



SPONSOR: Rep. Buckworth & Sen. Blevins;
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Sens. Still, Sorenson, Henry

HOUSE OF REPRESENTATIVES

142nd GENERAL ASSEMBLY

HOUSE BILL NO. 139
AS AMENDED BY
HOUSE AMENDMENT NO. 2

AN ACT TO AMEND TITLE 13 OF THE DELAWARE CODE TO PROVIDE FOR A NEW UNIFORM PARENTAGE ACT TO REPLACE THE EXISTING PARENTAGE ACT AND TO REPEAL CERTAIN CODE PROVISIONS WHICH ARE INCONSISTENT WITH THE ACT.

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

Section 1. Amend Title 13 of the Delaware Code by striking the existing Chapter 8, The Uniform Parentage Act, and inserting in lieu thereof a new Uniform Parentage Act to read as follows:

"Chapter 8. Uniform Parentage Act.

Subchapter I. General Provisions

§ 8-101. SHORT TITLE. This Chapter may be cited as the Uniform Parentage Act.

§ 8-102. DEFINITIONS. In this Chapter:

- (1) 'Acknowledged father' means a man who has established a father-child relationship under Subchapter 3.
- (2) 'Adjudicated father' means a man who has been adjudicated by a court of competent jurisdiction to be the father of a child.
- (3) 'Alleged father' means a man who alleges himself to be, or is alleged to be, the genetic father or a possible genetic father of a child, but whose paternity has not been determined. The term does not include:
 - (i) a presumed father;
 - (ii) a man whose parental rights have been terminated or declared not to exist; or
 - (iii) a male donor.
- (4) 'Assisted reproduction' means a method of causing pregnancy other than sexual intercourse.

The term includes:

- (i) intrauterine insemination;
 - (ii) donation of eggs;
 - (iii) donation of embryos;
 - (iv) in-vitro fertilization and transfer of embryos; and
 - (v) intracytoplasmic sperm injection.
- (5) 'Child' means an individual of any age whose parentage may be determined under this chapter.
- (6) 'Commence' means to file the initial pleading seeking an adjudication of parentage in the Family Court of the State of Delaware.
- (7) 'Determination of parentage' means the establishment of the parent-child relationship by the signing of a valid acknowledgment of paternity under Subchapter 3 or adjudication by the Court.
- (8) 'Donor' means an individual who produces eggs or sperm used for 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 woman who gives birth to a child by means of assisted reproduction, or
 - (iii) a parent under Subchapter 7.
- (9) '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.
- (10) 'Genetic testing,' means an analysis of genetic markers to exclude or identify a man as the father or a woman as the mother of a child. The term includes an analysis of one 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.
- (11) 'Man' means a male individual of any age.
- (12) 'Parent' means an individual who has established a parent-child relationship under § 8-201.

- (13) '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.
- (14) '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.
- (15) 'Presumed father' means a man who, by operation of law under §8-204, is recognized as the father of a child until that status is rebutted or confirmed in a judicial proceeding.
- (16) '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.
- (17) '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.
- (18) 'Signatory' means an individual who authenticates a record and is bound by its terms.
- (19) 'State' means a State of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.
- (20) '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.

§ 8-103. SCOPE OF CHAPTER; CHOICE OF LAW.

- (a) This Chapter applies to determinations 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, enlarge, or diminish parental rights or duties under other law of this State.
- (d) This Chapter does not authorize or prohibit an agreement between a woman and a man and another woman in which the woman relinquishes all rights as a parent of a child conceived by means of assisted reproduction, and which provides that the man and other woman 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 2.

§ 8-104. COURT OF THIS STATE. The Family Court of the State of Delaware is authorized to adjudicate parentage under this Chapter.

§ 8-105. PROTECTION OF PARTICIPANTS.

- (a) Notwithstanding any other law concerning public hearings and records, any hearing or trial under this Chapter shall 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, all papers and 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 consent of the Court, for good cause.

§ 8-106. DETERMINATION OF MATERNITY. Provisions of this Chapter relating to determination of paternity apply to determinations of maternity.

Subchapter II. Parent-Child Relationship.

§ 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;
 - (2) an adjudication of the woman's maternity; or
 - (3) adoption of the child by the woman.

- (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;
 - (2) an effective acknowledgment of paternity by the man under Subchapter 3, 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; or
 - (5) the man's having consented to assisted reproduction by a woman under Subchapter 7 which resulted in the birth of the child.

§ 8-202. NO DISCRIMINATION BASED ON MARITAL STATUS. 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.

§ 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.

§ 8-204. PRESUMPTION OF PATERNITY IN CONTEXT OF MARRIAGE.

- (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 two years of the child's life, he resided in the same household with the child and openly held out the child as his own.
- (b) A presumption of paternity established under this Section may be rebutted only by an adjudication under Subchapter 6.

Subchapter III. Voluntary Acknowledgement of Paternity.

§ 8-301. ACKNOWLEDGMENT OF PATERNITY. 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.

§ 8-302. EXECUTION OF ACKNOWLEDGMENT OF PATERNITY.

- (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 his 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 two 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; or
 - (3) falsely denies the existence of a presumed, acknowledged, or adjudicated father of the child.

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

§ 8-303. DENIAL OF PATERNITY. A presumed father may sign a denial of his 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;
- (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 his paternity, unless the previous acknowledgment has been rescinded pursuant to § 8-307 or successfully challenged pursuant to § 8-308; or
 - (ii) been adjudicated to be the father of the child.

§ 8-304. RULES FOR ACKNOWLEDGMENT AND DENIAL OF PATERNITY.

- (a) An acknowledgment of paternity and a denial of paternity may be contained in a single document or may be signed in counterparts, and may be filed separately or simultaneously. If the acknowledgment and denial are both necessary, neither is valid until both are filed.
- (b) An acknowledgment of paternity or a denial of paternity may be signed before the birth of the child.
- (c) Subject to Subsection (a), an acknowledgment of paternity or denial of paternity takes effect on the birth of the child or the filing of the document with the Office of Vital Statistics, whichever occurs later.
- (d) An acknowledgment of paternity or denial of paternity signed by a minor is valid if it is otherwise in compliance with this chapter.

§ 8-305. EFFECT OF ACKNOWLEDGMENT OR DENIAL OF PATERNITY.

- (a) Except as otherwise provided in § 8-307 and § 8-308, a valid acknowledgment of paternity filed with the Office of Vital Statistics is equivalent to an adjudication of paternity of a child and confers upon the acknowledged father all of the rights and duties of a parent.
- (b) Except as otherwise provided in § 8-307 and § 8-308, a valid denial of paternity by a presumed father filed with the Office of Vital Statistics in conjunction with a valid acknowledgment of paternity is equivalent to an adjudication of the nonpaternity of the presumed father and discharges the presumed father from all rights and duties of a parent.

§ 8-306. NO FILING FEE. The Office of Vital Statistics may not charge for filing an acknowledgment of paternity or denial of paternity.

§ 8-307. PROCEEDING FOR RESCISSION. A signatory may rescind an acknowledgment of paternity or denial of paternity by commencing a proceeding to rescind before the earlier of:

- (1) 60 days after the effective date of the acknowledgment or denial, as provided in § 8-304; or
- (2) the date of the first hearing, in a proceeding to which the signatory is a party, before a Court to adjudicate an issue relating to the child, including a proceeding that establishes support.

§ 8-308. CHALLENGE AFTER EXPIRATION OF PERIOD FOR RESCISSION.

(a) After the period for rescission under § 8-307 has expired, a signatory of an acknowledgment of paternity or denial of paternity may commence a proceeding to challenge the acknowledgment or denial only:

- (1) on the basis of fraud, duress, or material mistake of fact; and
- (2) within two 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.

§ 8-309. PROCEDURE FOR RESCISSION OR CHALLENGE.

- (a) Every signatory to an acknowledgment of paternity and any related denial of paternity 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, a signatory submits to personal jurisdiction of this State by signing the acknowledgment or denial, effective upon the filing of the document 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 Court may not suspend the legal responsibilities of a signatory arising from the acknowledgment, including the duty to pay child support.
- (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 6.

- (e) At the conclusion of a proceeding to rescind or challenge an acknowledgment of paternity or denial of paternity, the Court shall order the Office of Vital Statistics to amend the birth record of the child, if appropriate.

§ 8-310. RATIFICATION BARRED. A Court or administrative agency conducting a judicial or administrative proceeding is not required or permitted to ratify an unchallenged acknowledgment of paternity.

§ 8-311. FULL FAITH AND CREDIT. A Court of this State shall give full faith and credit to an acknowledgment of paternity or denial of paternity effective in another State if the acknowledgment or denial has been signed and is otherwise in compliance with the law of the other State.

§ 8-312. FORMS FOR ACKNOWLEDGMENT AND DENIAL OF PATERNITY.

- (a) To facilitate compliance with this Subchapter, the Division of Child Support Enforcement shall prescribe forms for the acknowledgment of paternity and the denial of paternity.
- (b) A valid acknowledgment of paternity or denial of paternity is not affected by a later modification of the prescribed form.

§ 8-313. RELEASE OF INFORMATION. The Division of Child Support Enforcement may release information relating to the acknowledgment of paternity or denial of paternity to a signatory of the acknowledgment or denial and to Courts and agencies authorized by other law of this State or another State to receive the information of this or another State.

§ 8-314. ADOPTION OF RULES. The Division of Child Support Enforcement may adopt rules to implement this Subchapter.

Subchapter IV. Registry of Paternity.

Part 1. General Provisions.

§ 8-401. ESTABLISHMENT OF REGISTRY. A registry of paternity is established in the Office of Vital Statistics.

§ 8-402. REGISTRATION FOR NOTIFICATION.

- (a) Except as otherwise provided in Subsection (b) of § 8-405, 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 must register in the registry of paternity before the birth of the child or within 30 days after the birth of the child.
- (b) A man is not required to register if:

- (1) a father-child relationship between the man and the child has been established under this Chapter or other law; or
 - (2) the man commences a proceeding to adjudicate his paternity before the Court has terminated his parental rights.
- (c) A registrant shall promptly notify the registry in a record of any change in the information registered. The Office of Vital Statistics shall incorporate all new information received into its records but need not affirmatively seek to obtain current information for incorporation in the registry.

§ 8-403. NOTICE OF PROCEEDING. 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. Notice must be given in a manner prescribed for service of process in a civil action.

§ 8-404. TERMINATION OF PARENTAL RIGHTS: CHILD UNDER ONE YEAR OF AGE.

The parental rights of a man who may be the father of a child may be terminated without notice if:

- (1) the child has not attained one 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; and
- (3) the man is not exempt from registration under § 8-402.

§ 8-405. TERMINATION OF PARENTAL RIGHTS; CHILD AT LEAST ONE YEAR OF AGE.

- (a) If a child has attained one 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.
- (b) Notice must be given in a manner prescribed for service of process in a civil action.

Part 2. Operation of Registry.

§ 8-411. REQUIRED FORM. The Office of Vital Statistics shall prepare a form for registering with the agency. 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) a timely registration entitles the registrant to notice of a proceeding for adoption of the child or termination of the registrant's parental rights;
- (2) a timely registration does not commence a proceeding to establish paternity;
- (3) the information disclosed on the form may be used against the registrant to establish paternity;

- (4) services to assist in establishing paternity are available to the registrant through the support-enforcement agency;
- (5) the registrant should also register in another State if conception or birth of the child occurred in the other State;
- (6) information on registries of other States is available from the Office of Vital Statistics and the support enforcement agency; and
- (7) procedures exist to rescind the registration of a claim of paternity.

§ 8-412. FURNISHING OF INFORMATION; CONFIDENTIALITY.

- (a) The Office of Vital Statistics need not seek to locate the mother of a child who is the subject of a registration, but the Office of Vital Statistics shall send a copy of the notice of registration to a mother if she has provided an address.
- (b) Information contained in the registry is confidential and may be released on request only to:
 - (1) a Court or a person designated by the Court;
 - (2) the mother of the child who is the subject of the registration;
 - (3) an agency authorized by other law to receive the information;
 - (4) a licensed child-placing agency;
 - (5) a support-enforcement 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 parental rights regarding, a child who is the subject of the registration; and
 - (7) the registry of paternity in another State.

§ 8-413. RESCISSION OF REGISTRATION. A registrant may rescind his registration at any time by sending to the registry a rescission in a record signed or otherwise authenticated by him, and witnessed or notarized.

§ 8-414. UNTIMELY REGISTRATION. If a man registers 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 was not filed timely.

§ 8-415. FEES FOR REGISTRY.

- (a) A fee may not be charged for filing a registration or a rescission of registration.

- (b) Except as otherwise provided in Subsection (c), the Office of Vital Statistics may charge a reasonable fee for making a search of the registry and for furnishing a certificate.
- (c) A support-enforcement agency and an agency of the State of Delaware are not required to pay a fee authorized by Subsection (b).

Part 3. Search of Registries.

§ 8-421. SEARCH OF APPROPRIATE REGISTRY.

- (a) If a father-child relationship has not been established under this Chapter for a child under one 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.
- (b) If a petitioner for adoption of, or termination of parental rights regarding, a child has reason to believe that the conception or birth of the child may have occurred in another State, the petitioner must also obtain a certificate of search from the registry of paternity, if any, in that State.

§ 8-422. CERTIFICATE OF SEARCH OF REGISTRY.

- (a) The Office of Vital Statistics shall furnish to the requester a certificate of search of the registry on request of an individual, Court or agency identified in § 8-412.
- (b) A certificate provided by the Office of Vital Statistics must be signed on behalf of the Office and State that:
 - (1) a search has been made of the registry; and
 - (2) a registration containing the information required to identify the registrant:
 - (i) has been found and is attached to the certificate of search; or
 - (ii) has not been found.
- (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.

§ 8-423. ADMISSIBILITY OF REGISTERED INFORMATION. A certificate of search of the registry of paternity in this or another State is admissible in a proceeding for adoption of, or termination of parental rights regarding, a child and, if relevant, in other legal proceedings.

Subchapter 5. Genetic Testing.

§ 8-501. SCOPE OF ARTICLE. This Subchapter governs genetic testing of an individual to determine parentage, whether the individual:

- (1) voluntarily submits to testing; or
- (2) is tested pursuant to an order of the Court or a support-enforcement agency.

§ 8-502. ORDER FOR TESTING.

- (a) Except as otherwise provided in this Subchapter and Subchapter 6, the Court shall order the child and other designated individuals to submit to genetic testing if the request for testing is supported by the sworn statement of a party to the proceeding:
 - (1) alleging paternity and stating facts establishing a reasonable probability of the requisite sexual contact between the individuals; or
 - (2) denying paternity and stating facts establishing a possibility that sexual contact between the individuals, if any, did not result in the conception of the child.
- (b) A support-enforcement agency may order genetic testing only if there is no presumed, acknowledged, or adjudicated father.
- (c) If a request for genetic testing of a child is made before birth, the Court or support-enforcement agency may not order in-utero testing.
- (d) If two or more men are subject to Court-ordered genetic testing, the testing may be ordered concurrently or sequentially.

§ 8-503. REQUIREMENTS FOR GENETIC TESTING.

- (a) Genetic testing must be of a type reasonably relied upon by experts in the field of genetic testing and performed in a testing laboratory accredited by:
 - (1) the American Association of Blood Banks, or a successor to its functions;
 - (2) the American Society for Histocompatibility and Immunogenetics, or a successor to its functions; or
 - (3) an accrediting body designated by the federal Secretary of Health and Human Services.
- (b) A specimen used in genetic testing may consist of one or more samples, or a combination or samples, of blood, buccal cells, bone, 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 testing laboratory shall determine the databases from which to select frequencies for use in calculation of the probability of paternity. If there is disagreement as to the testing 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 using an ethnic or racial group different from that used by the laboratory.
- (2) The individual objecting to the testing laboratory's initial choice shall:
 - (i) if the 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) engage another testing laboratory to perform the calculations.
- (3) The testing laboratory may use its own statistical estimate if there is a question regarding which ethnic or racial group is appropriate. If available, the testing laboratory shall calculate the frequencies using statistics for any other ethnic or racial group requested.
- (d) If, after recalculation using a different ethnic or racial group, genetic testing does not rebuttably identify a man as the father of a child under § 8-505, an individual who has been tested may be required to submit to additional genetic testing.

§ 8-504. 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 the requirements of this Subchapter is self-authenticating.
- (b) Documentation from the testing laboratory of the following information is sufficient to establish a reliable chain of custody that allows the results of genetic testing to be admissible without testimony:
 - (1) the names and photographs of the individuals whose specimens have been taken;
 - (2) the names of the individuals who collected the specimens;
 - (3) the places and dates the specimens were collected;
 - (4) the names of the individuals who received the specimens in the testing laboratory; and
 - (5) the dates the specimens were received.

§ 8-505. GENETIC TESTING RESULTS; REBUTTAL.

- (a) Under this Chapter, a man is rebuttably identified as the father of a child if the genetic testing complies with this Subchapter and the results disclose that:

- (1) the man has at least a 99 percent probability of paternity, using a prior probability of 0.50, as calculated by using the combined paternity index obtained in the testing; and
 - (2) a combined paternity index of at least 100 to 1.
- (b) A man identified under Subsection (a) as the father of the child may rebut the genetic testing results only by other genetic testing satisfying the requirements of this Subchapter which:
- (1) excludes the man as a genetic father of the child; or
 - (2) identifies another man as the possible father of the child.
- (c) Except as otherwise provided in § 8-510, if more than one man is identified by genetic testing as the possible father of the child, the Court shall order them to submit to further genetic testing to identify the genetic father.

§ 8-506. COSTS OF GENETIC TESTING.

- (a) Subject to assessment of costs under Subchapter 6 , the cost of initial genetic testing must be advanced:
- (1) by a support-enforcement agency in a proceeding in which the support-enforcement agency is providing services;
 - (2) by the individual who made the request;
 - (3) as agreed by the parties; or
 - (4) as ordered by the Court.
- (b) In cases in which the cost is advanced by the support-enforcement agency, the agency may seek reimbursement from a man who is rebuttably identified as the father.

§ 8-507. ADDITIONAL GENETIC TESTING. The Court or the support-enforcement agency shall order additional genetic testing upon the request of a party who contests the result of the original testing. If the previous genetic testing identified a man as the father of the child under § 8-505, the Court or agency may not order additional testing unless the party provides advance payment for the testing.

§ 8-508. GENETIC TESTING WHEN SPECIMEN IS NOT AVAILABLE.

- (a) Subject to Subsection (b), 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, the Court may order the following individuals to submit specimens for genetic testing:
- (1) the parents of the man;
 - (2) brothers and sisters of the man;

- (3) other children of the man and their mothers; and
 - (4) other relatives of the man necessary to complete genetic testing.
- (b) Issuance of an order under this Section requires a finding that a need for genetic testing outweighs the legitimate interests of the individual sought to be tested.

§ 8-509. DECEASED INDIVIDUAL. For good cause shown, the Court may order genetic testing of a deceased individual.

§ 8-510. IDENTICAL BROTHERS.

- (a) 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.
- (b) If each brother satisfies the requirements as the identified father of the child under § 8-505 without consideration of another identical brother being identified as the father of the child, the Court may rely on non-genetic evidence to adjudicate which brother is the father of the child.

Subchapter 6. Proceeding to Adjudicate Parentage.

Part 1. Nature of Proceeding.

§ 8-601. PROCEEDING AUTHORIZED. A civil proceeding may be maintained to adjudicate the parentage of a child. The proceeding is governed by the Family Court Rules of Civil Procedure.

§ 8-602. STANDING TO MAINTAIN PROCEEDING. Subject to Subchapter 3 and § 8-607 and § 8-609, a proceeding to adjudicate parentage may be maintained by:

- (1) the child;
- (2) the mother of the child;
- (3) a man whose paternity of the child is to be adjudicated;
- (4) the support-enforcement agency;
- (5) an authorized adoption agency or licensed child-placing agency; or
- (6) a representative authorized by law to act for an individual who would otherwise be entitled to maintain a proceeding but who is deceased, incapacitated, or a minor.

§ 8-603. PARTIES TO 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.

§ 8-604. PERSONAL JURISDICTION.

- (a) An individual may not be adjudicated to be a parent unless the Court has personal jurisdiction over the individual.
- (b) A Court of this State having 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 Section 610 of Chapter 6 of this Title are fulfilled.
- (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.

§ 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.

§ 8-606. STATUTE OF LIMITATIONS.

- (a) Subject to the provisions of subsection (b) of this Section and § 8-607 and § 8-609 of this Chapter, 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.

- (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.

§ 8-607. LIMITATION: CHILD HAVING PRESUMED FATHER.

- (a) Except as otherwise provided in Subsection (b), 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 two 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) 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
 - (2) the presumed father never openly held out the child as his own.

§ 8-608. AUTHORITY TO DENY MOTION FOR GENETIC TESTING.

- (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 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; and
 - (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.
- (c) 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.

§ 8-609. LIMITATION; CHILD HAVING ACKNOWLEDGED OR ADJUDICATED FATHER.

- (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.
- (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 two 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.

§ 8-610. PROCEEDINGS IN WHICH PARENTAGE MAY BE DETERMINED.

- (a) Except as otherwise provided in subsection (c), 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 non-parentage 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 (b), 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) with a proceeding to adjudicate parentage brought under Chapter 6 of this Title.

§ 8-611. PROCEEDING BEFORE BIRTH. 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. The following actions may be taken before the birth of the child:

- (1) service of process;
- (2) discovery; and
- (3) except as prohibited by § 8-502, collection of specimens for genetic testing.

§ 8-612. CHILD AS PARTY; REPRESENTATION.

- (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.

Part 2. Special Rules for Proceeding to Adjudicate Parentage.

§ 8-621. ADMISSIBILITY OF RESULTS OF GENETIC TESTING; EXPENSES.

- (a) Except as otherwise provided in Subsection (c), 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 one 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.
- (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.

§ 8-622. CONSEQUENCES OF DECLINING GENETIC TESTING.

- (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.

§ 8-623. ADMISSION OF PATERNITY AUTHORIZED.

- (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.

§ 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 his paternity adjudicated;
 - (3) identified as the father through genetic testing under § 8-505;
 - (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.

Part 3. Hearings and Adjudication.

§ 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 must be adjudicated the father of the child.

- (3) If the Court finds that genetic testing under § 8-505 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.

§ 8-632. JURY PROHIBITED. The Court, without a jury, shall adjudicate paternity of a child.

§ 8-633. INSPECTION OF RECORDS.

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

§ 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.

§ 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.

§ 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.
- (c) Except as otherwise provided in Subsection (d), 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.

§ 8-637. BINDING EFFECT OF DETERMINATION OF PARENTAGE.

- (a) Except as otherwise provided in Subsection (b), a determination of parentage is binding on:
 - (1) all signatories to an acknowledgment or denial of paternity as provided in Subchapter 3;
 - (2) all parties to an adjudication by a Court acting under circumstances that satisfy the jurisdictional requirements of Section 610 of Title 6;
 - (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 Section 610 of Title 6 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), 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.

§ 8-638. NO RIGHT TO REIMBURSEMENT.

If the Court determines that an individual is not the parent of a child, the individual shall have no right to reimbursement for any child support or medical expenses paid prior to 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 non-parentage was made.

§ 8-639. FULL FAITH AND CREDIT.

A Court of this State shall give full faith and credit to a determination of parentage or non-parentage 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.

Subchapter 7. Child of Assisted Reproduction

§ 8-701. SCOPE OF ARTICLE. This Subchapter does not apply to the birth of a child conceived by means of sexual intercourse.

§ 8-702. PARENTAL STATUS OF DONOR. A donor is not a parent of a child conceived by means of assisted reproduction.

§ 8-703. PATERNITY OF A CHILD OF ASSISTED REPRODUCTION. A man who provides sperm for, or consents to, assisted reproduction by a woman as provided in § 8-704 with intent to be the parent of her child, is a parent of the resulting child.

§ 8-704. CONSENT TO ASSISTED REPRODUCTION.

- (a) Consent by a woman and a man who intends to be a parent of a child born to the woman by assisted reproduction must be in a record signed by the woman and the man. This requirement does not apply to a donor.
- (b) Failure to sign a consent required by Subsection (a), before or after birth of the child, does not preclude a finding of paternity if the woman and man, during the first two years of the child's life, resided together in the same household with the child and openly held out the child as their own.

§ 8-705. LIMITATION ON HUSBAND'S DISPUTE OF PATERNITY.

- (a) Except as otherwise provided in Subsection (b), the husband of a wife who gives birth to a child by means of assisted reproduction may not challenge his paternity of the child unless:
 - (1) within two years after learning of the birth of the child he commences a proceeding to adjudicate his paternity; and
 - (2) the Court finds that he did not consent to the assisted reproduction, before or after birth of the child.
- (b) A proceeding to adjudicate paternity may be maintained at any time if the Court determines that:
 - (1) the husband did not provide sperm for, or before or after the birth of the child consent to assisted reproduction by his wife;
 - (2) the husband and the mother of the child have not cohabited since the probable time of assisted reproduction; and
 - (3) the husband never openly held out the child as his own.

- (c) The limitation provided in this section applies to a marriage declared invalid after assisted reproduction.

§ 8-706. EFFECT OF DISSOLUTION OF MARRIAGE OR WITHDRAWAL OF CONSENT.

- (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.

§ 8-707. PARENTAL STATUS OF DECEASED INDIVIDUAL. 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.

Subchapter 9. Miscellaneous Provisions.

§ 8-901. 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.

§ 8-902. SEVERABILITY CLAUSE. 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.

§ 8-903. “§ 8-903. EFFECTIVE DATE; EFFECT ON EXISTING PARENTAGE DETERMINATIONS.

This Chapter takes effect on January 1, 2004. Any determination of parentage or non-parentage made under the law of this State prior to the effective date of this Chapter remains in force and effect.

§ 8-904. REPEAL. Chapter 13 of Title 13 and § 1703 and § 1704 of Title 13 of the Delaware Code are hereby repealed.

§ 8-905. TRANSITIONAL PROVISION. A proceeding to adjudicate parentage which was commenced before the effective date of this chapter is governed by the law in effect at the time the proceeding was commenced.”.