

Senator Lyle W. Hillyard proposes the following substitute bill:

UNIFORM PARENTAGE ACT

2004 GENERAL SESSION

STATE OF UTAH

Sponsor: Lyle W. Hillyard

LONG TITLE

General Description:

This bill enacts the Utah Uniform Parentage Act.

Highlighted Provisions:

This bill:

- ▶ sets out guidelines for determining and declaring paternity;
- ▶ provides mechanisms for registering paternity;
- ▶ sets specific guidelines for surrogacy and assisted reproduction arrangements;
- ▶ provides conditions under which genetic testing may be requested or required;
- ▶ provides direction for state offices concerning adjudication of parentage and the filing and issuance of birth certificates;
- ▶ sets penalties for unauthorized release of information; and
- ▶ sets responsibilities for all parties when the parentage of a child is in question.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill takes effect on **§ [January] MAY § 1, 2005.**

Utah Code Sections Affected:

AMENDS:

26-2-2, as last amended by Chapter 176, Laws of Utah 2003



26 **26-2-5**, as last amended by Chapter 176, Laws of Utah 2003
27 **30-1-17.2**, as last amended by Chapter 255, Laws of Utah 2001
28 **75-2-114**, as repealed and reenacted by Chapter 39, Laws of Utah 1998
29 **78-30-4.13**, as last amended by Chapter 171, Laws of Utah 2000

30 ENACTS:

31 **78-45g-101**, Utah Code Annotated 1953
32 **78-45g-102**, Utah Code Annotated 1953
33 **78-45g-103**, Utah Code Annotated 1953
34 **78-45g-104**, Utah Code Annotated 1953
35 **78-45g-105**, Utah Code Annotated 1953
36 **78-45g-106**, Utah Code Annotated 1953
37 **78-45g-107**, Utah Code Annotated 1953
38 **78-45g-108**, Utah Code Annotated 1953
39 **78-45g-109**, Utah Code Annotated 1953
40 **78-45g-110**, Utah Code Annotated 1953
41 **78-45g-111**, Utah Code Annotated 1953
42 **78-45g-112**, Utah Code Annotated 1953
43 **78-45g-113**, Utah Code Annotated 1953
44 **78-45g-114**, Utah Code Annotated 1953
45 **78-45g-115**, Utah Code Annotated 1953
46 **78-45g-116**, Utah Code Annotated 1953
47 **78-45g-201**, Utah Code Annotated 1953
48 **78-45g-202**, Utah Code Annotated 1953
49 **78-45g-203**, Utah Code Annotated 1953
50 **78-45g-204**, Utah Code Annotated 1953
51 **78-45g-301**, Utah Code Annotated 1953
52 **78-45g-302**, Utah Code Annotated 1953
53 **78-45g-303**, Utah Code Annotated 1953
54 **78-45g-304**, Utah Code Annotated 1953
55 **78-45g-305**, Utah Code Annotated 1953
56 **78-45g-306**, Utah Code Annotated 1953

57 **78-45g-307**, Utah Code Annotated 1953
58 **78-45g-308**, Utah Code Annotated 1953
59 **78-45g-309**, Utah Code Annotated 1953
60 **78-45g-310**, Utah Code Annotated 1953
61 **78-45g-311**, Utah Code Annotated 1953
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65 **78-45g-315**, Utah Code Annotated 1953
66 **78-45g-401**, Utah Code Annotated 1953
67 **78-45g-402**, Utah Code Annotated 1953
68 **78-45g-403**, Utah Code Annotated 1953
69 **78-45g-404**, Utah Code Annotated 1953
70 **78-45g-405**, Utah Code Annotated 1953
71 **78-45g-406**, Utah Code Annotated 1953
72 **78-45g-407**, Utah Code Annotated 1953
73 **78-45g-408**, Utah Code Annotated 1953
74 **78-45g-409**, Utah Code Annotated 1953
75 **78-45g-410**, Utah Code Annotated 1953
76 **78-45g-501**, Utah Code Annotated 1953
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87 **78-45g-601**, Utah Code Annotated 1953

88 **78-45g-602**, Utah Code Annotated 1953
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102 **78-45g-616**, Utah Code Annotated 1953
103 **78-45g-617**, Utah Code Annotated 1953
104 **78-45g-618**, Utah Code Annotated 1953
105 **78-45g-619**, Utah Code Annotated 1953
106 **78-45g-620**, Utah Code Annotated 1953
107 **78-45g-621**, Utah Code Annotated 1953
108 **78-45g-622**, Utah Code Annotated 1953
109 **78-45g-623**, Utah Code Annotated 1953
110 **78-45g-701**, Utah Code Annotated 1953
111 **78-45g-702**, Utah Code Annotated 1953
112 **78-45g-703**, Utah Code Annotated 1953
113 **78-45g-704**, Utah Code Annotated 1953
114 **78-45g-705**, Utah Code Annotated 1953
115 **78-45g-706**, Utah Code Annotated 1953
116 **78-45g-707**, Utah Code Annotated 1953
117 **78-45g-801**, Utah Code Annotated 1953
118 **78-45g-802**, Utah Code Annotated 1953

- 119 **78-45g-803**, Utah Code Annotated 1953
120 **78-45g-804**, Utah Code Annotated 1953
121 **78-45g-805**, Utah Code Annotated 1953
122 **78-45g-806**, Utah Code Annotated 1953
123 **78-45g-807**, Utah Code Annotated 1953
124 **78-45g-808**, Utah Code Annotated 1953
125 **78-45g-809**, Utah Code Annotated 1953
126 **78-45g-901**, Utah Code Annotated 1953
127 **78-45g-902**, Utah Code Annotated 1953
128 REPEALS:
129 **76-7-204**, as last amended by Chapters 116 and 241, Laws of Utah 1991
130 **78-45a-1**, as last amended by Chapter 245, Laws of Utah 1990
131 **78-45a-2**, as last amended by Chapter 232, Laws of Utah 1997
132 **78-45a-3**, as enacted by Chapter 158, Laws of Utah 1965
133 **78-45a-4**, as enacted by Chapter 158, Laws of Utah 1965
134 **78-45a-5**, as last amended by Chapter 274, Laws of Utah 1998
135 **78-45a-6**, as enacted by Chapter 158, Laws of Utah 1965
136 **78-45a-6.5**, as last amended by Chapter 232, Laws of Utah 1997
137 **78-45a-7**, as last amended by Chapter 176, Laws of Utah 2003
138 **78-45a-10**, as repealed and reenacted by Chapter 232, Laws of Utah 1997
139 **78-45a-10.5**, as last amended by Chapter 255, Laws of Utah 2001
140 **78-45a-11**, as enacted by Chapter 158, Laws of Utah 1965
141 **78-45a-11.5**, as enacted by Chapter 232, Laws of Utah 1997
142 **78-45a-12**, as enacted by Chapter 158, Laws of Utah 1965
143 **78-45a-13**, as enacted by Chapter 158, Laws of Utah 1965
144 **78-45a-14**, as enacted by Chapter 158, Laws of Utah 1965
145 **78-45a-15**, as enacted by Chapter 158, Laws of Utah 1965
146 **78-45a-16**, as enacted by Chapter 158, Laws of Utah 1965
147 **78-45a-17**, as enacted by Chapter 158, Laws of Utah 1965
148 **78-45e-1**, as enacted by Chapter 127, Laws of Utah 1994
149 **78-45e-2**, as last amended by Chapter 176, Laws of Utah 2003

78-45e-4, as last amended by Chapter 176, Laws of Utah 2003

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 26-2-2 is amended to read:

26-2-2. Definitions.

As used in this chapter:

(1) "Dead body" or "decedent" means a human body or parts of the human body from the condition of which it reasonably may be concluded that death occurred.

(2) "Dead fetus" means a product of human conception:

(a) of 20 weeks' gestation or more, calculated from the date the last normal menstrual period began to the date of delivery; and

(b) that was not born alive.

(3) "Declarant father" means a male who, along with the biological mother, ~~[declares that he is the father of a child conceived as a result of sexual intercourse with the mother]~~ claims to be the genetic father of a child, and signs a voluntary declaration of paternity to establish the child's paternity.

(4) "File" means the submission of a completed certificate or other similar document, record, or report as provided under this chapter for registration by the state registrar or a local registrar.

(5) "Funeral director" or "person acting as the funeral director" means the person who takes possession of a dead body or dead fetus, prepares the dead body or dead fetus and arranges for its final disposition, and includes:

(a) a licensed funeral director;

(b) a representative of a hospital which is making final disposition; or

(c) another person assuming responsibility for the final disposition of the remains.

(6) "Health care facility" has the same definition as in Section 26-21-2.

(7) "Live birth" means the birth of a child who shows evidence of life after it is entirely outside of the mother.

(8) "Local registrar" means a person appointed under Subsection 26-2-3(2)(b).

(9) "Physician" means a person licensed to practice as a physician or osteopath in this state under Title 58, Chapter 67 or Chapter 68.

(10) "[~~Presumptive~~] Presumed father" means the father of a child conceived or born during a marriage as defined in Section 30-1-17.2.

(11) "Registration" or "register" means acceptance by the local or state registrar of a certificate and incorporation of it into the permanent records of the state.

(12) "State registrar" means the state registrar of vital records appointed under Subsection 26-2-3(1)(e).

(13) "Vital records" means registered certificates or reports of birth, death, fetal death, marriage, divorce, dissolution of marriage, or annulment, amendments to any of these registered certificates or reports, and other similar documents.

(14) "Vital statistics" means the data derived from registered certificates and reports of birth, death, fetal death, induced termination of pregnancy, marriage, divorce, dissolution of marriage, or annulment.

Section 2. Section **26-2-5** is amended to read:

26-2-5. Birth certificates -- Execution and registration requirements.

(1) As used in this section, "birthing facility" means a general acute hospital or birthing center as defined in Section 26-21-2.

(2) For each live birth occurring in the state, a certificate shall be filed with the local registrar for the district in which the birth occurred within ten days following the birth. The certificate shall be registered if it is completed and filed in accordance with this chapter.

(3) (a) For each live birth that occurs in a birthing facility, the administrator of the birthing facility, or his designee, shall obtain and enter the information required under this chapter on the certificate, securing the required signatures, and filing the certificate.

(b) (i) The date, time, place of birth, and required medical information shall be certified by the birthing facility administrator or his designee.

(ii) The attending physician or nurse midwife may sign the certificate, but if the attending physician or nurse midwife has not signed the certificate within seven days of the date of birth, the birthing facility administrator or his designee shall enter the attending physician's or nurse midwife's name and transmit the certificate to the local registrar.

(iii) The information on the certificate about the parents shall be provided and certified by the mother or father or, in their incapacity or absence, by a person with knowledge of the facts.

(4) (a) For live births that occur outside a birthing facility, the birth certificate shall be completed and filed by the physician, nurse, midwife, or other person primarily responsible for providing assistance to the mother at the birth. If there is no such person, either the ~~[presumptive]~~ presumed or declarant father shall complete and file the certificate. In his absence, the mother shall complete and file the certificate, and in the event of her death or disability, the owner or operator of the premises where the birth occurred shall do so.

(b) The certificate shall be completed as fully as possible and shall include the date, time, and place of birth, the mother's name, and the signature of the person completing the certificate.

(5) (a) For each live birth to an unmarried mother that occurs in a birthing facility, the administrator or director of that facility, or his designee, shall:

(i) provide the birth mother and declarant father, if present, with:

(A) a voluntary declaration of paternity form published by the state registrar;

(B) oral and written notice to the birth mother and declarant father of the alternatives to, the legal consequences of, and the rights and responsibilities that arise from signing the declaration; and

(C) the opportunity to sign the declaration;

(ii) witness the signature of a birth mother or declarant father in accordance with Section ~~[78-45e-3]~~ 78-45g-302 if the signature occurs at the ~~[hospital]~~ facility;

(iii) enter the declarant father's information on the original birth certificate, but only if the mother and ~~[biological]~~ declarant father have signed a voluntary declaration of paternity or a court or administrative agency has issued an adjudication of paternity; and

(iv) file the completed declaration with the original birth certificate.

(b) If there is a ~~[presumptive]~~ presumed father, the voluntary declaration will only be valid if the ~~[presumptive]~~ presumed father also signs the voluntary declaration.

(c) The state registrar shall file the information provided on the voluntary declaration of paternity form with the original birth certificate and may provide certified copies of the declaration of paternity as otherwise provided under Title 78, ~~[Chapter 45e, Voluntary Declaration of Paternity]~~ Chapter 45g, Utah Uniform Parentage Act.

(6) (a) The state registrar shall publish a form for the voluntary declaration of paternity, a description of the process for filing a voluntary declaration of paternity, and of the rights and

responsibilities established or effected by that filing, in accordance with Title 78, [~~Chapter 45e, Voluntary Declaration of Paternity~~] Chapter 45g, Utah Uniform Parentage Act.

(b) Information regarding the form and services related to voluntary paternity establishment shall be made available to birthing facilities and to any other entity or individual upon request.

(7) The name of a declarant father may only be included on the birth certificate of a child of unmarried parents if:

(a) the mother and declarant father have signed a voluntary declaration of paternity; or

(b) a court or administrative agency has issued an adjudication of paternity.

(8) Voluntary declarations of paternity, adjudications of paternity by judicial or administrative agencies, and voluntary rescissions of paternity shall be filed with and maintained by the state registrar for the purpose of comparing information with the state case registry maintained by the Office of Recovery Services pursuant to Section 62A-11-104.

Section 3. Section **30-1-17.2** is amended to read:

30-1-17.2. Action to determine validity of marriage -- Orders relating to parties, property, and children -- Presumption of paternity in marriage.

(1) If the parties have accumulated any property or acquired any obligations subsequent to the marriage, if there is a genuine need arising from an economic change of circumstances due to the marriage, or if there are children born or expected, the court may make temporary and final orders, and subsequently modify the orders, relating to the parties, their property and obligations, the children and their custody and parent-time, and the support and maintenance of the parties and children, as may be equitable.

~~[(2) Except as provided in Section 78-45a-1, children born to the parties after the date of their marriage shall be deemed the legitimate children of both of the parties.]~~

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

(a) he and the mother of the child are married to each other and the child is born during the marriage;

(b) 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, or after a decree of separation;

(c) 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, or after a decree of separation; or

(d) after the birth of the child, he and the mother of the child have 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 state registrar;

(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.

(3) If the child was born at the time of entry of a divorce decree, other children are named as children of the marriage, but that child is specifically not named, the husband is not presumed to be the father of the child not named in the order.

(4) A presumption of paternity established under this section may only be rebutted in accordance with Section 78-45g-607.

(5) A final order or decree issued by a tribunal in which paternity is adjudicated, may not be set aside unless the court finds that one of the parties perpetrated a fraud in the establishment of the paternity and another party did not know or could not reasonably have known of the fraud at the time of the entry of the order. The party who committed the fraud may not bring the action.

Section 4. Section **75-2-114** is amended to read:

75-2-114. Parent and child relationship.

(1) Except as provided in Subsections (2) and (3), for purposes of intestate succession by, through, or from a person, an individual is the child of the individual's natural parents, regardless of their marital status. The parent and child relationship may be established as provided in [~~Sections 78-45a-7, 78-45a-10, and Title 78, Chapter 45a, Uniform Act on Paternity~~] Title 78, Chapter 45g, Utah Uniform Parentage Act.

(2) An adopted individual is the child of the adopting parent or parents and not of the natural parents, but adoption of a child by the spouse of either natural parent has no effect on:

(a) the relationship between the child and that natural parent; or

(b) the right of the child or a descendant of the child to inherit from or through the other natural parent.

(3) Inheritance from or through a child by either natural parent or his kindred is precluded unless that natural parent has openly treated the child as his, and has not refused to support the child.

Section 5. Section **78-30-4.13** is amended to read:

78-30-4.13. Notice of adoption proceedings.

(1) An unmarried biological father, by virtue of the fact that he has engaged in a sexual relationship with a woman, is deemed to be on notice that a pregnancy and an adoption proceeding regarding that child may occur, and has a duty to protect his own rights and interests. He is therefore entitled to actual notice of a birth or an adoption proceeding with regard to that child only as provided in this section.

(2) Notice of an adoption proceeding shall be served on each of the following persons:

(a) any person or agency whose consent or relinquishment is required under Section 78-30-4.14 unless that right has been terminated by waiver, relinquishment, consent, or judicial action;

(b) any person who has initiated a paternity proceeding and filed notice of that action with the state registrar of vital statistics within the Department of Health, in accordance with Subsection (3);

(c) any legally appointed custodian or guardian of the adoptee;

(d) the petitioner's spouse, if any, only if he has not joined in the petition;

(e) the adoptee's spouse, if any;

(f) any person who is recorded on the birth certificate as the child's father, with the knowledge and consent of the mother;

(g) any person who is openly living in the same household with the child at the time the consent is executed or relinquishment made, and who is holding himself out to be the child's father; and

(h) any person who is married to the child's mother at the time she executes her consent to the adoption or relinquishes the child for adoption.

(3) (a) In order to preserve any right to notice and consent, an unmarried biological father may initiate proceedings to establish paternity under Title 78, Chapter ~~[45a, Uniform Act on Paternity]~~ 45g, Utah Uniform Parentage Act, and file a notice of the initiation of those proceedings with the state registrar of vital statistics within the Department of Health prior to

the mother's execution of consent or her relinquishment to an agency. That action and notice may also be filed prior to the child's birth.

(b) If the unmarried biological father does not know the county in which the birth mother resides, he may initiate his action in any county, subject to a change in trial pursuant to Section 78-13-7.

(c) The Department of Health shall provide forms for the purpose of filing the notice described in Subsection (3)(a), and make those forms available in the office of the county health department in each county.

(4) Notice provided in accordance with this section need not disclose the name of the mother of the child who is the subject of an adoption proceeding.

(5) The notice required by this section may be served immediately after relinquishment or execution of consent, but shall be served at least 30 days prior to the final dispositional hearing. The notice shall specifically state that the person served must respond to the petition within 30 days of service if he intends to intervene in or contest the adoption.

(6) (a) Any person who has been served with notice of an adoption proceeding and who wishes to contest the adoption shall file a motion in the adoption proceeding within 30 days after service. The motion shall set forth specific relief sought and be accompanied by a memorandum specifying the factual and legal grounds upon which the motion is based.

(b) Any person who fails to file a motion for relief within 30 days after service of notice waives any right to further notice in connection with the adoption, forfeits all rights in relation to the adoptee, and is barred from thereafter bringing or maintaining any action to assert any interest in the adoptee.

(7) Service of notice under this section shall be made as follows:

(a) With regard to a person whose consent is necessary under Section 78-30-4.14, service shall be in accordance with the provisions of the Utah Rules of Civil Procedure. If service is by publication, the court shall designate the content of the notice regarding the identity of the parties. The notice may not include the name of the person or persons seeking to adopt the adoptee.

(b) As to any other person for whom notice is required under this section, service by certified mail, return receipt requested, is sufficient. If that service cannot be completed after two attempts, the court may issue an order providing for service by publication, posting, or by

any other manner of service.

(c) Notice to a person who has initiated a paternity proceeding and filed notice of that action with the state registrar of vital statistics in the Department of Health in accordance with the requirements of Subsection (3), shall be served by certified mail, return receipt requested, at the last address filed with the registrar.

(8) The notice required by this section may be waived in writing by the person entitled to receive notice.

(9) Proof of service of notice on all persons for whom notice is required by this section shall be filed with the court before the final dispositional hearing on the adoption.

(10) Notwithstanding any other provision of law, neither the notice of an adoption proceeding nor any process in that proceeding is required to contain the name of the person or persons seeking to adopt the adoptee.

(11) Except as to those persons whose consent to an adoption is required under Section 78-30-4.14, the sole purpose of notice under this section is to enable the person served to intervene in the adoption and present evidence to the court relevant to the best interest of the child.

Section 6. Section **78-45g-101** is enacted to read:

CHAPTER 45g. UTAH UNIFORM PARENTAGE ACT

Part 1. General Provisions

78-45g-101. Title.

This chapter is known as the "Utah Uniform Parentage Act."

Section 7. Section **78-45g-102** is enacted to read:

78-45g-102. Definitions.

As used in this chapter:

(1) "Adjudicated father" means a man who has been adjudicated by a tribunal to be the father of a child.

(2) "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.

(3) "Assisted reproduction" means a method of causing pregnancy other than sexual intercourse. The term includes:

398 (a) intrauterine insemination;

399 (b) donation of eggs;

400 (c) donation of embryos;

401 (d) in vitro fertilization and transfer of embryos; and

402 (e) intracytoplasmic sperm injection.

403 (4) "Birth expenses" means all medical costs associated with the birth of a child,
404 including the related expenses for the biological mother during her pregnancy and delivery.

405 (5) "Birth mother" means the biological mother of a child.

406 (6) "Child" means an individual of any age whose parentage may be determined under
407 this chapter.

408 (7) "Commence" means to file the initial pleading seeking an adjudication of parentage
409 in the appropriate tribunal of this state.

410 (8) "Declarant father" means a male who, along with the biological mother claims to be
411 the genetic father of a child, and signs a voluntary declaration of paternity to establish the man's
412 paternity.

413 (9) "Determination of parentage" means the establishment of the parent-child
414 relationship by the signing of a valid declaration of paternity under Part 3, Voluntary
415 Declaration of Paternity, or adjudication by a tribunal.

416 (10) "Donor" means an individual who produces eggs or sperm used for assisted
417 reproduction, whether or not for consideration. The term does not include:

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

420 (b) a woman who gives birth to a child by means of assisted reproduction, except as
421 otherwise provided in Part 8, Gestational Agreement; or

422 (c) a parent under Part 7, Child of Assisted Reproduction, or an intended parent under
423 Part 8, Gestational Agreement.

424 (11) "Ethnic or racial group" means, for purposes of genetic testing, a recognized group
425 that an individual identifies as all or part of the individual's ancestry or that is so identified by
426 other information.

427 (12) "Financial support" means a base child support award as defined in Section
428 78-45-2, all past-due support which accrues under an order for current periodic payments, and

sum certain judgments for past-due support.

(13) "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:

(a) deoxyribonucleic acid; or

(b) blood-group antigens, red-cell antigens, human-leukocyte antigens, serum enzymes, serum proteins, or red-cell enzymes.

(14) "Gestational mother" means an adult woman who gives birth to a child under a gestational agreement.

(15) "Man" means a male individual of any age.

(16) "Medical support" means a provision in a support order that requires the purchase and maintenance of appropriate insurance for health and dental expenses of dependent children, and assigns responsibility for uninsured medical expenses.

(17) "Parent" means an individual who has established a parent-child relationship under Section 78-45g-201.

(18) "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.

(19) "Paternity index" means the likelihood of paternity calculated by computing the ratio between:

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

(b) the likelihood that the tested man is not the father, based on the genetic markers of the tested man 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.

(20) "Presumed father" means a man who, by operation of law under Section 78-45g-204, is recognized as the father of a child until that status is rebutted or confirmed as set forth in this chapter.

(21) "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.

(22) "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.

(23) "Signatory" means an individual who authenticates a record and is bound by its terms.

(24) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, any territory, Native American Tribe, or insular possession subject to the jurisdiction of the United States.

(25) "Support-enforcement agency" means a public official or agency authorized under Title IV-D of the Social Security Act which has the authority to seek:

(a) enforcement of support orders or laws relating to the duty of support;

(b) establishment or modification of child support;

(c) determination of parentage; or

(d) location of child-support obligors and their income and assets.

(26) "Tribunal" means a tribunal, administrative agency, or quasi-judicial entity authorized to establish, enforce, or modify support orders or to determine parentage.

Section 8. Section **78-45g-103** is enacted to read:

78-45g-103. Scope -- Choice of law.

(1) This chapter applies to determinations of parentage in this state.

(2) The tribunal shall apply the law of this state to adjudicate the parent-child relationship. The applicable law may not depend upon:

(a) the place of birth of the child; or

(b) the past or present residence of the child.

(3) This chapter may not create, enlarge, or diminish parental rights or duties under other laws of this state.

(4) 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 Part 2, Parent-child Relationship.

Section 9. Section **78-45g-104** is enacted to read:

78-45g-104. Adjudication -- Jurisdiction.

(1) The district court, the juvenile court, and the Office of Recovery Services in accordance with Section 62A-11-304.2 and Title 63, Chapter 46b, Administrative Procedures Act, are authorized to adjudicate parentage under Parts 1 through 6, and Part 9 of this chapter.

(2) The district court and the juvenile court have jurisdiction over proceedings under Parts 7 and 8.

Section 10. Section **78-45g-105** is enacted to read:

78-45g-105. Protection of participants.

Proceedings under this chapter are subject to other laws of this state governing the health, safety, privacy, and liberty of a child or other individual who could be jeopardized by disclosure of identifying information, including address, telephone number, place of employment, Social Security number, the child's day-care facility, or school.

Section 11. Section **78-45g-106** is enacted to read:

78-45g-106. Determination of maternity.

Provisions of this chapter relating to determination of paternity also apply to determinations of maternity.

Section 12. Section **78-45g-107** is enacted to read:

78-45g-107. Effect.

An adjudication of paternity or a voluntary declaration shall be filed with the state registrar in accordance with Section 26-2-5.

Section 13. Section **78-45g-108** is enacted to read:

78-45g-108. Obligation to provide address.

A party to an action under this chapter has a continuing obligation to keep the tribunal informed of the party's current address.

Section 14. Section **78-45g-109** is enacted to read:

78-45g-109. Limitation on recovery from the father.

The father's liabilities for past support are limited to the period of four years preceding the commencement of an action.

Section 15. Section **78-45g-110** is enacted to read:

78-45g-110. Duty of attorney general and county attorney.

Whenever the state commences an action under this chapter, it shall be the duty of the attorney general or the county attorney of the county where the obligee resides to represent the state. Neither the attorney general nor the county attorney represents or has an attorney-client relationship with the obligee or the obligor in carrying out his responsibilities under this chapter.

Section 16. Section **78-45g-111** is enacted to read:

78-45g-111. Default judgment.

Utah Rule of Civil Procedure 55, Default Judgment, shall apply to paternity actions commenced under this chapter.

Section 17. Section **78-45g-112** is enacted to read:

78-45g-112. Standard of proof.

The standard of proof in a trial to determine paternity is "by a preponderance of the evidence."

Section 18. Section **78-45g-113** is enacted to read:

78-45g-113. Effect of genetic test results.

(1) Genetic test results shall be admissible as evidence of paternity without the need for foundation testimony or other proof of authenticity or accuracy if the test is:

(a) of a type generally acknowledged as reliable by accreditation bodies designated by the federal Secretary of Health and Human Services;

(b) performed by a laboratory approved by such an accreditation body; and

(c) not objected to with particularity and in writing within 14 days after the written test results are sent to the parties.

(2) (a) Upon a motion of a party, a tribunal may receive testimony from genetic testing experts and others involved in conducting the genetic tests if the testimony:

(i) is based on a genetic test performed in accordance with Section 78-45g-503; and

(ii) is useful to the tribunal in determining paternity.

(b) Unless a party objects with particularity and in writing within 14 days after the written test results are sent to the last-known address of that party on file under Section 78-45g-108, testimony received under Subsection (2)(a) shall be in affidavit form.

(3) (a) A man is presumed to be the natural father of a child if genetic testing results in

a paternity index of at least 100.

(b) A presumption under Subsection (3)(a) may only be rebutted by a second genetic test:

(i) that complies with Section 78-45g-503; and

(ii) results in an exclusion.

(4) If a presumption of paternity established under Subsection (1) is not rebutted by a second genetic test under Subsection (2), the tribunal shall issue an order establishing paternity.

(5) Bills for pregnancy, childbirth, and genetic testing are admissible as evidence without requiring third-party foundation testimony and shall constitute prima facie evidence of amounts incurred for such services or for testing on behalf of the child.

Section 19. Section **78-45g-114** is enacted to read:

78-45g-114. Parent-time rights of father.

(1) If the tribunal determines that the alleged father is the father, it may upon its own motion or upon motion of the father, order parent-time rights in accordance with Sections 30-3-32 through 30-3-37 as it considers appropriate under the circumstances.

(2) Parent-time rights may not be granted to a father if the child has been subsequently adopted.

Section 20. Section **78-45g-115** is enacted to read:

78-45g-115. Social Security number in tribunal records.

The Social Security number of any individual who is subject to a paternity determination shall be placed in the records relating to the matter.

Section 21. Section **78-45g-116** is enacted to read:

78-45g-116. Settlement agreements.

An agreement of settlement with the alleged father is binding only when approved by the tribunal.

Section 22. Section **78-45g-201** is enacted to read:

Part 2. Parent-child Relationship

78-45g-201. Establishment of parent-child relationship.

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

(a) the woman's having given birth to the child, except as otherwise provided in Part 8, Gestational Agreement;

(b) an adjudication of the woman's maternity;
(c) adoption of the child by the woman; or
(d) an adjudication confirming the woman as a parent of a child born to a gestational mother if the agreement was validated under Part 8, Gestational Agreement, or is enforceable under other law.

(2) The father-child relationship is established between a man and a child by:
(a) an un rebutted presumption of the man's paternity of the child under Section 78-45g-204;
(b) an effective declaration of paternity by the man under Part 3, Voluntary Declaration of Paternity, unless the declaration has been rescinded or successfully challenged;

(c) an adjudication of the man's paternity;
(d) adoption of the child by the man;
(e) the man having consented to assisted reproduction by a woman under Part 7, Child of Assisted Reproduction, which resulted in the birth of the child; or
(f) an adjudication confirming the man as a parent of a child born to a gestational mother if the agreement was validated under Part 8, Gestational Agreement, or is enforceable under other law.

Section 23. Section **78-45g-202** is enacted to read:

78-45g-202. No discrimination based on marital status.

A child born to parents who are not married to each other whose paternity has been determined under this chapter has the same rights under the law as a child born to parents who are married to each other.

Section 24. Section **78-45g-203** is enacted to read:

78-45g-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.

Section 25. Section **78-45g-204** is enacted to read:

78-45g-204. Presumption of paternity.

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

(a) he and the mother of the child are married to each other and the child is born during

the marriage;

(b) 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, or after a decree of separation;

(c) 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 or after a decree of separation; or

(d) 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 Records;

(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.

(2) A presumption of paternity established under this section may be rebutted by genetic test results that exclude the presumed father, genetic tests that rebuttably identify another man as the father in accordance with Section 78-45g-505, or by an adjudication under Part 6, Adjudication of Parentage.

(3) If a child has an adjudicated father, the results of genetic testing are inadmissible to challenge paternity except as set forth in Section 78-45g-607.

Section 26. Section **78-45g-301** is enacted to read:

Part 3. Voluntary Declaration of Paternity

78-45g-301. Declaration of paternity.

The mother of a child and a man claiming to be the genetic father of the child may sign a declaration of paternity to establish the paternity of the child.

Section 27. Section **78-45g-302** is enacted to read:

78-45g-302. Execution of declaration of paternity.

(1) A declaration of paternity must:

(a) be in a record;

(b) be signed, or otherwise authenticated, under penalty of perjury, by the mother and by the declarant father;

646 (c) be signed by the birth mother and declarant father in the presence of two witnesses
647 who are not related by blood or marriage; and

648 (d) state that the child whose paternity is being declared:

649 (i) does not have a presumed father, or has a presumed father whose full name is
650 stated; and

651 (ii) does not have another declarant or adjudicated father;

652 (e) state whether there has been genetic testing and, if so, that the declarant man's claim
653 of paternity is consistent with the results of the testing; and

654 (f) state that the signatories understand that the declaration is the equivalent of a legal
655 finding of paternity of the child and that a challenge to the declaration is permitted only under
656 the limited circumstances described in Section 78-45g-308.

657 (2) If either the birth mother or the declarant father is a minor, the voluntary
658 declaration must also be signed by that minor's parent or legal guardian.

659 (3) A declaration of paternity is void if it:

660 (a) states that another man is a presumed father, unless a denial of paternity signed or
661 otherwise authenticated by the presumed father is filed with the Office of Vital Records in
662 accordance with Section 78-45g-303;

663 (b) states that another man is a declarant or adjudicated father; or

664 (c) falsely denies the existence of a presumed, declarant, or adjudicated father of the
665 child.

666 (4) A presumed father may sign or otherwise authenticate an acknowledgment of
667 paternity.

668 (5) The declaration of paternity shall be in a form prescribed by the Office of Vital
669 Records and shall be accompanied with a written and verbal notice of the alternatives to, the
670 legal consequences of, and the rights and responsibilities that arise from signing the
671 declaration.

672 (6) The Social Security number of any person who is subject to declaration of paternity
673 shall be placed in the records relating to the matter.

674 (7) The declaration of paternity shall become an amendment to the original birth
675 certificate. The original certificate and the declaration shall be marked as to be distinguishable.
676 The declaration may be included as part of subsequently issued certified copies of the birth

certificate. Alternatively, electronically issued copies of a certificate may reflect the amended information and the date of the amendment only.

(8) A declaration of paternity may be completed and signed any time after the birth of the child. A declaration of paternity may not be signed or filed after consent to or relinquishment for adoption has been signed.

(9) A declaration of paternity shall be considered effective when filed and entered into a database established and maintained by the Office of Vital Records.

Section 28. Section **78-45g-303** is enacted to read:

78-45g-303. Denial of paternity.

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

(1) a declaration of paternity signed, or otherwise authenticated, by another man is filed pursuant to Section 78-45g-305;

(2) the denial is in a form prescribed by and filed with the Office of Vital Records, and is signed, or otherwise authenticated, under penalty of perjury; and

(3) the presumed or declarant father has not previously:

(a) declared his paternity, unless the previous declaration has been rescinded pursuant to Section 78-45g-307 or successfully challenged pursuant to Section 78-45g-308; or

(b) been adjudicated to be the father of the child.

Section 29. Section **78-45g-304** is enacted to read:

78-45g-304. Rules for declaration and denial of paternity.

(1) A declaration of paternity and a denial of paternity shall be contained in a single document. If the declaration and denial are both necessary, neither is valid until both are signed and filed.

(2) A declaration of paternity or a denial of paternity may not be signed before the birth of the child.

(3) Subject to Subsection (1), a declaration 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 Records, whichever occurs later.

(4) A declaration of paternity or denial of paternity signed by a minor and by the minor's parent or legal guardian is valid if it is otherwise in compliance with this chapter.

Section 30. Section **78-45g-305** is enacted to read:

78-45g-305. Effect of declaration or denial of paternity.

(1) Except as otherwise provided in Sections 78-45g-307 and 78-45g-308, a valid declaration of paternity filed with the Office of Vital Records is equivalent to a legal finding of paternity of a child and confers upon the declarant father all of the rights and duties of a parent.

(2) When a declaration of paternity is filed, it shall be recognized as a basis for a child support order without any further requirement or proceeding regarding the establishment of paternity.

(a) The liabilities of the father include, but are not limited to, the reasonable expense of the mother's pregnancy and confinement and for the education, necessary support, and any funeral expenses for the child.

(b) When a father declares paternity, his liability for past amounts due is limited to the period of four years immediately preceding the date that the voluntary declaration of paternity was filed.

(3) Except as otherwise provided in Sections 78-45g-307 and 78-45g-308, a valid denial of paternity by a presumed or declarant father filed with the Office of Vital Records in conjunction with a valid declaration of paternity is equivalent to a legal finding of the nonpaternity of the presumed or declarant father and discharges the presumed or declarant father from all rights and duties of a parent.

Section 31. Section **78-45g-306** is enacted to read:

78-45g-306. No filing fee.

The Office of Vital Records may not charge for filing a declaration of paternity or denial of paternity.

Section 32. Section **78-45g-307** is enacted to read:

78-45g-307. Proceeding for rescission.

A signatory may rescind a declaration of paternity or denial of paternity by filing a voluntary rescission document with the Office of Vital Records in a form prescribed by the office before the earlier of:

(1) 60 days after the effective date of the declaration or denial, as provided in Sections 78-45g-303 and 78-45g-304; or

(2) the date of notice of the first adjudicative proceeding to which the signatory is a

party, before a tribunal to adjudicate an issue relating to the child, including a proceeding that establishes support.

Section 33. Section **78-45g-308** is enacted to read:

78-45g-308. Challenge after expiration of period for rescission.

(1) After the period for rescission under Section 78-45g-307 has expired, a signatory of a declaration of paternity or denial of paternity, or a support-enforcement agency, may commence a proceeding to challenge the declaration or denial only on the basis of fraud, duress, or material mistake of fact.

(2) A party challenging a declaration of paternity or denial of paternity has the burden of proof.

(3) A challenge brought on the basis of fraud or duress may be commenced at any time.

(4) A challenge brought on the basis of a material mistake of fact may be commenced within four years after the declaration is filed with the Office of Vital Records. For the purposes of this Subsection (4), if the declaration of paternity was filed with the Office of Vital Records prior to ~~§ [January] MAY § 1, 2005~~, a challenge may be brought within four years after ~~§ [January] MAY § 1, 2005~~.

(5) For purposes of Subsection (4), genetic test results that exclude a declarant father or that rebuttably identify another man as the father in accordance with Section 78-45g-505 constitute a material mistake of fact.

Section 34. Section **78-45g-309** is enacted to read:

78-45g-309. Procedure for rescission or challenge.

(1) Every signatory to a declaration of paternity and any related denial of paternity must be made a party to a proceeding to rescind or challenge the declaration or denial.

(2) For the purpose of rescission of, or challenge to, a declaration of paternity or denial of paternity, a signatory submits to personal jurisdiction of this state by signing the declaration or denial, effective upon the filing of the document with the Office of Vital Records.

(3) Except for good cause shown, during the pendency of a proceeding to rescind or challenge a declaration of paternity or denial of paternity, the tribunal may not suspend the legal responsibilities of a signatory arising from the declaration, including the duty to pay child support.

(4) A proceeding to rescind or to challenge a declaration of paternity or denial of

paternity must be conducted in the same manner as a proceeding to adjudicate parentage under Part 6, Adjudication of Parentage.

(5) At the conclusion of a proceeding to rescind or challenge a declaration of paternity or denial of paternity, the tribunal shall order the Office of Vital Records to amend the birth record of the child, if appropriate.

(6) If the declaration is rescinded, the declarant father may not recover child support he paid prior to the entry of an order of rescission.

Section 35. Section **78-45g-310** is enacted to read:

78-45g-310. Ratification barred.

A tribunal or administrative agency conducting a judicial or administrative proceeding may not ratify an unchallenged declaration of paternity.

Section 36. Section **78-45g-311** is enacted to read:

78-45g-311. Full faith and credit.

A tribunal of this state shall give full faith and credit to a declaration of paternity or denial of paternity effective in another state if the declaration or denial has been signed and is otherwise in compliance with the law of the other state.

Section 37. Section **78-45g-312** is enacted to read:

78-45g-312. Forms for declaration and denial of paternity and for rescission of Paternity.

(1) To facilitate compliance with this part, the Office of Vital Records shall prescribe forms for the declaration, denial, and rescission of paternity.

(2) A valid declaration of paternity or denial of paternity is not affected by a later modification of the prescribed form.

Section 38. Section **78-45g-313** is enacted to read:

78-45g-313. Release of information.

The Office of Vital Records may release information relating to the declaration of paternity or denial of paternity to a signatory of the declaration or denial and to tribunals and federal, tribal, and state support-enforcement agencies of this or another state.

Section 39. Section **78-45g-314** is enacted to read:

78-45g-314. Denial of Paternity -- Adoption.

(1) Notwithstanding the provisions of this chapter or Chapter 30, Adoption, a man may

execute a written denial of paternity regarding a child who is or who may be the subject of adoption proceedings. The denial:

(a) constitutes a waiver of all parental rights to the child; and

(b) is irrevocable when executed, unless the adoption of the child is not completed.

(2) An individual who has executed a denial of paternity regarding a child who is or may be the subject of adoption proceedings is not entitled to notice of either a hearing to terminate parental rights or a hearing on an adoption petition and his consent to the adoption of the child is not required.

(3) A denial of paternity regarding a child who is or may be the subject of adoption proceedings must be executed before a notary public or two witnesses and may be executed before or after the birth of the child.

Section 40. Section **78-45g-315** is enacted to read:

78-45g-315. Adoption of rules.

The Office of Vital Records may adopt rules in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, to implement this part.

Section 41. Section **78-45g-401** is enacted to read:

Part 4. Registry of Paternity

78-45g-401. Establishment of registry.

(1) A registry of paternity is established in the Office of Vital Records which shall include:

(a) all declarations of paternity;

(b) all judicial and administrative determinations of paternity;

(c) all notices of proceedings to establish paternity which are filed pursuant to Sections 78-30-4.13 and 78-30-4.14; and

(d) all requests for notice of termination proceedings filed pursuant to Subsection 78-45g-402(2).

(2) Notice of initiation of proceedings may not be accepted into the registry unless accompanied by a copy of the pleading to establish paternity.

(3) Notice of initiation of proceedings may not be filed if another man is the adjudicated or declarant father.

Section 42. Section **78-45g-402** is enacted to read:

78-45g-402. Effect of registration.

(1) An unmarried biological father who desires to be notified of a proceeding for adoption of a child must file a notice of the initiation of paternity proceedings as required by Sections 78-30-4.13 and 78-30-4.14.

(2) A parent who desires to be notified of a proceeding filed pursuant to Section 78-3a-407, for the termination of parental rights, may file a request for notice in the registry of paternity before the initiation of the termination proceedings.

(3) A registrant shall promptly notify the registry in a record of any change in the information registered. The Office of Vital Records shall incorporate all new information received into its records but need not affirmatively seek to obtain current information for incorporation in the registry.

Section 43. Section **78-45g-403** is enacted to read:

78-45g-403. Notice of proceeding.

(1) Notice of an adoption proceeding shall be given to unmarried biological fathers pursuant to Section 78-30-4.13.

(2) Notice of a proceeding for the termination of parental rights, which is filed pursuant to Section 78-3a-407, shall be given to any parent who has filed a timely request for notice of termination proceedings in the registry of paternity.

Section 44. Section **78-45g-404** is enacted to read:

78-45g-404. Operation of registry -- Required form.

(1) The Office of Vital Records shall prepare a form to be filed with the agency. The form shall require the signature of the registrant and state that the form is signed under penalty of perjury.

(2) The form shall also state that:

(a) a timely filing of notice of the initiation of paternity proceedings which is filed pursuant to Subsection 78-45g-402(1) entitles the registrant to notice of a proceeding for adoption of the child;

(b) a timely filing of a request for notice of termination proceedings filed pursuant to Subsection 78-45g-402(2), entitles the registrant to notice of a proceeding to terminate his parental rights;

(c) a timely filing does not commence a proceeding to establish paternity;

(d) the information disclosed on the form may be used against the registrant to establish paternity;

(e) services to assist in establishing paternity of a child who is not placed for adoption are available to the registrant through the Office of Recovery Services;

(f) the registrant should also file in another state if conception or birth of the child occurred in the other state;

(g) information on registries of other states is available from the Office of Vital Records; and

(h) procedures exist to remove the filing of a proceeding to establish paternity if the proceeding is dismissed, or if paternity is rescinded or set aside under this chapter.

Section 45. Section **78-45g-405** is enacted to read:

78-45g-405. Operation of registry -- Furnishing of information -- Confidentiality.

(1) The Office of Vital Records shall send a copy of the filing to a person or entity set forth in Subsection (2), who has requested a copy. The copy of the filing shall be sent to the most recent address provided by the requestor.

(2) Information contained in the registry is confidential and may be released on request only to:

(a) a tribunal or a person designated by the tribunal;

(b) the mother of the child who is the subject of the filing;

(c) an agency authorized by other law to receive the information;

(d) a licensed child-placing agency;

(e) the Office of Recovery Services, the Office of the Attorney General, or a support-enforcement agency of another state or tribe;

(f) 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 filing; and

(g) the registry of paternity in another state.

Section 46. Section **78-45g-406** is enacted to read:

78-45g-406. Operation of registry -- Penalty for releasing information.

A person who, with malicious intent, releases information from the registry to another person or agency not authorized to receive the information under Section 78-45g-405 is guilty

894 of a class B misdemeanor.

895 Section 47. Section **78-45g-407** is enacted to read:

896 **78-45g-407. Operation of registry -- Removal of registration.**

897 The Office of Vital Records may remove a filing in accordance with rules adopted by
898 the office in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act.

899 Section 48. Section **78-45g-408** is enacted to read:

900 **78-45g-408. Operation of registry -- Fees for registry.**

901 (1) A fee may not be charged to file or removal a filing.

902 (2) Except as otherwise provided in Subsection (3), the Office of Vital Records may
903 charge a reasonable fee for making a search of the registry and for furnishing a certificate.

904 (3) The Office of Recovery Services, the Office of the Attorney General, and
905 support-enforcement agencies of other states or tribes may not be required to pay the fee
906 authorized by Subsection (2).

907 Section 49. Section **78-45g-409** is enacted to read:

908 **78-45g-409. Certificate of search of registry.**

909 (1) The Office of Vital Records shall furnish to the requestor a certificate of search of
910 the registry pursuant to Section 78-30-4.14 upon request of an individual, tribunal, or agency
911 identified in Section 78-45g-405.

912 (2) A certificate provided by the Office of Vital Records must be signed on behalf of
913 the office and state that:

914 (a) a search has been made of the registry; and

915 (b) a filing containing the information required to identify the registrant:

916 (i) has been found and is attached to the certificate of search; or

917 (ii) has not been found.

918 (3) A petitioner must file the certificate of search with the tribunal in connection with a
919 proceeding for adoption as required under Section 78-30-4.14, or before the conclusion of a
920 proceeding for the termination of parental rights which is filed under Section 78-3a-407.

921 Section 50. Section **78-45g-410** is enacted to read:

922 **78-45g-410. Admissibility of information.**

923 A certificate of search of the registry of paternity in this or another state is admissible in
924 a proceeding for adoption of, or termination of parental rights regarding a child and, if relevant,

925 in other legal proceedings.

926 Section 51. Section **78-45g-501** is enacted to read:

927 **Part 5. Genetic Testing**

928 **78-45g-501. Scope of part.**

929 This part governs genetic testing of an individual to determine parentage, whether the
930 individual:

931 (1) voluntarily submits to testing; or

932 (2) is tested pursuant to an order of a tribunal or a support-enforcement agency.

933 Section 52. Section **78-45g-502** is enacted to read:

934 **78-45g-502. Order for testing.**

935 (1) Upon the motion of any party to the action, except as otherwise provided in this
936 part and Part 6, Adjudication of Parentage, the tribunal shall order the child and other
937 designated individuals to submit to genetic testing if the request for testing is supported by the
938 sworn statement of a party to the proceeding:

939 (a) alleging paternity and stating facts establishing a reasonable probability of the
940 requisite sexual contact between the individuals; or

941 (b) denying paternity and stating facts establishing a possibility that sexual contact
942 between the individuals, if any, did not result in the conception of the child.

943 (2) If a request for genetic testing of a child is made before birth, the tribunal may not
944 order in-utero testing.

945 (3) If two or more men are subject to an order for genetic testing, the testing may be
946 ordered concurrently or sequentially.

947 Section 53. Section **78-45g-503** is enacted to read:

948 **78-45g-503. Requirements for genetic testing.**

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

951 (a) the American Association of Blood Banks, or a successor to its functions;

952 (b) the American Society for Histocompatibility and Immunogenetics, or a successor to
953 its functions; or

954 (c) an accrediting body designated by the federal Secretary of Health and Human
955 Services.

(2) A specimen used in genetic testing may consist of one or more samples, or a combination of 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.

Section 54. Section **78-45g-504** is enacted to read:

78-45g-504. Report of genetic testing.

(1) 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 part is self-authenticating.

(2) 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:

(a) the names and photographs of the individuals whose specimens have been taken;

(b) the names of the individuals who collected the specimens;

(c) the places and dates the specimens were collected;

(d) the names of the individuals who received the specimens in the testing laboratory;

(e) the dates the specimens were received; and

(f) the finger prints of the individuals whose specimens have been taken.

Section 55. Section **78-45g-505** is enacted to read:

78-45g-505. Genetic testing results -- Rebuttal.

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

(a) the man has at least a 99% probability of paternity, using a prior probability of 0.50, as calculated by using the combined paternity index obtained in the testing; and

(b) a combined paternity index of at least 100 to 1.

(2) A man identified under Subsection (1) as the father of the child may rebut the genetic testing results only by other genetic testing satisfying the requirements of this part which:

(a) excludes the man as a genetic father of the child; or

(b) identifies another man as the possible father of the child.

(3) If an issue is raised as to whether the appropriate ethnic or racial group database

was used by the testing laboratory, the testing laboratory will be asked to rerun the test using the correct ethnic or racial group database. If the testing laboratory does not have an adequate database, another testing laboratory may be engaged to perform the calculations.

Section 56. Section **78-45g-506** is enacted to read:

78-45g-506. Costs of genetic testing.

(1) Subject to assessment of costs under Part 6, Adjudication of Parentage, the cost of initial genetic testing shall be advanced:

(a) by a support-enforcement agency in a proceeding in which the support-enforcement agency is providing services;

(b) by the individual who made the request;

(c) as agreed by the parties; or

(d) as ordered by the tribunal.

(2) 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.

Section 57. Section **78-45g-507** is enacted to read:

78-45g-507. Additional genetic testing.

The tribunal 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 Section 78-45g-505, the tribunal may not order additional testing unless the party provides advance payment for the testing. If the tribunal orders a second genetic test in accordance with this section, the additional testing must be completed within 45 days of the tribunal's order or the requesting party's objection to the first test will be automatically denied. If failure to complete the test occurs because of noncooperation of the mother or unavailability of the child, the time will be tolled.

Section 58. Section **78-45g-508** is enacted to read:

78-45g-508. Genetic testing when specimens not available.

(1) Subject to Subsection (2), if a genetic-testing specimen is not available from a man who may be the father of a child, for good cause and under extraordinary circumstances the tribunal considers to be just, the tribunal may order the following individuals to submit specimens for genetic testing:

(a) the parents of the man;

1018 (b) brothers and sisters of the man;
 1019 (c) other children of the man and their mothers; and
 1020 (d) other relatives of the man necessary to complete genetic testing.
 1021 (2) Issuance of an order under this section requires a finding that a need for genetic
 1022 testing outweighs the legitimate interests of the individual sought to be tested.
 1023 Section 59. Section **78-45g-509** is enacted to read:
 1024 **78-45g-509. Deceased individual.**
 1025 For good cause shown, the tribunal may order genetic testing of a deceased individual.
 1026 Section 60. Section **78-45g-510** is enacted to read:
 1027 **78-45g-510. Identical brothers.**
 1028 (1) The tribunal may order genetic testing of a brother of a man identified as the father
 1029 of a child if the man is commonly believed to have an identical brother and evidence suggests
 1030 that the brother may be the genetic father of the child.
 1031 (2) If each brother satisfies the requirements as the identified father of the child under
 1032 Section 78-45g-505 without consideration of another identical brother being identified as the
 1033 father of the child, the tribunal may rely on nongenetic evidence to adjudicate which brother is
 1034 the father of the child.
 1035 Section 61. Section **78-45g-511** is enacted to read:
 1036 **78-45g-511. Confidentiality of genetic testing.**
 1037 Release of the report of genetic testing for parentage is controlled by Title 63, Chapter
 1038 2, Government Records Access and Management Act.
 1039 Section 62. Section **78-45g-601** is enacted to read:
 1040 **Part 6. Adjudication of Parentage**
 1041 **78-45g-601. Proceeding authorized.**
 1042 An adjudicative proceeding may be maintained to determine the parentage of a child. A
 1043 judicial proceeding is governed by the rules of civil procedure. An administrative proceeding
 1044 is governed by Title 63, Chapter 46b, Administrative Procedures Act.
 1045 Section 63. Section **78-45g-602** is enacted to read:
 1046 **78-45g-602. Standing to maintain proceeding.**
 1047 Subject to Part 3, Voluntary Declaration of Paternity, and Sections 78-45g-607 and
 1048 78-45g-609, a proceeding to adjudicate parentage may be maintained by:

- 1049 (1) the child;
1050 (2) the mother of the child;
1051 (3) a man whose paternity of the child is to be adjudicated;
1052 (4) the support-enforcement agency or other governmental agency authorized by other
1053 law;
1054 (5) an authorized adoption agency or licensed child-placing agency;
1055 (6) a representative authorized by law to act for an individual who would otherwise be
1056 entitled to maintain a proceeding but who is deceased, incapacitated, or a minor; or
1057 (7) an intended parent under Part 8, Gestational Agreement.

1058 Section 64. Section **78-45g-603** is enacted to read:

1059 **78-45g-603. Parties to proceeding.**

1060 The following individuals shall be joined as parties in a proceeding to adjudicate
1061 parentage:

- 1062 (1) the mother of the child; and
1063 (2) a man whose paternity of the child is to be adjudicated.

1064 Section 65. Section **78-45g-604** is enacted to read:

1065 **78-45g-604. Personal jurisdiction.**

- 1066 (1) An individual may not be adjudicated to be a parent unless the tribunal has personal
1067 jurisdiction over the individual.
1068 (2) A tribunal of this state having jurisdiction to adjudicate parentage may exercise
1069 personal jurisdiction over a nonresident individual, or the guardian or conservator of the
1070 individual, if the conditions prescribed in Section 78-45f-201 are fulfilled, or the individual has
1071 signed a declaration of paternity.
1072 (3) Lack of jurisdiction over one individual does not preclude the tribunal from making
1073 an adjudication of parentage binding on another individual over whom the tribunal has
1074 personal jurisdiction.

1075 Section 66. Section **78-45g-605** is enacted to read:

1076 **78-45g-605. Venue.**

1077 Venue for a judicial proceeding to adjudicate parentage is in the county of this state in
1078 which:

- 1079 (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.

Section 67. Section **78-45g-606** is enacted to read:

78-45g-606. No limitation -- Child having no declarant or adjudicated father.

A proceeding to adjudicate the parentage of a child having no declarant or adjudicated
father may be commenced at any time. If initiated after the child becomes an adult, only the
child may initiate the proceeding.

Section 68. Section **78-45g-607** is enacted to read:

78-45g-607. Limitation -- Child having presumed father.

(1) Paternity of a child conceived or born during a marriage with a presumed father as
described in Subsection 78-45g-204(1)(a), (b), or (c), may only be raised by either of the
divorcing parents at any time prior to filing an action for divorce or in the pleadings at the time
of the divorce of the parents. If the issue is raised prior to the adjudication, genetic testing shall
be ordered by the tribunal. Failure of the presumed father to appear for testing shall result in an
adjudication that he is the father of the child. Failure of the mother of the child to appear for
testing may result in an order allowing a motherless calculation of paternity. Failure of the
mother to make the child available may not result in a determination that the presumed father is
not the father, but shall allow for appropriate proceedings to compel the cooperation of the
mother. Once paternity has been raised in the pleadings in a divorce and an order is entered,
the parties are estopped from raising the issue again, and the order of the tribunal may not be
challenged on the basis of material mistake of fact.

(2) For the presumption outside of marriage described in Subsection 78-45g-204(1)(d),
the presumption may be rebutted at any time if the tribunal determines that 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.

(3) There is no presumption to rebut if the presumed father was properly served and
there has been a final adjudication of the issue.

Section 69. Section **78-45g-608** is enacted to read:

78-45g-608. Authority to deny motion for genetic testing or disregard test results.

(1) In a proceeding to adjudicate the parentage of a child having a presumed father or

1111 to challenge the paternity of a child having a declarant father, the tribunal may deny a motion
1112 seeking an order for genetic testing of the mother, the child, and the presumed or declarant
1113 father, or if testing has been completed, the tribunal may disregard genetic test results that
1114 exclude the presumed or declarant father if the tribunal determines that:

1115 (a) the conduct of the mother or the presumed or declarant father estops that party from
1116 disestablishing parentage; and

1117 (b) it would be inequitable to disestablish the father-child relationship between the
1118 child and the presumed or declarant father.

1119 (2) In determining whether to deny a motion seeking an order for genetic testing or to
1120 disregard genetic test results under this section, the tribunal shall consider the best interest of
1121 the child, including the following factors:

1122 (a) the length of time between the proceeding to adjudicate parentage and the time that
1123 the presumed or declarant father was placed on notice that he might not be the genetic father;

1124 (b) the length of time during which the presumed or declarant father has assumed the
1125 role of father of the child;

1126 (c) the facts surrounding the presumed or declarant father's discovery of his possible
1127 nonpaternity;

1128 (d) the nature of the relationship between the child and the presumed or declarant
1129 father;

1130 (e) the age of the child;

1131 (f) the harm that may result to the child if presumed or declared paternity is
1132 successfully disestablished;

1133 (g) the nature of the relationship between the child and any alleged father;

1134 (h) the extent to which the passage of time reduces the chances of establishing the
1135 paternity of another man and a child-support obligation in favor of the child; and

1136 (i) other factors that may affect the equities arising from the disruption of the
1137 father-child relationship between the child and the presumed or declarant father or the chance
1138 of other harm to the child.

1139 (3) Denial of a motion seeking an order for genetic testing or a decision to disregard
1140 genetic test results must be based on clear and convincing evidence.

1141 (4) If the tribunal denies a motion seeking an order for genetic testing or disregards

1142 genetic test results that exclude the presumed or declarant father, it shall issue an order
1143 adjudicating the presumed or declarant father to be the father of the child.

1144 Section 70. Section **78-45g-609** is enacted to read:

1145 **78-45g-609. Limitation -- Child having declarant father.**

1146 (1) If a child has a declarant father, a signatory to the declaration of paternity or denial
1147 of paternity or a support-enforcement agency may commence a proceeding seeking to rescind
1148 the declaration or denial or challenge the paternity of the child only within the time allowed
1149 under Section 78-45g-307 or 78-45g-308.

1150 (2) A proceeding under this section is subject to the application of the principles of
1151 estoppel established in Section 78-45g-608.

1152 Section 71. Section **78-45g-610** is enacted to read:

1153 **78-45g-610. Joinder of judicial proceedings.**

1154 (1) Except as otherwise provided in Subsection (2), a judicial proceeding to adjudicate
1155 parentage may be joined with a proceeding for adoption, termination of parental rights, child
1156 custody or visitation, child support, divorce, annulment, legal separation or separate
1157 maintenance, probate or administration of an estate, or other appropriate proceeding.

1158 (2) A respondent may not join a proceeding described in Subsection (1) with a
1159 proceeding to adjudicate parentage brought under the Uniform Interstate Family Support Act.

1160 Section 72. Section **78-45g-611** is enacted to read:

1161 **78-45g-611. Proceeding before birth.**

1162 A proceeding to determine parentage may be commenced before the birth of the child,
1163 but may not be concluded until after the birth of the child. The following actions may be taken
1164 before the birth of the child:

1165 (1) service of process;

1166 (2) discovery; and

1167 (3) except as prohibited by Section 78-45g-502, collection of specimens for genetic
1168 testing.

1169 Section 73. Section **78-45g-612** is enacted to read:

1170 **78-45g-612. Child as party -- Representation.**

1171 (1) A minor child is a permissible party, but is not a necessary party to a proceeding
1172 under this part.

1173 (2) The tribunal may appoint a guardian ad litem to represent a minor or incapacitated
1174 child if the child is a party or the tribunal finds that the interests of the child are not adequately
1175 represented.

1176 Section 74. Section **78-45g-613** is enacted to read:

1177 **78-45g-613. Admissibility of results of genetic testing -- Expenses.**

1178 (1) Except as otherwise provided in Subsection (3), a record of a genetic-testing expert
1179 is admissible as evidence of the truth of the facts asserted in the report unless a party objects to
1180 its admission within 14 days after its receipt by the objecting party and cites specific grounds
1181 for exclusion. The admissibility of the report is not affected by whether the testing was
1182 performed:

1183 (a) voluntarily or pursuant to an order of the tribunal; or

1184 (b) before or after the commencement of the proceeding.

1185 (2) A party objecting to the results of genetic testing may call one or more
1186 genetic-testing experts to testify in person or by telephone, video conference, deposition, or
1187 another method approved by the tribunal. Unless otherwise ordered by the tribunal, the party
1188 offering the testimony bears the expense for the expert testifying.

1189 (3) If a child has a presumed or declarant father, the results of genetic testing are
1190 inadmissible to adjudicate parentage unless performed:

1191 (a) pursuant to Section 78-45g-503;

1192 (b) within the time periods set forth in this chapter; and

1193 (c) pursuant to a tribunal order or administrative process; or

1194 (d) with the consent of both the mother and the presumed or declarant father.

1195 (4) If a child has an adjudicated father, the results of genetic testing are inadmissible to
1196 challenge paternity except as set forth in Sections 78-45g-607 and 78-45g-608.

1197 (5) Copies of bills for genetic testing and for prenatal and postnatal health care for the
1198 mother and child which are furnished to the adverse party not less than ten days before the date
1199 of a hearing are admissible to establish:

1200 (a) the amount of the charges billed; and

1201 (b) that the charges were reasonable, necessary, and customary.

1202 Section 75. Section **78-45g-614** is enacted to read:

1203 **78-45g-614. Consequences of failing to submit to genetic testing.**

1204 (1) An order for genetic testing is enforceable by contempt.

1205 (2) If an individual whose paternity is being determined fails to submit to genetic
1206 testing ordered by the tribunal, the tribunal for that reason may adjudicate parentage contrary to
1207 the position of that individual.

1208 (3) Genetic testing of the mother of a child is not a condition precedent to testing the
1209 child and a man whose paternity is being determined. If the mother is unavailable or fails to
1210 submit to genetic testing, the tribunal may order the testing of the child and every man who is
1211 potentially the father of the child.

1212 Section 76. Section **78-45g-615** is enacted to read:

1213 **78-45g-615. Admission of paternity authorized.**

1214 (1) A respondent in a proceeding to adjudicate parentage may admit to the paternity of
1215 a child by filing a pleading to that effect or by admitting paternity under penalty of perjury
1216 when making an appearance or during a hearing.

1217 (2) If the tribunal finds that the admission of paternity satisfies the requirements of this
1218 section and finds that there is no reason to question the admission, the tribunal shall issue an
1219 order adjudicating the child to be the child of the man admitting paternity.

1220 Section 77. Section **78-45g-616** is enacted to read:

1221 **78-45g-616. Temporary order.**

1222 (1) In a proceeding under this part, the tribunal shall issue a temporary order for
1223 support of a child if the order is appropriate and the individual ordered to pay support is:

1224 (a) a presumed father of the child;

1225 (b) petitioning to have his paternity adjudicated;

1226 (c) identified as the father through genetic testing under Section 78-45g-505;

1227 (d) an alleged father who has failed to submit to genetic testing;

1228 (e) shown by clear and convincing evidence to be the father of the child; or

1229 (f) the mother of the child.

1230 (2) A temporary tribunal order may include provisions for custody and visitation as
1231 provided by other laws of this state.

1232 Section 78. Section **78-45g-617** is enacted to read:

1233 **78-45g-617. Rules for adjudication of paternity.**

1234 The tribunal shall apply the following rules to adjudicate the paternity of a child:

(1) The paternity of a child having a presumed, declarant, 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 Section 78-45g-505 must be adjudicated the father of the child, unless an exception is granted under Section 78-45g-608.

(3) If the tribunal finds that genetic testing under Section 78-45g-505 neither identifies nor excludes a man as the father of a child, the tribunal may not dismiss the proceeding. In that event, the tribunal shall order further testing.

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

Section 79. Section **78-45g-618** is enacted to read:

78-45g-618. Adjudication of parentage -- Jury trial prohibited.

A jury trial is prohibited to adjudicate paternity of a child.

Section 80. Section **78-45g-619** is enacted to read:

78-45g-619. Adjudication of parentage -- Hearings -- Inspection of records.

(1) On request of a party and for good cause shown, the tribunal may close a proceeding under this part.

(2) A final order in a proceeding under this part is available for public inspection. Other papers and records are available only with the consent of the parties or on order of the tribunal for good cause.

Section 81. Section **78-45g-620** is enacted to read:

78-45g-620. Adjudication of parentage -- Order on default.

The tribunal 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 tribunal to be the father of a child.

Section 82. Section **78-45g-621** is enacted to read:

78-45g-621. Adjudication of parentage -- Dismissal for want of prosecution.

The tribunal may issue an order dismissing a proceeding commenced under this chapter for want of prosecution only without prejudice. An order of dismissal for want of prosecution

1266 purportedly with prejudice is void and has only the effect of a dismissal without prejudice.

1267 Section 83. Section **78-45g-622** is enacted to read:

1268 **78-45g-622. Order adjudicating parentage.**

1269 (1) The tribunal shall issue an order adjudicating whether a man alleged or claiming to
1270 be the father is the parent of the child.

1271 (2) An order adjudicating parentage must identify the child by name and date of birth.

1272 (3) Except as otherwise provided in Subsection (4), the tribunal may assess filing fees,
1273 reasonable attorney's fees, fees for genetic testing, other costs, and necessary travel and other
1274 reasonable expenses incurred in a proceeding under this part. The tribunal may award
1275 attorney's fees, which may be paid directly to the attorney, who may enforce the order in the
1276 attorney's own name.

1277 (4) The tribunal may not assess fees, costs, or expenses against the
1278 support-enforcement agency of this state or another state, except as provided by law.

1279 (5) On request of a party and for good cause shown, the tribunal may order that the
1280 name of the child be changed.

1281 (6) If the order of the tribunal is at variance with the child's birth certificate, the
1282 tribunal shall order the Office of Vital Records to issue an amended birth registration.

1283 Section 84. Section **78-45g-623** is enacted to read:

1284 **78-45g-623. Binding effect of determination of parentage.**

1285 (1) Except as otherwise provided in Subsection (2), a determination of parentage is
1286 binding on:

1287 (a) all signatories to a declaration or denial of paternity as provided in Part 3,
1288 Voluntary Declaration of Paternity; and

1289 (b) all parties to an adjudication by a tribunal acting under circumstances that satisfy
1290 the jurisdictional requirements of Section 78-45f-201.

1291 (2) A child is not bound by a determination of parentage under this chapter unless:

1292 (a) the determination was based on an unrescinded declaration of paternity and the
1293 declaration is consistent with the results of genetic testing;

1294 (b) the adjudication of parentage was based on a finding consistent with the results of
1295 genetic testing and the consistency is declared in the determination or is otherwise shown; or

1296 (c) the child was a party or was represented in the proceeding determining parentage by

1297 a guardian ad litem.

1298 (3) In a proceeding to dissolve a marriage, the tribunal is considered to have made an
1299 adjudication of the parentage of a child if the final order:

1300 (a) expressly identifies a child as a "child of the marriage," "issue of the marriage," or
1301 similar words indicating that the husband is the father of the child; or

1302 (b) provides for support of the child by the husband unless paternity is specifically
1303 disclaimed in the order.

1304 (4) The tribunal is not considered to have made an adjudication of the parentage of a
1305 child if the child was born at the time of entry of the order and other children are named as
1306 children of the marriage, but that child is specifically not named.

1307 (5) Once the paternity of a child has been adjudicated, an individual who was not a
1308 party to the paternity proceeding may not challenge the paternity, unless:

1309 (a) the party seeking to challenge can demonstrate a fraud upon the tribunal;

1310 (b) the challenger can demonstrate by clear and convincing evidence that the challenger
1311 did not know about the adjudicatory proceeding or did not have a reasonable opportunity to
1312 know of the proceeding; and

1313 (c) there would be irreparable harm to the child to leave the order in place.

1314 (6) A party to an adjudication of paternity may challenge the adjudication only under
1315 law of this state relating to appeal, vacation of judgments, or other judicial review.

1316 Section 85. Section **78-45g-701** is enacted to read:

1317 **Part 7. Child of Assisted Reproduction**

1318 **78-45g-701. Scope.**

1319 This part does not apply to the birth of a child conceived by means of sexual
1320 intercourse, or as result of a gestational agreement as provided in Part 8, Gestational
1321 Agreement.

1322 Section 86. Section **78-45g-702** is enacted to read:

1323 **78-45g-702. Parental status of donor.**

1324 A donor is not a parent of a child conceived by means of assisted reproduction.

1325 Section 87. Section **78-45g-703** is enacted to read:

1326 **78-45g-703. Husband's paternity of child of assisted reproduction.**

1327 If a husband provides sperm for, or consents to, assisted reproduction by his wife as

provided in Section 78-45g-704, he is the father of a resulting child born to his wife.

Section 88. Section **78-45g-704** is enacted to read:

78-45g-704. Consent to assisted reproduction.

(1) A consent to assisted reproduction by a married woman must be in a record signed by the woman and her husband. This requirement does not apply to the donation of eggs for assisted reproduction by another woman.

(2) Failure of the husband to sign a consent required by Subsection (1), before or after the birth of the child, does not preclude a finding that the husband is the father of a child born to his wife if the wife and husband openly treat the child as their own.

Section 89. Section **78-45g-705** is enacted to read:

78-45g-705. Limitation on husband's dispute of paternity.

(1) Except as otherwise provided in Subsection (2), 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:

(a) within two years after learning of the birth of the child he commences a proceeding to adjudicate his paternity; and

(b) the tribunal finds that he did not consent to the assisted reproduction, before or after the birth of the child.

(2) A proceeding to adjudicate paternity may be maintained at any time if the tribunal determines that:

(a) the husband did not provide sperm for, or before or after the birth of the child consent to, assisted reproduction by his wife;

(b) the husband and the mother of the child have not cohabited since the probable time of assisted reproduction; and

(c) the husband never openly treated the child as his own.

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

Section 90. Section **78-45g-706** is enacted to read:

78-45g-706. Effect of dissolution of marriage.

(1) If a marriage is dissolved before placement of eggs, sperm, or an embryo, the former spouse is not a parent of the resulting child unless the former spouse consented in a

1359 record that if assisted reproduction were to occur after a divorce, the former spouse would be a
1360 parent of the child.

1361 (2) The consent of the former spouse to assisted reproduction may be revoked by that
1362 individual in a record at any time before placement of eggs, sperm, or embryos.

1363 Section 91. Section **78-45g-707** is enacted to read:

1364 **78-45g-707. Parental status of deceased spouse.**

1365 If a spouse dies before placement of eggs, sperm, or an embryo, the deceased spouse is
1366 not a parent of the resulting child unless the deceased spouse consented in a record that if
1367 assisted reproduction were to occur after death, the deceased spouse would be a parent of the
1368 child.

1369 Section 92. Section **78-45g-801** is enacted to read:

1370 **Part 8. Gestational Agreement**

1371 **78-45g-801. Gestational agreement authorized.**

1372 (1) A prospective gestational mother, her husband if she is married, a donor or the
1373 donors, and the intended parents may enter into a written agreement providing that:

1374 (a) the prospective gestational mother agrees to pregnancy by means of assisted
1375 reproduction;

1376 (b) the prospective gestational mother, her husband if she is married, and the donors
1377 relinquish all rights and duties as the parents of a child conceived through assisted
1378 reproduction; and

1379 (c) the intended parents become the parents of the child.

1380 (2) The intended parents shall be married, and both spouses must be parties to the
1381 gestational agreement.

1382 (3) A gestational agreement is enforceable only if validated as provided in Section
1383 78-45g-803.

1384 (4) A gestational agreement does not apply to the birth of a child conceived by means
1385 of sexual intercourse.

1386 Section 93. Section **78-45g-802** is enacted to read:

1387 **78-45g-802. Requirements of petition.**

1388 (1) The intended parents and the prospective gestational mother may file a petition in
1389 the district tribunal to validate a gestational agreement.

1390 (2) A petition to validate a gestational agreement may not be maintained unless either
1391 the mother or intended parents have been residents of this state for at least 90 days.

1392 (3) The prospective gestational mother's husband, if she is married, must join in the
1393 petition.

1394 (4) A copy of the gestational agreement must be attached to the petition.

1395 Section 94. Section **78-45g-803** is enacted to read:

1396 **78-45g-803. Hearing to validate gestational agreement.**

1397 (1) If the requirements of Subsection (2) are satisfied, a tribunal may issue an order
1398 validating the gestational agreement and declaring that the intended parents will be the parents
1399 of a child born during the term of the agreement.

1400 (2) The tribunal may issue an order under Subsection (1) only on finding that:

1401 (a) the residence requirements of Section 78-45g-802 have been satisfied and the
1402 parties have submitted to jurisdiction of the tribunal under the jurisdictional standards of this
1403 part;

1404 (b) medical evidence shows that the intended mother is unable to bear a child or is
1405 unable to do so without unreasonable risk to her physical or mental health or to the unborn
1406 child;

1407 (c) unless waived by the tribunal, a home study of the intended parents has been
1408 conducted in accordance with Section 78-30-3.5, and the intended parents meet the standards
1409 of fitness applicable to adoptive parents;

1410 (d) all parties have voluntarily entered into the agreement and understand its terms;

1411 (e) the prospective gestational mother has had at least one pregnancy and delivery and
1412 her bearing another child will not pose an unreasonable health risk to the unborn child or to the
1413 physical or mental health of the prospective gestational mother;

1414 (f) adequate provision has been made for all reasonable health-care expense associated
1415 with the gestational agreement until the birth of the child, including responsibility for those
1416 expenses if the agreement is terminated; and

1417 (g) the consideration, if any, paid to the prospective gestational mother is reasonable.

1418 (3) Whether to validate a gestational agreement is within the discretion of the tribunal,
1419 subject only to review for abuse of discretion.

1420 Section 95. Section **78-45g-804** is enacted to read:

78-45g-804. Inspection of records.

The proceedings, records, and identities of the individuals to a gestational agreement under this part are subject to inspection under the confidentiality standards applicable to adoptions as provided under other laws of this state.

Section 96. Section **78-45g-805** is enacted to read:

78-45g-805. Exclusive, continuing jurisdiction.

Subject to the jurisdictional standards of Section 78-45c-201, the tribunal conducting a proceeding under this part has exclusive, continuing jurisdiction of all matters arising out of the gestational agreement until a child born to the gestational mother during the period governed by the agreement attains the age of 180 days.

Section 97. Section **78-45g-806** is enacted to read:

78-45g-806. Termination of gestational agreement.

(1) After issuance of an order under this part, but before the prospective gestational mother becomes pregnant by means of assisted reproduction, the prospective gestational mother, her husband, or either of the intended parents may terminate the gestational agreement only by giving written notice of termination to all other parties.

(2) The tribunal for good cause shown also may terminate the gestational agreement.

(3) An individual who terminates an agreement shall file notice of the termination with the tribunal. On receipt of the notice, the tribunal shall vacate the order issued under this part. An individual who does not notify the tribunal of the termination of the agreement is subject to appropriate sanctions.

(4) Neither a prospective gestational mother nor her husband, if any, is liable to the intended parents for terminating an agreement pursuant to this section.

Section 98. Section **78-45g-807** is enacted to read:

78-45g-807. Parentage under validated gestational agreement.

(1) Upon birth of a child to a gestational mother, the intended parents shall file notice with the tribunal that a child has been born to the gestational mother within 300 days after assisted reproduction. Thereupon, the tribunal shall issue an order:

(a) confirming that the intended parents are the parents of the child;

(b) if necessary, ordering that the child be surrendered to the intended parents; and

(c) directing the Office of Vital Records to issue a birth certificate naming the intended

parents as parents of the child.

(2) If the parentage of a child born to the gestational mother is in dispute as not the result of an assisted reproduction, the tribunal shall order genetic testing to determine the parentage of the child.

Section 99. Section **78-45g-808** is enacted to read:

78-45g-808. Gestational agreement -- Miscellaneous provisions.

(1) A gestational agreement may provide for payment of consideration.

(2) A gestational agreement may not limit the right of the gestational mother to make decisions to safeguard her health or that of the embryo or fetus.

(3) After the issuance of an order under this part, subsequent marriage of the gestational mother does not affect the validity of a gestational agreement, and her husband's consent to the agreement is not required, nor is her husband a presumed father of the resulting child.

Section 100. Section **78-45g-809** is enacted to read:

78-45g-809. Effect of nonvalidated gestational agreement.

(1) A gestational agreement, whether in a record or not, which is not validated by a tribunal is not enforceable.

(2) If a birth results under a gestational agreement that is not judicially validated as provided in this part, the parent-child relationship is determined as provided in Part 2, Parent-child Relationship.

(3) The individuals who are parties to a nonvalidated gestational agreement as intended parents may be held liable for support of the resulting child, even if the agreement is otherwise unenforceable. The liability under this Subsection (3) includes assessing all expenses and fees as provided in Section 78-45g-622.

Section 101. Section **78-45g-901** is enacted to read:

Part 9. Miscellaneous Provisions

78-45g-901. Uniformity of application and construction.

This chapter is a uniform law. In applying and construing this chapter, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among the states that enact it.

Section 102. Section **78-45g-902** is enacted to read:

1483 **78-45g-902. Transitional provision.**

1484 A proceeding to adjudicate parentage which was commenced before § [January] MAY § 1,
1484a 2005 is
1485 governed by the law in effect at the time the proceeding was commenced.

1486 Section 103. **Repealer.**

1487 This bill repeals:

1488 Section **76-7-204, Prohibition of surrogate parenthood agreements -- Status of**
1489 **child -- Basis of custody.**

1490 Section **78-45a-1, Obligations of the father.**

1491 Section **78-45a-2, Determination of paternity -- Effect -- Enforcement.**

1492 Section **78-45a-3, Limitation on recovery from the father.**

1493 Section **78-45a-4, Limitations on recovery from father's estate.**

1494 Section **78-45a-5, Remedies.**

1495 Section **78-45a-6, Time of trial.**

1496 Section **78-45a-6.5, Standard of proof.**

1497 Section **78-45a-7, Authority for genetic testing.**

1498 Section **78-45a-10, Effect of genetic test results.**

1499 Section **78-45a-10.5, Parent-time rights of father.**

1500 Section **78-45a-11, Judgment.**

1501 Section **78-45a-11.5, Social security number in court records.**

1502 Section **78-45a-12, Security.**

1503 Section **78-45a-13, Settlement agreements.**

1504 Section **78-45a-14, Venue.**

1505 Section **78-45a-15, Uniformity of interpretation.**

1506 Section **78-45a-16, Short title.**

1507 Section **78-45a-17, Operation of act.**

1508 Section **78-45e-1, Chapter title.**

1509 Section **78-45e-2, Voluntary declaration of paternity.**

1510 Section **78-45e-4, Rescission of the declaration.**

1511 Section 104. **Effective date.**

1512 This bill takes effect on § [January] MAY § 1, 2005.