the agreement may withdraw consent to the agreement any time before 72 hours after the birth of a child conceived by assisted reproduction under the agreement. To withdraw consent, the genetic carrier must execute a notice of termination in a record stating the genetic carrier's intent to terminate the agreement. The notice of termination must be attested by a notarial officer or witnessed and be delivered to each intended parent any time before 72 hours after the birth of the child.

(b) On termination of the genetic carrier agreement under subsection (a) of this section, the parties are released from all obligations under the agreement except that each intended parent remains responsible for all expenses incurred by the genetic carrier through the date of termination which are reimbursable under the genetic carrier

agreement. Unless the genetic carrier agreement provides otherwise, the genetic carrier is not entitled to any non-expense related compensation paid for serving as a genetic carrier.

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

§ 8-818. Parentage under validated genetic carrier agreement.

(a) Unless a genetic carrier exercises the right under § 8-817 of this title to terminate a genetic carrier agreement, each intended parent is a parent of a child conceived by assisted reproduction under an agreement validated under § 8-816 of this title.

(b) Unless a genetic carrier exercises the right under § 8-817 of this title to terminate the genetic carrier agreement, on proof of a court order issued under § 8-816 of this title validating the agreement, the court shall make an order:

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

(2) Declaring that the genetic carrier and the genetic carrier's spouse or former spouse, if any, are not parents of the child;

(3) Designating the contents of the birth certificate in accordance with subchapter II of Chapter 31 of Title 16 and directing the Office of Vital Statistics to designate each intended parent as a parent of the child;

(4) To protect the privacy of the child and the parties, declaring that the court record is not open to inspection except as authorized under § 8-807 of this title;

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

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

(c) If a genetic carrier terminates under § 8-817(a)(2) of this title a genetic carrier agreement, parentage of the child conceived by assisted reproduction under the agreement must be determined under subchapters I through VI of this chapter.

(d) If a child born to a genetic carrier is alleged not to have been conceived by assisted reproduction, the court shall order genetic testing to determine the genetic parentage of the child. If the child was not conceived by assisted reproduction, parentage must be determined under subchapter I through VI of this chapter. Unless the genetic

carrier agreement provides otherwise, if the child was not conceived by assisted reproduction the genetic carrier is not entitled to any non-expense related compensation paid for serving as a genetic carrier.

(e) Unless a genetic carrier exercises the right under § 8-817 of this title to terminate the genetic carrier agreement, if an intended parent fails to file notice required under § 8-817(a) of this title, the genetic carrier or Department of Health and Social Services may file with the court, not later than 60 days after the birth of a child conceived by assisted reproduction under the agreement, notice that the child has been born to the genetic carrier. Unless the genetic carrier has properly exercised the right under § 8-817 of this title to withdraw consent to the agreement, on proof of a court order issued under § 8-816 of this title validating the agreement, the court shall order that each intended parent is a parent of the child.

§ 8-819. Rights and responsibilities of parents under a genetic carrier agreement.

(a) An individual who is considered to be the parent of a child under this chapter has all the rights, responsibilities, and obligations set forth in Chapter 7 of this title.

(b) The breach of the genetic carrier agreement by the intended parents does not relieve the intended parents of the support obligations imposed by this chapter.

(c) If a laboratory error in which the child conceived through means other than sexual intercourse is not genetically related to either of the intended parents, when the intent was for the child to be genetically related to one of the intended parents, the intended parents are the parents of the child unless otherwise determined by a court of competent jurisdiction in an action which can only be brought by 1 or more of the genetic parents within 60 days of the date of the child's birth.

§ 8-820. Effect of nonvalidated genetic carrier agreement.

(a) A genetic carrier agreement, whether or not in a record, that is not validated under § 8-816 of this title is enforceable only to the extent provided in this section and § 8-821 of this title.

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

(c) If a child conceived by assisted reproduction under a genetic carrier agreement that is not validated under § 8-816 of this title is born and the genetic carrier, consistent with § 8-817(a)(2) of this title, withdraws the genetic carrier's consent to the agreement before 72 hours after the birth of the child, the court shall adjudicate the parentage of the child under subchapters I through VI of this chapter.

(d) If a child conceived by assisted reproduction under a genetic carrier agreement that is not validated under § 8-816 of this title is born and a genetic carrier does not withdraw the genetic carrier's consent to the agreement, consistent with § 8-817(a)(2) of this title, before 72 hours after the birth of the child, the genetic carrier is not automatically a parent and the court shall adjudicate parentage of the child based on the best interest of the child, taking into account the factors in § 8-613(a) of this title and the intent of the parties at the time of the execution of the agreement.

(e) The parties to a genetic carrier agreement have standing to maintain a proceeding to adjudicate parentage under this section.

§ 8-821. Breach of genetic carrier agreement.

(a) Subject to § 8-816(b) of this title, if a genetic carrier agreement is breached by a genetic carrier or 1 or more intended parents, the non-breaching party is entitled to the remedies available at law or in equity.

(b) Specific performance is not a remedy available for breach by a genetic carrier of a requirement of a validated or non-validated genetic carrier agreement that the genetic carrier be impregnated, terminate or not terminate a pregnancy, or submit to medical procedures.

(c) Except as otherwise provided in subsection (b) of this section, specific performance is a remedy available for:

(1) Breach of a validated genetic carrier agreement by a genetic carrier of a requirement which prevents an intended parent from exercising the full rights of parentage 72 hours after the birth of the child; or

(2) Breach by an intended parent which prevents the intended parent's acceptance of duties of parentage 72 hours after the birth of the child.

Part 4. Miscellaneous Provisions.

§ ~~8-808~~ 8-822. Immunities.

Except as provided in this subchapter, ~~no person shall be~~ an individual is not liable for non-negligent actions taken ~~pursuant to~~ under the requirements of this subchapter.

§ ~~8-811-8-823~~. Severability.

If any provision of this subchapter or its application to any ~~person~~ individual or circumstance is held to be invalid, the invalidity of that provision or application does not affect other provisions or applications of this subchapter that can be given effect without the invalid provision or application.

§ ~~8-812~~ 8-824. Irrevocability.

~~No~~ An action to invalidate a gestational or genetic carrier agreement meeting the requirements of § ~~8-807(b)~~ of this title this subchapter or to challenge the rights of parentage established ~~pursuant to~~ under this subchapter shall ~~commence~~ may not be commenced after 12 months from the date of birth of the ~~child~~ subject to § 8-606(e) of this title, child.

§ ~~8-813~~ 8-825. Application.

(a) The rule of construction that statutes in derogation of the common law are to be strictly construed ~~shall~~ have no application does not apply to this subchapter. This subchapter ~~shall~~ must be broadly construed to accomplish its intended purposes.

(b) ~~The provisions of this subchapter shall apply~~ Part 2 of this subchapter, as enacted by § 8 of Chapter 88 of Volume 79 of the Laws of Delaware, applies only to gestational carrier agreements executed after July 3, 2013, and before [the effective date of this Act], except proceedings for pre-birth determination of parentage pursuant to § ~~8-611(a)-8-617~~ of this title which may be commenced on or after July 3, ~~2013- 2013,~~ and before [the effective date of this Act].

(c) Part 2 of this subchapter, as enacted by [the Act of the 153rd General Assembly that enacted this Act and is chaptered in Volume 85 of the Laws of Delaware], applies to gestational carrier agreements executed, or gestational carrier arrangements made, on or after [the effective date of this Act].

(d) Part 3 of this subchapter applies to genetic carrier agreements executed, or genetic carrier arrangements made, before, on, or after [the effective date of this Act].

Section 91. Amend Chapter 8, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

Subchapter X. Miscellaneous Provisions.

Section 92. Amend Chapter 8, Title 13 of the Delaware Code by transferring §§ 8-901 through 8-8-904 of Title 13 of the Delaware Code from Subchapter IX, Chapter 8, Title 13 of the Delaware Code to Subchapter X, Chapter 8, Title 13 of the Delaware Code and redesignating accordingly.

Section 93. Amend Chapter 8, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

Subchapter IX. Miscellaneous Provisions. Information About Donor.

§ 8- 901. Definitions.

In this subchapter:

(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.

§ 8-902. Applicability.

This subchapter applies only to gametes collected on or after [the effective date of this Act].

§ 8-903. 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) of this section as provided under § 8-904 of this title.

§ 8-904. 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 subsection (a) of this section, 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.

§ 8-905. 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 chapter.

(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

Section 94. Amend § 8-1001, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 8-1001. Uniformity of application and construction.

In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

Section 95. Amend § 8-1002, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 8-1002. Severability clause. Relation to Electronic Signatures in Global and National Commerce Act.

If any provision of this chapter or its application to an individual or circumstance is held invalid, the invalidity does not affect other provisions or applications of this chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable. This chapter modifies, limits, or supersedes the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001 et seq., but does not modify,

limit, or supersede Section 101(c) of that act, 15 U.S.C. Section 7001(c), or authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15 U.S.C. Section 7003(b).

Section 96. Amend § 8-1003, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 8-1003. ~~Effective date; effect~~ Effect on existing parentage.

~~This chapter takes effect on January 1, 2004. Any~~ A determination of parentage or nonparentage made under the law of this State ~~prior to January 1, 2004, before the enactment of Chapter 136 of Volume 74 of the Laws of Delaware, Chapter 88 of Volume 79 of the Laws of Delaware, and [the Act of the 153rd General Assembly that enacted this Act and is chaptered in Volume 85 of the Laws of Delaware]~~ remains in force and effect.

Section 97. Amend § 8-1004, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 8-1004. Transitional provision.

~~A proceeding to adjudicate parentage which was commenced before January 1, 2004, is governed by the law in effect at the time the proceeding was commenced. This chapter applies to a pending proceeding to adjudicate parentage commenced before [the effective date of this Act] for an issue on which a judgment has not been entered.~~

Section 98. Amend § 5901, Title 10 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 5901. Petition for change of name.

(b) Family Court shall have jurisdiction over a change of name:

(2) As part of the establishment of ~~paternity~~ parentage under the Uniform Parentage Act ~~[Chapter 8 of Title 13]; or Act, Chapter 8 of Title 13; or~~

Section 99. Amend § 129, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 129. Equal treatment of marital relationships.

(d) The rights of same-gender married spouses, with respect to a child of whom either spouse becomes the parent during their marriage, shall be the same as the rights (including ~~presumptions of parentage, paternity and maternity in the presumption of parentage under~~ Chapter 8 of this title) of different-gender married spouses with respect to a child of whom either spouse becomes the parent during their marriage.

Section 100. Amend § 6-102, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 6-102. Definitions.

In this chapter:

(12) “Intended parent” means as defined in § 8-102 of this title.

(20) “Parent” means as defined in § 8-102 of this title.

(21) “Parentage” means as defined in § 8-102 of this title.

(22) “Presumed parent” means as defined in § 8-102 of this title.

Section 101. Amend § 6-401, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 6-401. Establishment of support order.

(b) The tribunal may issue a temporary child-support order if the tribunal determines that such an order is appropriate and the individual ordered to pay is:

(1) A presumed ~~father~~ parent of the child;

(2) Petitioning to have the individual’s own ~~paternity~~ parentage adjudicated;

(3) Identified as the ~~father~~ genetic parent of the child through genetic testing;

(4) An alleged ~~father~~ parent who has declined to submit to genetic testing;

(5) Shown by clear and convincing evidence to be the ~~father~~ parent of the child;

(6) Shown by clear and convincing evidence to be an intended parent;

~~(6)~~(7) An acknowledged ~~father~~ parent as provided by Chapter 8 of this title;

~~(7)~~(8) The mother of the child; or

~~(8)~~(9) An individual who has been ordered to pay child support in a previous proceeding and the order has not been reversed or vacated.

Section 102. Amend § 901, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows and by redesignating accordingly:

§ 901. Definitions.

For the purposes of this chapter:

(3) “Alleged genetic parent” means as defined in § 8-102 of this title.

(5)(4) “Birth parent” ~~means:~~ means all of the following:

- a. ~~The biological mother of a child;~~ individual who gave birth to a child.
- b. ~~The named father of a child~~ An alleged genetic parent who consented to the termination of his parental rights; ~~or rights.~~
- c. ~~The father whose paternity is presumed pursuant to Chapter 8 of this title.~~ A presumed parent.
- d. An individual who has established a parent-child relationship under § 8-201 of this title.

(6)(5) “Child” means ~~any male or female~~ an individual who has not attained ~~such child’s~~ the individual’s eighteenth birthday.

(15) “Presumed parent” means as defined in § 8-102 of this title.

Section 103. Amend § 906, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 906. Contents of petition for adoption.

The petition shall state:

(7) If, in the case of an adoption by a stepparent or blood relative, there has not been a prior legal termination of parental rights, the petition shall also include:

a. The name and residence of ~~the mother and natural father or any presumed father, as defined in Chapter 8 of this title,~~ any birth parent of the child whose adoption is sought. If ~~either or both parents are~~ any birth parent is deceased, a statement to that effect, with a certified copy of the death certificate or certificates attached.

b. The ~~mother’s~~ the individual who gave birth’s marital status at the time of the child’s conception and birth. ~~In the event that the mother~~ If the individual who gave birth was not married at the time of the child’s conception or birth, or ~~in the event that she~~ if the individual was married at the time of the child’s conception or birth but ~~her husband~~ the individual’s spouse at those times is not ~~the child’s natural father,~~ a parent of the child, an affidavit by the ~~mother setting forth either:~~ individual who gave birth stating at least 1 of the following:

1. The name and last known address of the ~~natural father;~~ or the alleged genetic parent.

2. A statement that the ~~mother~~ individual who gave birth knows the name of the ~~natural father~~ alleged genetic parent but is unwilling to disclose the name of the ~~natural father; or~~ alleged genetic parent.

3. A statement that the ~~mother~~ individual who gave birth does not know the name of the ~~natural father; or~~ alleged genetic parent.

4. The name of the ~~natural father,~~ alleged genetic parent, and a statement that the ~~mother~~ individual who gave birth has never known ~~his~~ the alleged genetic parent's address.

c. In the case of a stepparent adoption where the petitioner is the ~~wife~~ spouse of the alleged ~~natural father~~ alleged genetic parent and the child to be adopted has been born out of wedlock to the ~~father~~ alleged genetic parent and another ~~woman,~~ individual, evidence of ~~paternity blood testing~~ genetic testing under § 8-504 of this title which does not exclude the alleged ~~natural father,~~ alleged genetic parent.

Section 104. Amend § 908, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 908. Right to consent.

(b) In the case of an adoption by a stepparent or blood relative, the consent to the adoption shall be granted as follows:

(1) By ~~mother of~~ the individual who gave birth to a child; and

(2) The ~~biological father~~ alleged genetic parent and any presumed ~~father~~ parent of a child; provided, however, that the consent of the alleged ~~biological father~~ genetic parent or presumed ~~father~~ parent need not contain an admission that ~~he is the father,~~ the alleged genetic parent or presumed parent is a parent of the child. ~~In the event that the named biological~~ If the alleged genetic parent or presumed father disclaims paternity, parent disclaims parentage, an affidavit signed by ~~him~~ the alleged genetic parent or presumed parent to that effect ~~shall~~ must be attached to the petition in lieu of a consent from the ~~natural or presumed father,~~ alleged genetic parent or presumed parent. ~~It is further provided that in the event of~~ If a petition is filed containing statements described in § 906(7)b.1., 3. or 4. of this title, after a hearing in which it is established on the record that the ~~mother and father~~ birth parents of the child are not living together as ~~husband and wife~~ married couple openly and that they have not done so nor married since the birth of the child, the Court may, following consideration of the social report, dispense with the requirement of ~~the father's~~ consent in compliance with § 932 of this title.

Section 105. Amend § 911, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 911. Religious affiliation.

(a) If ~~either natural~~ any birth parent, in a notarized statement made prior to the placement for adoption, specifies the religion in which such parent desires the child to be raised, the Department or licensed agency shall make placement in accordance with such statement. If ~~the natural parents declare~~ any birth parent declares indifference to the religion in which the child should be reared, or if their religion is not known, or if there is none, then the Department or licensed agency shall make placement without regard to religion.

Section 106. Amend § 912, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 912. Social study and report.

(b) The report shall include:

(1) Information regarding the child, ~~its~~ the child's background, ~~its~~ and the child's eligibility for adoption;

Section 107. Amend § 920, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 920. Effect of adoption on inheritance.

(a) Upon the issuance of a decree of adoption, the adopted child shall lose all rights of inheritance from ~~its natural~~ the child's birth parent or parents and from their collateral or lineal relatives. The rights of the ~~natural birth~~ parent or parents or their collateral or lineal relatives to inherit from ~~such~~ the child shall cease upon the adoption.

(b) Upon the issuance of a decree of adoption, the adopted child shall acquire the right to inherit from ~~its~~ the child's adoptive parent or parents and from the collateral or lineal relatives of such adoptive parent or parents, and the adoptive parent or parents and the collateral or lineal relatives of the adoptive parent or parents shall at the same time acquire the right to inherit from the adopted child.

Section 108. Amend § 921, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 921. Report of vital statistics data.

(a) Upon the entry of a decree of adoption, the Clerk of the Family Court shall forward to the Department of Health and Social Services, Office of Vital Statistics, a report on the form provided for this purpose, which shall include the following information:

- (1) Prior legal name of the child and such child's ~~sex~~; sex.
- (2) Date and place of birth of the ~~child~~; child.
- (3) Name of ~~the father~~ each birth parent as stated on the original birth certificate, ~~if stated~~; stated.
- (4) ~~If applicable, that father's~~ Each birth parent's primary address and Social Security ~~number~~; number.
- (5) ~~Maiden name of birth mother~~; If applicable, a birth parent's maiden name.
- (6) ~~Birth mother's primary address and Social Security number~~; [Repealed.]
- (7) Child's name after ~~adoption~~; adoption.
- (8) ~~Name of adoptive father~~, Name, including any maiden name, place and date of adoptive father's birth, and ~~adoptive father's occupation~~; occupation of each adoptive parent.
- (9) ~~Maiden name of adoptive mother, place and date of adoptive mother's birth, and adoptive mother's~~ occupation; and [Repealed.]
- (10) Address of adoptive parents.

Section 109. Amend § 923, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 923. Confidential nature of information; old and new birth certificates.

(a) Except as provided in subchapter III of this chapter, all information regarding any adoption which is furnished to any State Registrar shall be confidential and not open to public inspection. The names of the ~~biological or previous legal~~ birth parent or birth parents or the former name of the child shall not be furnished to the adoptive parents, nor shall the name of the adoptive parents be furnished to the ~~biological or previous legal~~ birth parent or parents and, after the entry of the decree of adoption, the original record of birth shall be impounded and all birth certificates shall be issued in the adoptive name only, if a new name has been assumed, and shall contain no reference to the former name or background or the fact of adoption.

(c) If an adoptee 21 years of age or older seeks vital records about any event occurring before January 18, 1999, the Office of Vital Statistics shall consult Family Court to determine whether there is an affidavit on file expressing a desire by either birthparent to keep information about the adoption confidential.

(2) If there is an affidavit on file with Family Court denying the release of information, or if there is no affidavit on file with Family Court, the Office of Vital Statistics shall send notice, as described below, by United States mail to the ~~birthparent or birthparents.~~ birth parent or birth parents.

a. The Office of Vital Statistics shall search a computerized telephone or address database, as well as Delaware's Division of Motor Vehicles and voter records in order to determine the most likely address of the birthparent. Such notice shall be sent to that address. If no current address is available, then notice shall be sent to the last known address for the ~~birthparent or birthparents.~~ birth parent or birth parents. Such notification shall be mailed within 30 days from when the adoptee requested release of the records.

b. The Office of Vital Statistics shall notify the ~~birthparent or birthparents~~ birth parent or birth parents of the legal requirements for maintaining confidentiality and shall provide them with the appropriate forms. The Office of Vital Statistics shall also advise the ~~birthparent or birthparents~~ birth parent or birth parents that in the event that a written notarized statement denying the release of information is not received within 35 days from the date of the mailing of the notification required in paragraph (c)(1)a. of this section then the Office of Vital Statistics will release the records to the adoptee.

2. If no such written statement is received within 35 days from the date of the mailing of the notification required in paragraph (c)(1)a. of this section or if the ~~birthparent or birthparents~~ the birth parent or birth parents specifically authorizes release, then the Office of Vital Statistics shall release the records to the adoptee.

Section 110. Amend § 925, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 925. Inspection of Court records.

Except as provided in subchapter III of this chapter, anyone wishing to inspect any of the papers filed in connection with any adoption shall petition the Judge of the Family Court concerned setting forth the reasons for the inspection. The Judge shall refer the petition to the Department or licensed agency for investigation and recommendation. If in the opinion of the Court, the information is necessary, and the interest of the adopted individual, the ~~biological or previous legal parent or parents~~ birth parent or birth parents or of the adoptive parents will not be prejudiced by its disclosure, the Court shall issue an order permitting the release of the information and setting forth the terms under which it shall be released.

Section 111. Amend § 928, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 928. Contributions and fees.

(a) No ~~biological~~ birth parent of any child whose adoption is proposed shall receive any contribution, fee, subsidy or emolument of any sort from any person or organization having any connection or association with the placement of the child for adoption or with the adoption.

Section 112. Amend § 930, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 930. Advertising for adoption.

No ~~natural~~ birth parent or prospective adoptive parent, nor anyone acting on behalf of ~~such natural~~ the birth parent or prospective adoptive parent, and no person, firm, corporation, organization or other legal entity, except the Department or a licensed agency, shall advertise in this State regarding the availability of adoption services or for the placement of a child for the purpose of adoption.

Section 113. Amend § 1101, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1101. Definitions.

As used in this chapter:

(1) “~~Alleged father~~” genetic parent” means as defined in § 8-102 of this title.

(8) “~~Father~~” ~~means an individual who has established a father-child relationship under § 8-201(b) of this title.~~ [Repealed.]

(12) “~~Mother~~” ~~means an individual who has established a mother-child relationship under § 8-201(a) of this title.~~ [Repealed.]

(14) “Parent” means as defined in § 8-102 of this title.

(18) “~~Presumed father~~” parent” means as defined in § 8-102 of this title.

Section 114. Amend § 1103, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1103. Grounds for termination of parental rights.

(a) The procedure for termination of parental rights for the purpose of adoption or, if a suitable adoption plan cannot be effected, for the purpose of providing for the care of a child by another plan which may or may not contemplate the continued possibility of eventual adoption, may be initiated when it appears to be in the child's best interest and 1 or more of the following grounds exist:

(3) *Unintentional abandonment.* —

The Court finds that the respondent abandoned the child and the abandonment was unintentional. The respondent's subsequent conduct does not cure the abandonment. Unintentional abandonment is evidenced by both of the following:

a. For at least 12 consecutive months of the 18 months preceding the filing of the petition, the respondent has failed to do all of the following:

2. File or pursue a pending petition to establish ~~paternity~~ parentage or to establish a right to have contact or visitation with the child.

3. Placing the child in the respondent's legal and physical custody would pose a risk of substantial harm to the child's physical or psychological well-being because the respondent is unfit to maintain a relationship of parent and child with the child, as indicated by at least 1 of the following:

B. The respondent's behavior during the ~~mother's~~ other parent's pregnancy or since the child's birth.

Section 115. Amend § 1104, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1104. Eligibility to petition for termination of parental rights.

A petition for the termination of parental rights may be filed by any of the following:

(1) A parent or presumed ~~father~~ parent of the child.

Section 116. Amend § 1105, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1105. Contents of petition.

(a) A petition for the termination of parental rights must state all of the following:

(4) The name and address of each parent or presumed ~~father,~~ parent, or name and address of the organization holding parental rights.

(5)a. If the name and address of ~~the father~~ a parent other than the individual who gave birth to the child is not provided under paragraph (a)(4) of this section, a statement with an affidavit from the petitioner must be attached to the petition, stating at least 1 of the following:

1. The ~~mother~~ the individual who gave birth to the child knows the name of the ~~father~~ alleged genetic parent but is unwilling to disclose the ~~father's~~ alleged genetic parent's name.

2. The ~~mother~~ individual who gave birth to the child does not know the ~~father's~~ alleged genetic parent's name.

3. The ~~mother~~ individual who gave birth to the child knows the ~~father's~~ alleged genetic parent's name and has provided it, but the ~~mother~~ individual who gave birth to the child has never known the ~~father's~~ alleged genetic parent's address.

4. The ~~mother's husband when the child was conceived or born, if any,~~ individual who gave birth to the child's spouse at conception or birth of the child is not the child's ~~father.~~ parent.

b. If the ~~mother~~ individual who gave birth to the child is unavailable or refuses to provide the information required under paragraph (a)(5)a. of this section, the petition must include as much information that is required under paragraph (a)(5)a. of this section as the petitioner knows.

c. If the name or address of a parent is omitted, the petition must include detailed information on the efforts made to locate the missing name or address. The information must include a statement that the petitioner has inquired to determine if either of the following apply to the individual who gave birth to the child:

1. The individual was married at or after the probable time of the child's conception.

2. The individual named ~~a father~~ another parent on the child's birth certificate.

Section 117. Amend § 1106, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1106. Consent requirements.

(a) In a proceeding under § 1103(a)(1) of this title, consent is required from all of the following:

(1) The ~~mother, father,~~ parent or parents, and, if applicable, presumed ~~father~~ parent of the child.

a. An admission of paternity parentage is not required for an alleged ~~father's~~ genetic parent's or presumed ~~father's~~ parent's consent. If the alleged ~~father~~ genetic parent or presumed ~~father~~ parent denies

~~paternity, parentage,~~ the petition must include, in lieu of a consent, an affidavit denying ~~paternity parentage~~ that the alleged ~~father genetic parent~~ or presumed ~~father parent~~ signed.

b. If the ~~mother~~ individual who gave birth to the child was married when the child was conceived or born, but the ~~mother's husband~~ individual's spouse at conception or birth is not the child's ~~biological father, parent,~~ the ~~husband's spouse's~~ notarized statement that the husband spouse is not the child's biological father parent is prima facie proof that the ~~husband spouse~~ is not ~~the biological father, a parent,~~ absent evidence to the contrary. If the ~~husband's spouse's~~ notarized statement cannot be obtained, a notice of hearing must be sent to the ~~husband spouse~~ under § 1107 of this title.

c. If a petition contains a statement under § 1105(a)(5)a.1., 2., or 3. of this title and the Court finds, after a hearing and in consideration of the social report, that the child's ~~mother and father~~ parents are not living together openly as ~~husband and wife~~ a married couple and they have not done so and have not married since the child's birth, the Court may waive the requirement of the ~~father's other parent's~~ consent.

(c) ~~A mother~~ An individual who gave birth to the child whose consent to the termination of parental rights is required may execute a consent only after the child is born. ~~A father~~ An alleged genetic parent or presumed ~~father parent~~ parent may execute a consent either before or after the child is born.

Section 118. Amend § 1107A, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1107A. Notice of hearing to terminate and transfer parental rights.

(e) If, in an inquiry under this section, the ~~woman~~ individual who gave birth to the child and who is consenting to the termination of the ~~woman's individual's~~ parental rights fails to disclose the identity of an alleged ~~father genetic parent~~ parent or reveal ~~his~~ the alleged genetic parent's whereabouts, the petitioner must advise the ~~woman~~ individual who gave birth to the child of both of the following:

(1) The proceeding for adoption under Chapter 9 of this title may be delayed or subject to challenge if an alleged ~~father genetic parent~~ is not given notice of the proceeding.

(2) The lack of information about the ~~father's~~ alleged genetic parent's medical and genetic history may be detrimental to the child.

Section 119. Amend § 1112, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1112. Confidential nature of records.

(e) (1) A person that wishes to inspect the papers filed in connection with a proceeding under this chapter may petition the Court or the court of original jurisdiction stating the reason for the inspection.

(3) The Court shall issue an order permitting the release of the information requested and establishing the terms under which the information may be released if the Court finds all of the following:

b. Release of the information will not prejudice the interests of the adopted individual, ~~biological~~ birth parent, or adoptive parent.

Section 120. Amend § 1301, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1301. Legitimizing child conceived out of wedlock.

A child conceived out of wedlock shall be legitimate if the parents shall marry before the birth of the child or if they shall marry after adjudication or acknowledgment of parentage after the birth of the child, or upon an acknowledgment ~~of the paternity of parentage~~ made in writing by the parents, if both are living or by the ~~father~~ living parent if the mother is not ~~living~~ living, and filed in the Office of Vital Statistics according to § 8-302 of this title or § 3121 of Title 16.

Section 121. Amend § 2214, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 2214. Collection and use of Social Security numbers.

(a) The Division of Child Support Services shall have access to the Social Security number of:

(3) Any individual who is subject to a divorce decree, support order or judgment, ~~paternity~~ parentage order, ~~or~~ an acknowledgment of ~~paternity~~ parentage filed in this State ~~pursuant to~~ under § 8-302 of Title 13 or §§ 3105 and 3121 of Title 16;

Section 122. Amend § 3101, Title 16 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 3101. Definitions [For application of this section, see 84 Del. Laws, c. 261, § 16].

For purposes of this chapter:

(10) “Parentage” or “parent-child relationship” means as defined under § 8-102 of Title 13.

Section 123. Amend § 3105, Title 16 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 3105. State Registrar of Vital Statistics; duties.

(c) ~~The central office and each branch office of the Office of Vital Statistics shall offer voluntary paternity acknowledgment services, as described in § 3121(c) and (d) of this title, to the mother and putative father of a child born to unmarried parents.~~ provide all of the following:

(1) Voluntary acknowledgment of parentage services under subchapter III of Chapter 8 of Title 13, to the individual who gave birth to the child and an individual whose parentage is sought to be established.

(2) A registry of paternity under subchapter IV of Chapter 8 of Title 13.

Section 124. Amend § 3121, Title 16 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 3121. Registration of births.

(c)(1) When a child is born to an unmarried ~~woman~~ individual in an institution, the person responsible for completing the birth certificate, or the person's designated representative, shall do all of the following:

~~(1)a.~~ Provide written information prepared by the Division of Child Support Services to the mother and the putative father, if he is Services, under subchapter III of Chapter 8 of Title 13, to the individual who gave birth to the child and the individual seeking to establish parentage, if present, explaining the rights and responsibilities of acknowledging paternity. parentage.

~~(2)b.~~ Provide the mother and the putative father individual who gave birth to the child and the individual seeking to establish parentage the opportunity to sign an acknowledgment of paternity as described in subsection (d) of this section parentage under subchapter III of Chapter 8 of Title 13 and provide notary public services for this purpose.

~~(3)c.~~ Provide the mother and the putative father with If the individual who gave birth to the child and the individual seeking to establish parentage sign the acknowledgment of parentage under paragraph (c)(1)b. of this section:

1. Provide a copy of the signed and notarized acknowledgment. acknowledgment to both individuals.

~~(4)2.~~ File the signed and notarized acknowledgment with the Office of Vital Statistics within 10 days after execution.

~~(2) The Within 7 days of receiving the acknowledgment under paragraph (c)(1)c.2. of this section, the Office of Vital Statistics shall send a copy of the acknowledgment to the Division of Child Support Services within 7 days after it receives the acknowledgment. Services.~~

~~(d) The acknowledgment provided for in subsection (c) of this section shall contain all of the following:~~

~~(1) The mother's address and Social Security number, her statement that the putative father is the only possible father and her consent to the acknowledgment of paternity.~~

~~(2) The putative father's address and Social Security number and his statement that he is the biological father of the child.~~

~~(3) Subject to the provisions of subchapter III of Chapter 8 of Title 13, their acknowledgment of a right to blood, tissue or other genetic testing to determine paternity or nonpaternity and of the right to otherwise dispute paternity in any civil or criminal action in which the paternity of the child by the putative father is an element of the claim for relief or a defense.~~

~~(4) A statement of the presumptive effect of the acknowledgment of paternity under § 8-305 of Title 13.~~

~~(5) A statement of the rights and responsibilities of acknowledging paternity, including that the acknowledgment of paternity establishes the duty of both parties to support the child, is the basis for the entry of a child support order without further proceedings to establish paternity, may be the basis for the putative father establishing custody and visitation rights, establishes inheritance rights and may be the basis for requiring notice to the putative father prior to an adoption.~~

~~(6) Instructions for filing the acknowledgment with the Office of Vital Statistics.~~

~~(7) The acknowledgment of both the putative father and the mother that they have been notified, orally and in writing of each of the items listed in paragraphs (d)(1) through (6) of this section before signing the acknowledgment of paternity. [Repealed.]~~

~~(e) Subsection (c) of this section does not apply when a child is born to an unmarried woman in an institution and the mother or putative father individual who gave birth to the child or an alleged genetic parent is a minor. The Office of Vital Statistics may not accept an acknowledgment of paternity as described in subsection (d) of this section parentage if signed by a mother or putative father who is a minor. If the mother or putative father individual who gave~~

birth to the child or an alleged genetic parent is a minor, ~~paternity shall~~ parentage is to be determined in accordance with under Chapter 8 of Title 13.

(h) Except as provided under subchapter VIII of Chapter 8 of Title 13, and as provided under § 8-301 of Title 13, the following apply:

(1) If the ~~mother~~ individual who gave birth to the child was married at the time of either conception or birth, or between conception and birth, the name of the ~~husband shall~~ individual's spouse must be entered on the certificate as the ~~father~~ parent of the child unless ~~paternity~~ parentage has been determined otherwise by Family Court. ~~Court.~~ Court or the individual's spouse has filed a valid denial of parentage.

(2) If the ~~mother~~ individual who gave birth was not married at the time of either conception or birth or between conception and birth, the name of the ~~father shall~~ parent who did not give birth may not be entered on the certificate without a court order from Family Court or an acknowledgment of ~~paternity which~~ parentage that is signed by both parents and ~~their signatures~~ notarized.

(3) ~~In any case in which paternity~~ If parentage of a child is determined by Family Court, the name of the ~~father~~ adjudicated parent and surname of the child shall must be entered on the certificate of birth in accordance with the finding and order of the court.

(4) If the ~~father~~ parent who did not give birth is not named on the certificate of birth, no other information about the ~~father shall~~ parent who did not give birth may be entered on the certificate.

Section 125. Amend § 3127, Title 16 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 3127. Acknowledgment or establishment of ~~paternity.~~ parentage.

In cases of acknowledgment or establishment of ~~paternity,~~ parentage, the State Registrar, upon receipt of a court order, an administrative ~~order~~ order, or a properly executed acknowledgment of ~~paternity,~~ parentage, executed or issued in this State or any other state, which establishes ~~paternity~~ parentage or creates a presumption of ~~paternity~~ parentage under the law of the state in which it was executed or issued, shall prepare an amended or new certificate of birth, as the case may be, consistent with the document. The fact that the ~~father and child relationship~~ parent-child relationship was declared after the child's birth shall must not be ascertainable from the amended or new certificate, but the actual place and date of birth shall must be shown. The evidence upon which the amended or new certificate was made and the original birth certificate shall must be sealed and filed and may be opened only upon court order or

upon application of the Division of Child Support Services certifying that the child for whom information is sought is the subject of a child support case administered by the Division under Title IV-D of the federal Social Security Act (42 U.S.C. § 651 et seq.).

Section 126. This Act takes effect 180 days after enactment of this Act into law.

Approved June 9, 2026