

1 **UNIFORM PARENTAGE ACT**

2 2004 GENERAL SESSION

3 STATE OF UTAH

4 **Sponsor: Lyle W. Hillyard**

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**LONG TITLE**

6 **General Description:**

7 This bill enacts the Utah Uniform Parentage Act.

8 **Highlighted Provisions:**

9 This bill:

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

19 **Monies Appropriated in this Bill:**

20 None

21 **Other Special Clauses:**

22 This bill takes effect on January 1, 2005.

23 **Utah Code Sections Affected:**

24 AMENDS:

25 **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28           **75-2-114**, as repealed and reenacted by Chapter 39, Laws of Utah 1998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 ENACTS:

30           **78-45g-101**, Utah Code Annotated 1953

31           **78-45g-102**, Utah Code Annotated 1953

32           **78-45g-103**, Utah Code Annotated 1953

33           **78-45g-104**, Utah Code Annotated 1953

34           **78-45g-105**, Utah Code Annotated 1953

35           **78-45g-106**, Utah Code Annotated 1953

36           **78-45g-107**, Utah Code Annotated 1953

37           **78-45g-108**, Utah Code Annotated 1953

38           **78-45g-109**, Utah Code Annotated 1953

39           **78-45g-110**, Utah Code Annotated 1953

40           **78-45g-111**, Utah Code Annotated 1953

41           **78-45g-112**, Utah Code Annotated 1953

42           **78-45g-113**, Utah Code Annotated 1953

43           **78-45g-114**, Utah Code Annotated 1953

44           **78-45g-115**, Utah Code Annotated 1953

45           **78-45g-116**, Utah Code Annotated 1953

46           **78-45g-201**, Utah Code Annotated 1953

47           **78-45g-202**, Utah Code Annotated 1953

48           **78-45g-203**, Utah Code Annotated 1953

49           **78-45g-204**, Utah Code Annotated 1953

50           **78-45g-301**, Utah Code Annotated 1953

51           **78-45g-302**, Utah Code Annotated 1953

52           **78-45g-303**, Utah Code Annotated 1953

53           **78-45g-304**, Utah Code Annotated 1953

54           **78-45g-305**, Utah Code Annotated 1953

55           **78-45g-306**, Utah Code Annotated 1953

56           **78-45g-307**, Utah Code Annotated 1953

57           **78-45g-308**, Utah Code Annotated 1953

58           **78-45g-309**, Utah Code Annotated 1953

- 59           **78-45g-310**, Utah Code Annotated 1953
- 60           **78-45g-311**, Utah Code Annotated 1953
- 61           **78-45g-312**, Utah Code Annotated 1953
- 62           **78-45g-313**, Utah Code Annotated 1953
- 63           **78-45g-314**, Utah Code Annotated 1953
- 64           **78-45g-401**, Utah Code Annotated 1953
- 65           **78-45g-402**, Utah Code Annotated 1953
- 66           **78-45g-403**, Utah Code Annotated 1953
- 67           **78-45g-404**, Utah Code Annotated 1953
- 68           **78-45g-405**, Utah Code Annotated 1953
- 69           **78-45g-406**, Utah Code Annotated 1953
- 70           **78-45g-407**, Utah Code Annotated 1953
- 71           **78-45g-408**, Utah Code Annotated 1953
- 72           **78-45g-409**, Utah Code Annotated 1953
- 73           **78-45g-410**, Utah Code Annotated 1953
- 74           **78-45g-411**, Utah Code Annotated 1953
- 75           **78-45g-412**, Utah Code Annotated 1953
- 76           **78-45g-413**, Utah Code Annotated 1953
- 77           **78-45g-414**, Utah Code Annotated 1953
- 78           **78-45g-501**, Utah Code Annotated 1953
- 79           **78-45g-502**, Utah Code Annotated 1953
- 80           **78-45g-503**, Utah Code Annotated 1953
- 81           **78-45g-504**, Utah Code Annotated 1953
- 82           **78-45g-505**, Utah Code Annotated 1953
- 83           **78-45g-506**, Utah Code Annotated 1953
- 84           **78-45g-507**, Utah Code Annotated 1953
- 85           **78-45g-508**, Utah Code Annotated 1953
- 86           **78-45g-509**, Utah Code Annotated 1953
- 87           **78-45g-510**, Utah Code Annotated 1953
- 88           **78-45g-511**, Utah Code Annotated 1953
- 89           **78-45g-601**, Utah Code Annotated 1953

90           **78-45g-602**, Utah Code Annotated 1953  
91           **78-45g-603**, Utah Code Annotated 1953  
92           **78-45g-604**, Utah Code Annotated 1953  
93           **78-45g-605**, Utah Code Annotated 1953  
94           **78-45g-606**, Utah Code Annotated 1953  
95           **78-45g-607**, Utah Code Annotated 1953  
96           **78-45g-608**, Utah Code Annotated 1953  
97           **78-45g-609**, Utah Code Annotated 1953  
98           **78-45g-610**, Utah Code Annotated 1953  
99           **78-45g-611**, Utah Code Annotated 1953  
100          **78-45g-612**, Utah Code Annotated 1953  
101          **78-45g-613**, Utah Code Annotated 1953  
102          **78-45g-614**, Utah Code Annotated 1953  
103          **78-45g-615**, Utah Code Annotated 1953  
104          **78-45g-616**, Utah Code Annotated 1953  
105          **78-45g-617**, Utah Code Annotated 1953  
106          **78-45g-618**, Utah Code Annotated 1953  
107          **78-45g-619**, Utah Code Annotated 1953  
108          **78-45g-620**, Utah Code Annotated 1953  
109          **78-45g-621**, Utah Code Annotated 1953  
110          **78-45g-622**, Utah Code Annotated 1953  
111          **78-45g-623**, Utah Code Annotated 1953  
112          **78-45g-701**, Utah Code Annotated 1953  
113          **78-45g-702**, Utah Code Annotated 1953  
114          **78-45g-703**, Utah Code Annotated 1953  
115          **78-45g-704**, Utah Code Annotated 1953  
116          **78-45g-705**, Utah Code Annotated 1953  
117          **78-45g-706**, Utah Code Annotated 1953  
118          **78-45g-707**, Utah Code Annotated 1953  
119          **78-45g-801**, Utah Code Annotated 1953  
120          **78-45g-802**, Utah Code Annotated 1953

- 121           **78-45g-803**, Utah Code Annotated 1953  
122           **78-45g-804**, Utah Code Annotated 1953  
123           **78-45g-805**, Utah Code Annotated 1953  
124           **78-45g-806**, Utah Code Annotated 1953  
125           **78-45g-807**, Utah Code Annotated 1953  
126           **78-45g-808**, Utah Code Annotated 1953  
127           **78-45g-809**, Utah Code Annotated 1953  
128           **78-45g-901**, Utah Code Annotated 1953  
129           **78-45g-902**, Utah Code Annotated 1953  
130 REPEALS:  
131           **76-7-204**, as last amended by Chapters 116 and 241, Laws of Utah 1991  
132           **78-30-4.13**, as last amended by Chapter 171, Laws of Utah 2000  
133           **78-45a-1**, as last amended by Chapter 245, Laws of Utah 1990  
134           **78-45a-2**, as last amended by Chapter 232, Laws of Utah 1997  
135           **78-45a-3**, as enacted by Chapter 158, Laws of Utah 1965  
136           **78-45a-4**, as enacted by Chapter 158, Laws of Utah 1965  
137           **78-45a-5**, as last amended by Chapter 274, Laws of Utah 1998  
138           **78-45a-6**, as enacted by Chapter 158, Laws of Utah 1965  
139           **78-45a-6.5**, as last amended by Chapter 232, Laws of Utah 1997  
140           **78-45a-7**, as last amended by Chapter 176, Laws of Utah 2003  
141           **78-45a-10**, as repealed and reenacted by Chapter 232, Laws of Utah 1997  
142           **78-45a-10.5**, as last amended by Chapter 255, Laws of Utah 2001  
143           **78-45a-11**, as enacted by Chapter 158, Laws of Utah 1965  
144           **78-45a-11.5**, as enacted by Chapter 232, Laws of Utah 1997  
145           **78-45a-12**, as enacted by Chapter 158, Laws of Utah 1965  
146           **78-45a-13**, as enacted by Chapter 158, Laws of Utah 1965  
147           **78-45a-14**, as enacted by Chapter 158, Laws of Utah 1965  
148           **78-45a-15**, as enacted by Chapter 158, Laws of Utah 1965  
149           **78-45a-16**, as enacted by Chapter 158, Laws of Utah 1965  
150           **78-45a-17**, as enacted by Chapter 158, Laws of Utah 1965  
151           **78-45e-1**, as enacted by Chapter 127, Laws of Utah 1994

152 78-45e-2, as last amended by Chapter 176, Laws of Utah 2003

153 78-45e-4, as last amended by Chapter 176, Laws of Utah 2003



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

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

156 **26-2-2. Definitions.**

157 As used in this chapter:

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

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

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

163 (b) that was not born alive.

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

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

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

174 (a) a licensed funeral director;

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

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

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

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

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

181 (9) "Physician" means a person licensed to practice as a physician or osteopath in this  
182

183 state under Title 58, Chapter 67 or Chapter 68.

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

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

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

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

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

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

197 **26-2-5. Birth certificates -- Execution and registration requirements.**

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

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

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

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

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

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

214 facts.

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

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

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

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

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

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

231 (C) the opportunity to sign the declaration;

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

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

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

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

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

244 (6) (a) The state registrar shall publish a form for the voluntary declaration of paternity,



245 a description of the process for filing a voluntary declaration of paternity, and of the rights and  
246 responsibilities established or effected by that filing, in accordance with Title 78, [~~Chapter 45e,~~  
247 ~~Voluntary Declaration of Paternity]~~ Chapter 45g, Utah Uniform Parentage Act.

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

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

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

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

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

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

260 **30-1-17.2. Action to determine validity of marriage -- Orders relating to parties,**  
261 **property, and children -- Presumption of paternity in marriage.**

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

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

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

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

273 (b) he and the mother of the child were married to each other and the child is born  
274 within 300 days after the marriage is terminated by death, annulment, declaration of invalidity,  
275 or divorce, or after a decree of separation;

276 (c) before the birth of the child, he and the mother of the child married each other in  
277 apparent compliance with law, even if the attempted marriage is, or could be, declared invalid  
278 and the child is born during the invalid marriage or within 300 days after its termination by  
279 death, annulment, declaration of invalidity, or divorce, or after a decree of separation; or

280 (d) after the birth of the child, he and the mother of the child have married each other  
281 in apparent compliance with law, whether or not the marriage is, or could be declared invalid,  
282 and he voluntarily asserted his paternity of the child, and:

283 (i) the assertion is in a record filed with the state registrar;

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

285 (iii) he promised in a record to support the child as his own.

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

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

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

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

297 **75-2-114. Parent and child relationship.**

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

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

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

306 (b) the right of the child or a descendant of the child to inherit from or through the

307 other natural parent.

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

311 Section 5. Section **78-45g-101** is enacted to read:

312 **CHAPTER 45g. UTAH UNIFORM PARENTAGE ACT**

313 **Part 1. General Provisions**

314 **78-45g-101. Title.**

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

316 Section 6. Section **78-45g-102** is enacted to read:

317 **78-45g-102. Definitions.**

318 As used in this chapter:

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

321 (2) "Alleged father" means a man who alleges himself to be, or is alleged to be, the  
322 genetic father or a possible genetic father of a child, but whose paternity has not been  
323 determined.

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

326 (a) intrauterine insemination;

327 (b) donation of eggs;

328 (c) donation of embryos;

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

330 (e) intracytoplasmic sperm injection.

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

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

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

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

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

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

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

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

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

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

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

355 (12) "Financial support" means a base child support award as defined in Section  
356 78-45-2, all past-due support which accrues under an order for current periodic payments, and  
357 sum certain judgments for past-due support.

358 (13) "Genetic testing" means an analysis of genetic markers to exclude or identify a  
359 man as the father or a woman as the mother of a child. The term includes an analysis of one or  
360 a combination of the following:

361 (a) deoxyribonucleic acid; or

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

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

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

367 (16) "Medical support" means a provision in a support order that requires the purchase  
368 and maintenance of appropriate insurance for health and dental expenses of dependent children.

369 and assigns responsibility for uninsured medical expenses.

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

372 (18) "Parent-child relationship" means the legal relationship between a child and a  
373 parent of the child. The term includes the mother-child relationship and the father-child  
374 relationship.

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

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

380 (b) the likelihood that the tested man is not the father, based on the genetic markers of  
381 the tested man and child, conditioned on the hypothesis that the tested man is not the father of  
382 the child and that the father is of the same ethnic or racial group as the tested man.

383 (20) "Presumed father" means a man who, by operation of law under Section  
384 78-45g-204, is recognized as the father of a child until that status is rebutted or confirmed as  
385 set forth in this chapter.

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

390 (22) "Record" means information that is inscribed on a tangible medium or that is  
391 stored in an electronic or other medium and is retrievable in perceivable form.

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

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

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

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

- 400           (b) establishment or modification of child support;  
401           (c) determination of parentage; or  
402           (d) location of child-support obligors and their income and assets.

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

405           Section 7. Section **78-45g-103** is enacted to read:

406           **78-45g-103. Scope -- Choice of law.**

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

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

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

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

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

414           (4) This chapter does not authorize or prohibit an agreement between a woman and a  
415 man and another woman in which the woman relinquishes all rights as a parent of a child  
416 conceived by means of assisted reproduction, and which provides that the man and other  
417 woman become the parents of the child. If a birth results under such an agreement and the  
418 agreement is unenforceable under the law of this state, the parent-child relationship is  
419 determined as provided in Part 2, Parent-child Relationship.

420           Section 8. Section **78-45g-104** is enacted to read:

421           **78-45g-104. Adjudication -- Jurisdiction.**

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

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

427           Section 9. Section **78-45g-105** is enacted to read:

428           **78-45g-105. Protection of participants.**

429           Proceedings under this chapter are subject to other laws of this state governing the  
430 health, safety, privacy, and liberty of a child or other individual who could be jeopardized by

431 disclosure of identifying information, including address, telephone number, place of  
432 employment, Social Security number, the child's day-care facility, or school.

433 Section 10. Section **78-45g-106** is enacted to read:

434 **78-45g-106. Determination of maternity.**

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

437 Section 11. Section **78-45g-107** is enacted to read:

438 **78-45g-107. Effect.**

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

441 Section 12. Section **78-45g-108** is enacted to read:

442 **78-45g-108. Obligation to provide address.**

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

445 Section 13. Section **78-45g-109** is enacted to read:

446 **78-45g-109. Limitation on recovery from the father.**

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

449 Section 14. Section **78-45g-110** is enacted to read:

450 **78-45g-110. Duty of attorney general and county attorney.**

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

456 Section 15. Section **78-45g-111** is enacted to read:

457 **78-45g-111. Default judgment.**

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

460 Section 16. Section **78-45g-112** is enacted to read:

461 **78-45g-112. Standard of proof.**

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

464 Section 17. Section **78-45g-113** is enacted to read:

465 **78-45g-113. Effect of genetic test results.**

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

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

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

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

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

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

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

477 (b) Unless a party objects with particularity and in writing within 14 days after the  
478 written test results are sent to the last-known address of that party on file under Section  
479 78-45g-108, testimony received under Subsection (2)(a) shall be in affidavit form.

480 (3) (a) A man is presumed to be the natural father of a child if genetic testing results in  
481 a paternity index of at least 100.

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

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

485 (ii) results in an exclusion.

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

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

491 Section 18. Section **78-45g-114** is enacted to read:

492 **78-45g-114. Parent-time rights of father.**



493 (1) If the tribunal determines that the alleged father is the father, it may upon its own  
494 motion or upon motion of the father, order parent-time rights in accordance with Sections  
495 30-3-32 through 30-3-37 as it considers appropriate under the circumstances.

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

498 Section 19. Section **78-45g-115** is enacted to read:

499 **78-45g-115. Social Security number in tribunal records.**

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

502 Section 20. Section **78-45g-116** is enacted to read:

503 **78-45g-116. Settlement agreements.**

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

506 Section 21. Section **78-45g-201** is enacted to read:

507 **Part 2. Parent-child Relationship**

508 **78-45g-201. Establishment of parent-child relationship.**

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

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

512 (b) an adjudication of the woman's maternity;

513 (c) adoption of the child by the woman; or

514 (d) an adjudication confirming the woman as a parent of a child born to a gestational  
515 mother if the agreement was validated under Part 8, Gestational Agreement, or is enforceable  
516 under other law.

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

518 (a) an un rebutted presumption of the man's paternity of the child under Section  
519 78-45g-204;

520 (b) an effective declaration of paternity by the man under Part 3, Voluntary Declaration  
521 of Paternity, unless the declaration has been rescinded or successfully challenged;

522 (c) an adjudication of the man's paternity;

523 (d) adoption of the child by the man;

524 (e) the man having consented to assisted reproduction by a woman under Part 7, Child  
525 of Assisted Reproduction, which resulted in the birth of the child; or

526 (f) an adjudication confirming the man as a parent of a child born to a gestational  
527 mother if the agreement was validated under Part 8, Gestational Agreement, or is enforceable  
528 under other law.

529 Section 22. Section **78-45g-202** is enacted to read:

530 **78-45g-202. No discrimination based on marital status.**

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

534 Section 23. Section **78-45g-203** is enacted to read:

535 **78-45g-203. Consequences of establishment of parentage.**

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

539 Section 24. Section **78-45g-204** is enacted to read:

540 **78-45g-204. Presumption of paternity.**

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

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

544 (b) he and the mother of the child were married to each other and the child is born  
545 within 300 days after the marriage is terminated by death, annulment, declaration of invalidity,  
546 or divorce, or after a decree of separation;

547 (c) before the birth of the child, he and the mother of the child married each other in  
548 apparent compliance with law, even if the attempted marriage is or could be declared invalid,  
549 and the child is born during the invalid marriage or within 300 days after its termination by  
550 death, annulment, declaration of invalidity, or divorce or after a decree of separation; or

551 (d) after the birth of the child, he and the mother of the child married each other in  
552 apparent compliance with law, whether or not the marriage is or could be declared invalid, and  
553 he voluntarily asserted his paternity of the child, and;

554 (i) the assertion is in a record filed with the Office of Vital Records;

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

556 (iii) he promised in a record to support the child as his own.

557 (2) A presumption of paternity established under this section may be rebutted by

558 genetic test results that exclude the presumed father, genetic tests that rebuttably identify

559 another man as the father in accordance with Section 78-45g-505, or by an adjudication under

560 Part 6, Adjudication of Parentage.

561 (3) If a child has an adjudicated father, the results of genetic testing are inadmissible to

562 challenge paternity except as set forth in Section 78-45g-607.

563 Section 25. Section **78-45g-301** is enacted to read:

564 **Part 3. Voluntary Declaration of Paternity**

565 **78-45g-301. Declaration of paternity.**

566 The mother of a child and a man claiming to be the genetic father of the child may sign

567 a declaration of paternity to establish the paternity of the child.

568 Section 26. Section **78-45g-302** is enacted to read:

569 **78-45g-302. Execution of declaration of paternity.**

570 (1) A declaration of paternity must:

571 (a) be in a record;

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

573 by the declarant father;

574 (c) be signed by the birth mother and declarant father in the presence of two witnesses

575 who are not related by blood or marriage; and

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

577 (i) does not have a presumed father, or has a presumed father whose full name is

578 stated; and

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

580 (e) state whether there has been genetic testing and, if so, that the declarant man's claim

581 of paternity is consistent with the results of the testing; and

582 (f) state that the signatories understand that the declaration is the equivalent of a legal

583 finding of paternity of the child and that a challenge to the declaration is permitted only under

584 the limited circumstances described in Section 78-45g-308.

585 (2) If either the birth mother or the declarant father is a minor, the voluntary

586 declaration must also be signed by that minor's parent or legal guardian.

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

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

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

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

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

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

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

602 (7) The declaration of paternity shall become an amendment to the original birth  
603 certificate. The original certificate and the declaration shall be marked as to be distinguishable.  
604 The declaration may be included as part of subsequently issued certified copies of the birth  
605 certificate. Alternatively, electronically issued copies of a certificate may reflect the amended  
606 information and the date of the amendment only.

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

610 Section 27. Section **78-45g-303** is enacted to read:

611 **78-45g-303. Denial of paternity.**

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

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

616 (2) the denial is in a form prescribed by and filed with the Office of Vital Records, and

617 is signed, or otherwise authenticated, under penalty of perjury; and

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

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

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

622 Section 28. Section **78-45g-304** is enacted to read:

623 **78-45g-304. Rules for declaration and denial of paternity.**

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

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

629 (3) Subject to Subsection (1), a declaration of paternity or denial of paternity takes  
630 effect on the birth of the child or the filing of the document with the Office of Vital Records,  
631 whichever occurs later.

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

634 Section 29. Section **78-45g-305** is enacted to read:

635 **78-45g-305. Effect of declaration or denial of paternity.**

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

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

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

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

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

653           Section 30. Section **78-45g-306** is enacted to read:

654           **78-45g-306. No filing fee.**

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

657           Section 31. Section **78-45g-307** is enacted to read:

658           **78-45g-307. Proceeding for rescission.**

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

662           (1) 60 days after the effective date of the declaration or denial, as provided in Sections  
663 78-45g-303 and 78-45g-304; or

664           (2) the date of notice of the first adjudicative proceeding to which the signatory is a  
665 party, before a tribunal to adjudicate an issue relating to the child, including a proceeding that  
666 establishes support.

667           Section 32. Section **78-45g-308** is enacted to read:

668           **78-45g-308. Challenge after expiration of period for rescission.**

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

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

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

676           (4) A challenge brought on the basis of a material mistake of fact may be commenced  
677 within four years after the declaration is filed with the Office of Vital Records. For the  
678 purposes of this Subsection (4), if the declaration of paternity was filed with the Office of Vital

679 Records prior to January 1, 2005, a challenge may be brought within four years after January 1,  
680 2005.

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

684 Section 33. Section **78-45g-309** is enacted to read:

685 **78-45g-309. Procedure for rescission or challenge.**

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

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

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

695 (4) A proceeding to rescind or to challenge a declaration of paternity or denial of  
696 paternity must be conducted in the same manner as a proceeding to adjudicate parentage under  
697 Part 6, Adjudication of Parentage.

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

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

703 Section 34. Section **78-45g-310** is enacted to read:

704 **78-45g-310. Ratification barred.**

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

707 Section 35. Section **78-45g-311** is enacted to read:

708 **78-45g-311. Full faith and credit.**

709 A tribunal of this state shall give full faith and credit to a declaration of paternity or

710 denial of paternity effective in another state if the declaration or denial has been signed and is  
711 otherwise in compliance with the law of the other state.

712 Section 36. Section **78-45g-312** is enacted to read:

713 **78-45g-312. Forms for declaration and denial of paternity and for rescission of**  
714 **Paternity.**

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

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

719 Section 37. Section **78-45g-313** is enacted to read:

720 **78-45g-313. Release of information.**

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

724 Section 38. Section **78-45g-314** is enacted to read:

725 **78-45g-314. Adoption of rules.**

726 The Office of Vital Records may adopt rules to implement this part.

727 Section 39. Section **78-45g-401** is enacted to read:

728 **Part 4. Registry of Paternity**

729 **78-45g-401. Establishment of registry.**

730 A registry of paternity is established in the Office of Vital Records which shall include  
731 all declarations of paternity, all judicial and administrative determinations of paternity, and any  
732 registration of paternity under Section 78-45g-402.

733 Section 40. Section **78-45g-402** is enacted to read:

734 **78-45g-402. Registration for notification.**

735 (1) Except as otherwise provided in Subsection (2) or Section 78-45g-405, a man who  
736 desires to be notified of a proceeding for adoption of, or termination of parental rights  
737 regarding a child that he may have fathered must register in the registry of paternity before the  
738 birth of the child or within 30 days after the birth.

739 (2) A man is not required to register if:

740 (a) a father-child relationship between the man and the child has been established



741 under this chapter or other law; or

742 (b) the man commences a proceeding to establish the paternity of the child before the  
743 tribunal has terminated his parental rights.

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

748 Section 41. Section **78-45g-403** is enacted to read:

749 **78-45g-403. Notice of proceeding.**

750 Notice of a proceeding for the adoption of, or termination of parental rights regarding a  
751 child must be given to all persons who appear in the registry regarding the specific child.

752 Notice must be given in a manner prescribed for service of process in a civil action.

753 Section 42. Section **78-45g-404** is enacted to read:

754 **78-45g-404. Termination of parental rights -- Child under one year of age.**

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

757 (1) the child has not attained one year of age at the time of the termination of parental  
758 rights;

759 (2) the man did not register timely with the Office of Vital Records; and

760 (3) the man is not exempt from registration under Section 78-45g-402.

761 Section 43. Section **78-45g-405** is enacted to read:

762 **78-45g-405. Termination of parental rights -- Child at least one year of age.**

763 (1) If a child has attained one year of age, notice of a proceeding for adoption of, or  
764 termination of parental rights regarding, the child must be given to every alleged father of the  
765 child, whether or not he has registered with the Office of Vital Records.

766 (2) Notice must be given in a manner prescribed for service of process in a civil action.

767 Section 44. Section **78-45g-406** is enacted to read:

768 **78-45g-406. Operation of registry -- Required form.**

769 The Office of Vital Records shall prepare a form for registering with the agency. The  
770 form shall require the signature of the registrant and state that the form is signed under penalty  
771 of perjury. The form shall also state that:

772 (1) a timely registration entitles the registrant to notice of a proceeding for adoption of  
773 the child or termination of the registrant's parental rights;

774 (2) a timely registration does not commence a proceeding to establish paternity;

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

777 (4) services to assist in establishing paternity are available to the registrant through the  
778 Office of Recovery Services;

779 (5) the registrant should also register in another state if conception or birth of the child  
780 occurred in the other state;

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

783 (7) procedures exist to rescind the registration of a claim of paternity.

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

785 **78-45g-407. Operation of registry -- Furnishing of information -- Confidentiality.**

786 (1) The Office of Vital Records need not seek to locate the mother of a child who is the  
787 subject of a registration, but shall send a copy of the notice of registration to a mother if she has  
788 provided an address.

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

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

792 (b) the mother of the child who is the subject of the registration;

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

794 (d) a licensed child-placing agency;

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

797 (f) a party or the party's attorney of record in a proceeding under this chapter or in a  
798 proceeding for adoption of, or for termination of parental rights regarding, a child who is the  
799 subject of the registration; and

800 (g) the registry of paternity in another state.

801 Section 46. Section **78-45g-408** is enacted to read:

802 **78-45g-408. Operation of registry -- Penalty for releasing information.**

803 A person who, with malicious intent, releases information from the registry to another  
804 person or agency not authorized to receive the information under Section 78-45g-407 is guilty  
805 of a class B misdemeanor.

806 Section 47. Section **78-45g-409** is enacted to read:

807 **78-45g-409. Operation of registry -- Rescission of registration.**

808 A registrant may rescind his registration at any time by sending to the registry a  
809 rescission, in writing, signed or otherwise authenticated by him, and witnessed or notarized.

810 Section 48. Section **78-45g-410** is enacted to read:

811 **78-45g-410. Operation of registry -- Untimely registration.**

812 If a man registers more than 30 days after the birth of the child, the Office of Vital  
813 Records shall notify the registrant that on its face his registration was not filed timely.

814 Section 49. Section **78-45g-411** is enacted to read:

815 **78-45g-411. Operation of registry -- Fees for registry.**

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

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

819 (3) The Office of Recovery Services, the Office of the Attorney General, and  
820 support-enforcement agencies of other states or tribes are not required to pay the fee authorized  
821 by Subsection (2).

822 Section 50. Section **78-45g-412** is enacted to read:

823 **78-45g-412. Search of appropriate registry.**

824 (1) If a father-child relationship has not been established under this chapter for a child  
825 under one year of age, a petitioner for adoption of, or termination of parental rights regarding,  
826 the child must obtain a certificate of search of the registry of paternity.

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

831 Section 51. Section **78-45g-413** is enacted to read:

832 **78-45g-413. Certificate of search of registry.**

833 (1) The Office of Vital Records shall furnish to the requester a certificate of search of

834 the registry on request of an individual, tribunal, or agency identified in Section 78-45g-407.

835 (2) A certificate provided by the Office of Vital Records must be signed on behalf of  
836 the agency and state that:

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

838 (b) a registration containing the information required to identify the registrant:

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

840 (ii) has not been found.

841 (3) A petitioner must file the certificate of search with the tribunal before a proceeding  
842 for adoption of, or termination of parental rights regarding, a child may be concluded.

843 Section 52. Section **78-45g-414** is enacted to read:

844 **78-45g-414. Admissibility of registered information.**

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

848 Section 53. Section **78-45g-501** is enacted to read:

849 **Part 5. Genetic Testing**

850 **78-45g-501. Scope of part.**

851 This part governs genetic testing of an individual to determine parentage, whether the  
852 individual:

853 (1) voluntarily submits to testing; or

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

855 Section 54. Section **78-45g-502** is enacted to read:

856 **78-45g-502. Order for testing.**

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

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

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

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

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

869 Section 55. Section **78-45g-503** is enacted to read:

870 **78-45g-503. Requirements for genetic testing.**

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

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

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

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

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

882 Section 56. Section **78-45g-504** is enacted to read:

883 **78-45g-504. Report of genetic testing.**

884 (1) A report of genetic testing must be in a record and signed under penalty of perjury  
885 by a designee of the testing laboratory. A report made under the requirements of this part is  
886 self-authenticating.

887 (2) Documentation from the testing laboratory of the following information is  
888 sufficient to establish a reliable chain of custody that allows the results of genetic testing to be  
889 admissible without testimony:

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

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

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

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

894 (e) the dates the specimens were received; and

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

896 Section 57. Section **78-45g-505** is enacted to read:

897 **78-45g-505. Genetic testing results -- Rebuttal.**

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

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

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

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

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

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

908 (3) If an issue is raised as to whether the appropriate ethnic or racial group database  
909 was used by the testing laboratory, the testing laboratory will be asked to rerun the test using  
910 the correct ethnic or racial group database. If the testing laboratory does not have an adequate  
911 database, another testing laboratory may be engaged to perform the calculations.

912 Section 58. Section **78-45g-506** is enacted to read:

913 **78-45g-506. Costs of genetic testing.**

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

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

918 (b) by the individual who made the request;

919 (c) as agreed by the parties; or

920 (d) as ordered by the tribunal.

921 (2) In cases in which the cost is advanced by the support-enforcement agency, the  
922 agency may seek reimbursement from a man who is rebuttably identified as the father.

923 Section 59. Section **78-45g-507** is enacted to read:

924 **78-45g-507. Additional genetic testing.**

925 The tribunal shall order additional genetic testing upon the request of a party who  
926 contests the result of the original testing. If the previous genetic testing identified a man as the

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

933 Section 60. Section **78-45g-508** is enacted to read:

934 **78-45g-508. Genetic testing when specimens not available.**

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

939 (a) the parents of the man;

940 (b) brothers and sisters of the man;

941 (c) other children of the man and their mothers; and

942 (d) other relatives of the man necessary to complete genetic testing.

943 (2) Issuance of an order under this section requires a finding that a need for genetic  
944 testing outweighs the legitimate interests of the individual sought to be tested.

945 Section 61. Section **78-45g-509** is enacted to read:

946 **78-45g-509. Deceased individual.**

947 For good cause shown, the tribunal may order genetic testing of a deceased individual.

948 Section 62. Section **78-45g-510** is enacted to read:

949 **78-45g-510. Identical brothers.**

950 (1) The tribunal may order genetic testing of a brother of a man identified as the father  
951 of a child if the man is commonly believed to have an identical brother and evidence suggests  
952 that the brother may be the genetic father of the child.

953 (2) If each brother satisfies the requirements as the identified father of the child under  
954 Section 78-45g-505 without consideration of another identical brother being identified as the  
955 father of the child, the tribunal may rely on nongenetic evidence to adjudicate which brother is  
956 the father of the child.

957 Section 63. Section **78-45g-511** is enacted to read:

958 **78-45g-511. Confidentiality of genetic testing.**

959 Release of the report of genetic testing for parentage is controlled by Title 63, Chapter  
960 2, Government Records Access and Management Act.

961 Section 64. Section **78-45g-601** is enacted to read:

962 **Part 6. Adjudication of Parentage**

963 **78-45g-601. Proceeding authorized.**

964 An adjudicative proceeding may be maintained to determine the parentage of a child. A  
965 judicial proceeding is governed by the rules of civil procedure. An administrative proceeding  
966 is governed by Title 63, Chapter 46b, Administrative Procedures Act.

967 Section 65. Section **78-45g-602** is enacted to read:

968 **78-45g-602. Standing to maintain proceeding.**

969 Subject to Part 3, Voluntary Declaration of Paternity, and Sections 78-45g-607 and  
970 78-45g-609, a proceeding to adjudicate parentage may be maintained by:

971 (1) the child;

972 (2) the mother of the child;

973 (3) a man whose paternity of the child is to be adjudicated;

974 (4) the support-enforcement agency or other governmental agency authorized by other  
975 law;

976 (5) an authorized adoption agency or licensed child-placing agency;

977 (6) a representative authorized by law to act for an individual who would otherwise be  
978 entitled to maintain a proceeding but who is deceased, incapacitated, or a minor; or

979 (7) an intended parent under Part 8, Gestational Agreement.

980 Section 66. Section **78-45g-603** is enacted to read:

981 **78-45g-603. Parties to proceeding.**

982 The following individuals shall be joined as parties in a proceeding to adjudicate  
983 parentage:

984 (1) the mother of the child; and

985 (2) a man whose paternity of the child is to be adjudicated.

986 Section 67. Section **78-45g-604** is enacted to read:

987 **78-45g-604. Personal jurisdiction.**

988 (1) An individual may not be adjudicated to be a parent unless the tribunal has personal



989 jurisdiction over the individual.

990 (2) A tribunal of this state having jurisdiction to adjudicate parentage may exercise  
991 personal jurisdiction over a nonresident individual, or the guardian or conservator of the  
992 individual, if the conditions prescribed in Section 78-45f-201 are fulfilled, or the individual has  
993 signed a declaration of paternity.

994 (3) Lack of jurisdiction over one individual does not preclude the tribunal from making  
995 an adjudication of parentage binding on another individual over whom the tribunal has  
996 personal jurisdiction.

997 Section 68. Section **78-45g-605** is enacted to read:

998 **78-45g-605. Venue.**

999 Venue for a judicial proceeding to adjudicate parentage is in the county of this state in  
1000 which:

1001 (1) the child resides or is found;

1002 (2) the respondent resides or is found if the child does not reside in this state; or

1003 (3) a proceeding for probate or administration of the presumed or alleged father's estate  
1004 has been commenced.

1005 Section 69. Section **78-45g-606** is enacted to read:

1006 **78-45g-606. No limitation -- Child having no declarant or adjudicated father.**

1007 A proceeding to adjudicate the parentage of a child having no declarant or adjudicated  
1008 father may be commenced at any time. If initiated after the child becomes an adult, only the  
1009 child may initiate the proceeding.

1010 Section 70. Section **78-45g-607** is enacted to read:

1011 **78-45g-607. Limitation -- Child having presumed father.**

1012 (1) Paternity of a child conceived or born during a marriage with a presumed father as  
1013 described in Subsection 78-45g-204(1)(a), (b), or (c), may only be raised by either of the  
1014 divorcing parents at any time prior to filing an action for divorce or in the pleadings at the time  
1015 of the divorce of the parents. If the issue is raised prior to the adjudication, genetic testing shall  
1016 be ordered by the tribunal. Failure of the presumed father to appear for testing shall result in an  
1017 adjudication that he is the father of the child. Failure of the mother of the child to appear for  
1018 testing may result in an order allowing a motherless calculation of paternity. Failure of the  
1019 mother to make the child available may not result in a determination that the presumed father is

1020 not the father, but shall allow for appropriate proceedings to compel the cooperation of the  
1021 mother. Once paternity has been raised in the pleadings in a divorce and an order is entered,  
1022 the parties are estopped from raising the issue again, and the order of the tribunal may not be  
1023 challenged on the basis of material mistake of fact.

1024 (2) For the presumption outside of marriage described in Subsection 78-45g-204(1)(d),  
1025 the presumption may be rebutted at any time if the tribunal determines that the presumed father  
1026 and the mother of the child neither cohabited nor engaged in sexual intercourse with each other  
1027 during the probable time of conception.

1028 (3) There is no presumption to rebut if the presumed father was properly served and  
1029 there has been a final adjudication of the issue.

1030 Section 71. Section **78-45g-608** is enacted to read:

1031 **78-45g-608. Authority to deny motion for genetic testing or disregard test results.**

1032 (1) In a proceeding to adjudicate the parentage of a child having a presumed father or  
1033 to challenge the paternity of a child having a declarant father, the tribunal may deny a motion  
1034 seeking an order for genetic testing of the mother, the child, and the presumed or declarant  
1035 father, or if testing has been completed, the tribunal may disregard genetic test results that  
1036 exclude the presumed or declarant father if the tribunal determines that:

1037 (a) the conduct of the mother or the presumed or declarant father estops that party from  
1038 disestablishing parentage; and

1039 (b) it would be inequitable to disestablish the father-child relationship between the  
1040 child and the presumed or declarant father.

1041 (2) In determining whether to deny a motion seeking an order for genetic testing or to  
1042 disregard genetic test results under this section, the tribunal shall consider the best interest of  
1043 the child, including the following factors:

1044 (a) the length of time between the proceeding to adjudicate parentage and the time that  
1045 the presumed or declarant father was placed on notice that he might not be the genetic father;

1046 (b) the length of time during which the presumed or declarant father has assumed the  
1047 role of father of the child;

1048 (c) the facts surrounding the presumed or declarant father's discovery of his possible  
1049 nonpaternity;

1050 (d) the nature of the relationship between the child and the presumed or declarant

1051 father;

1052 (e) the age of the child;

1053 (f) the harm that may result to the child if presumed or declared paternity is  
1054 successfully disestablished;

1055 (g) the nature of the relationship between the child and any alleged father;

1056 (h) the extent to which the passage of time reduces the chances of establishing the  
1057 paternity of another man and a child-support obligation in favor of the child; and

1058 (i) other factors that may affect the equities arising from the disruption of the  
1059 father-child relationship between the child and the presumed or declarant father or the chance  
1060 of other harm to the child.

1061 (3) Denial of a motion seeking an order for genetic testing or a decision to disregard  
1062 genetic test results must be based on clear and convincing evidence.

1063 (4) If the tribunal denies a motion seeking an order for genetic testing or disregards  
1064 genetic test results that exclude the presumed or declarant father, it shall issue an order  
1065 adjudicating the presumed or declarant father to be the father of the child.

1066 Section 72. Section **78-45g-609** is enacted to read:

1067 **78-45g-609. Limitation -- Child having declarant father.**

1068 (1) If a child has a declarant father, a signatory to the declaration of paternity or denial  
1069 of paternity or a support-enforcement agency may commence a proceeding seeking to rescind  
1070 the declaration or denial or challenge the paternity of the child only within the time allowed  
1071 under Section 78-45g-307 or 78-45g-308.

1072 (2) A proceeding under this section is subject to the application of the principles of  
1073 estoppel established in Section 78-45g-608.

1074 Section 73. Section **78-45g-610** is enacted to read:

1075 **78-45g-610. Joinder of judicial proceedings.**

1076 (1) Except as otherwise provided in Subsection (2), a judicial proceeding to adjudicate  
1077 parentage may be joined with a proceeding for adoption, termination of parental rights, child  
1078 custody or visitation, child support, divorce, annulment, legal separation or separate  
1079 maintenance, probate or administration of an estate, or other appropriate proceeding.

1080 (2) A respondent may not join a proceeding described in Subsection (1) with a  
1081 proceeding to adjudicate parentage brought under the Uniform Interstate Family Support Act.

1082 Section 74. Section **78-45g-611** is enacted to read:

1083 **78-45g-611. Proceeding before birth.**

1084 A proceeding to determine parentage may be commenced before the birth of the child,  
1085 but may not be concluded until after the birth of the child. The following actions may be taken  
1086 before the birth of the child:

1087 (1) service of process;

1088 (2) discovery; and

1089 (3) except as prohibited by Section 78-45g-502, collection of specimens for genetic  
1090 testing.

1091 Section 75. Section **78-45g-612** is enacted to read:

1092 **78-45g-612. Child as party -- Representation.**

1093 (1) A minor child is a permissible party, but is not a necessary party to a proceeding  
1094 under this part.

1095 (2) The tribunal may appoint a guardian ad litem to represent a minor or incapacitated  
1096 child if the child is a party or the tribunal finds that the interests of the child are not adequately  
1097 represented.

1098 Section 76. Section **78-45g-613** is enacted to read:

1099 **78-45g-613. Admissibility of results of genetic testing -- Expenses.**

1100 (1) Except as otherwise provided in Subsection (3), a record of a genetic-testing expert  
1101 is admissible as evidence of the truth of the facts asserted in the report unless a party objects to  
1102 its admission within 14 days after its receipt by the objecting party and cites specific grounds  
1103 for exclusion. The admissibility of the report is not affected by whether the testing was  
1104 performed:

1105 (a) voluntarily or pursuant to an order of the tribunal; or

1106 (b) before or after the commencement of the proceeding.

1107 (2) A party objecting to the results of genetic testing may call one or more  
1108 genetic-testing experts to testify in person or by telephone, video conference, deposition, or  
1109 another method approved by the tribunal. Unless otherwise ordered by the tribunal, the party  
1110 offering the testimony bears the expense for the expert testifying.

1111 (3) If a child has a presumed or declarant father, the results of genetic testing are  
1112 inadmissible to adjudicate parentage unless performed:

1113 (a) pursuant to Section 78-45g-503;  
1114 (b) within the time periods set forth in this chapter; and  
1115 (c) pursuant to a tribunal order or administrative process; or  
1116 (d) with the consent of both the mother and the presumed or declarant father.  
1117 (4) If a child has an adjudicated father, the results of genetic testing are inadmissible to  
1118 challenge paternity except as set forth in Sections 78-45g-607 and 78-45g-608.

1119 (5) Copies of bills for genetic testing and for prenatal and postnatal health care for the  
1120 mother and child which are furnished to the adverse party not less than ten days before the date  
1121 of a hearing are admissible to establish:

1122 (a) the amount of the charges billed; and  
1123 (b) that the charges were reasonable, necessary, and customary.

1124 Section 77. Section **78-45g-614** is enacted to read:

1125 **78-45g-614. Consequences of failing to submit to genetic testing.**

1126 (1) An order for genetic testing is enforceable by contempt.

1127 (2) If an individual whose paternity is being determined fails to submit to genetic  
1128 testing ordered by the tribunal, the tribunal for that reason may adjudicate parentage contrary to  
1129 the position of that individual.

1130 (3) Genetic testing of the mother of a child is not a condition precedent to testing the  
1131 child and a man whose paternity is being determined. If the mother is unavailable or fails to  
1132 submit to genetic testing, the tribunal may order the testing of the child and every man who is  
1133 potentially the father of the child.

1134 Section 78. Section **78-45g-615** is enacted to read:

1135 **78-45g-615. Admission of paternity authorized.**

1136 (1) A respondent in a proceeding to adjudicate parentage may admit to the paternity of  
1137 a child by filing a pleading to that effect or by admitting paternity under penalty of perjury  
1138 when making an appearance or during a hearing.

1139 (2) If the tribunal finds that the admission of paternity satisfies the requirements of this  
1140 section and finds that there is no reason to question the admission, the tribunal shall issue an  
1141 order adjudicating the child to be the child of the man admitting paternity.

1142 Section 79. Section **78-45g-616** is enacted to read:

1143 **78-45g-616. Temporary order.**

1144 (1) In a proceeding under this part, the tribunal shall issue a temporary order for  
1145 support of a child if the order is appropriate and the individual ordered to pay support is:

1146 (a) a presumed father of the child;

1147 (b) petitioning to have his paternity adjudicated;

1148 (c) identified as the father through genetic testing under Section 78-45g-505;

1149 (d) an alleged father who has failed to submit to genetic testing;

1150 (e) shown by clear and convincing evidence to be the father of the child; or

1151 (f) the mother of the child.

1152 (2) A temporary tribunal order may include provisions for custody and visitation as  
1153 provided by other laws of this state.

1154 Section 80. Section **78-45g-617** is enacted to read:

1155 **78-45g-617. Rules for adjudication of paternity.**

1156 The tribunal shall apply the following rules to adjudicate the paternity of a child:

1157 (1) The paternity of a child having a presumed, declarant, or adjudicated father may be  
1158 disproved only by admissible results of genetic testing excluding that man as the father of the  
1159 child or identifying another man as the father of the child.

1160 (2) Unless the results of genetic testing are admitted to rebut other results of genetic  
1161 testing, a man identified as the father of a child under Section 78-45g-505 must be adjudicated  
1162 the father of the child, unless an exception is granted under Section 78-45g-608.

1163 (3) If the tribunal finds that genetic testing under Section 78-45g-505 neither identifies  
1164 nor excludes a man as the father of a child, the tribunal may not dismiss the proceeding. In that  
1165 event, the tribunal shall order further testing.

1166 (4) Unless the results of genetic testing are admitted to rebut other results of genetic  
1167 testing, a man properly excluded as the father of a child by genetic testing must be adjudicated  
1168 not to be the father of the child.

1169 Section 81. Section **78-45g-618** is enacted to read:

1170 **78-45g-618. Adjudication of parentage -- Jury trial prohibited.**

1171 A jury trial is prohibited to adjudicate paternity of a child.

1172 Section 82. Section **78-45g-619** is enacted to read:

1173 **78-45g-619. Adjudication of parentage -- Hearings -- Inspection of records.**

1174 (1) On request of a party and for good cause shown, the tribunal may close a

1175 proceeding under this part.

1176 (2) A final order in a proceeding under this part is available for public inspection.

1177 Other papers and records are available only with the consent of the parties or on order of the  
1178 tribunal for good cause.

1179 Section 83. Section **78-45g-620** is enacted to read:

1180 **78-45g-620. Adjudication of parentage -- Order on default.**

1181 The tribunal shall issue an order adjudicating the paternity of a man who:

1182 (1) after service of process, is in default; and

1183 (2) is found by the tribunal to be the father of a child.

1184 Section 84. Section **78-45g-621** is enacted to read:

1185 **78-45g-621. Adjudication of parentage -- Dismissal for want of prosecution.**

1186 The tribunal may issue an order dismissing a proceeding commenced under this chapter  
1187 for want of prosecution only without prejudice. An order of dismissal for want of prosecution  
1188 purportedly with prejudice is void and has only the effect of a dismissal without prejudice.

1189 Section 85. Section **78-45g-622** is enacted to read:

1190 **78-45g-622. Order adjudicating parentage.**

1191 (1) The tribunal shall issue an order adjudicating whether a man alleged or claiming to  
1192 be the father is the parent of the child.

1193 (2) An order adjudicating parentage must identify the child by name and date of birth.

1194 (3) Except as otherwise provided in Subsection (4), the tribunal may assess filing fees,  
1195 reasonable attorney's fees, fees for genetic testing, other costs, and necessary travel and other  
1196 reasonable expenses incurred in a proceeding under this part. The tribunal may award  
1197 attorney's fees, which may be paid directly to the attorney, who may enforce the order in the  
1198 attorney's own name.

1199 (4) The tribunal may not assess fees, costs, or expenses against the  
1200 support-enforcement agency of this state or another state, except as provided by law.

1201 (5) On request of a party and for good cause shown, the tribunal may order that the  
1202 name of the child be changed.

1203 (6) If the order of the tribunal is at variance with the child's birth certificate, the  
1204 tribunal shall order the Office of Vital Records to issue an amended birth registration.

1205 Section 86. Section **78-45g-623** is enacted to read:

- 1206 **78-45g-623. Binding effect of determination of parentage.**
- 1207 (1) Except as otherwise provided in Subsection (2), a determination of parentage is
- 1208 binding on:
- 1209 (a) all signatories to a declaration or denial of paternity as provided in Part 3,
- 1210 Voluntary Declaration of Paternity; and
- 1211 (b) all parties to an adjudication by a tribunal acting under circumstances that satisfy
- 1212 the jurisdictional requirements of Section 78-45f-201.
- 1213 (2) A child is not bound by a determination of parentage under this chapter unless:
- 1214 (a) the determination was based on an unrescinded declaration of paternity and the
- 1215 declaration is consistent with the results of genetic testing;
- 1216 (b) the adjudication of parentage was based on a finding consistent with the results of
- 1217 genetic testing and the consistency is declared in the determination or is otherwise shown; or
- 1218 (c) the child was a party or was represented in the proceeding determining parentage by
- 1219 a guardian ad litem.
- 1220 (3) In a proceeding to dissolve a marriage, the tribunal is considered to have made an
- 1221 adjudication of the parentage of a child if the final order:
- 1222 (a) expressly identifies a child as a "child of the marriage," "issue of the marriage," or
- 1223 similar words indicating that the husband is the father of the child; or
- 1224 (b) provides for support of the child by the husband unless paternity is specifically
- 1225 disclaimed in the order.
- 1226 (4) The tribunal is not considered to have made an adjudication of the parentage of a
- 1227 child if the child was born at the time of entry of the order and other children are named as
- 1228 children of the marriage, but that child is specifically not named.
- 1229 (5) Once the paternity of a child has been adjudicated, an individual who was not a
- 1230 party to the paternity proceeding may not challenge the paternity, unless:
- 1231 (a) the party seeking to challenge can demonstrate a fraud upon the tribunal;
- 1232 (b) the challenger can demonstrate by clear and convincing evidence that the challenger
- 1233 did not know about the adjudicatory proceeding or did not have a reasonable opportunity to
- 1234 know of the proceeding; and
- 1235 (c) there would be irreparable harm to the child to leave the order in place.
- 1236 (6) A party to an adjudication of paternity may challenge the adjudication only under



1237 law of this state relating to appeal, vacation of judgments, or other judicial review.

1238 Section 87. Section **78-45g-701** is enacted to read:

1239 **Part 7. Child of Assisted Reproduction**

1240 **78-45g-701. Scope.**

1241 This part does not apply to the birth of a child conceived by means of sexual  
1242 intercourse, or as result of a gestational agreement as provided in Part 8, Gestational  
1243 Agreement.

1244 Section 88. Section **78-45g-702** is enacted to read:

1245 **78-45g-702. Parental status of donor.**

1246 A donor is not a parent of a child conceived by means of assisted reproduction.

1247 Section 89. Section **78-45g-703** is enacted to read:

1248 **78-45g-703. Husband's paternity of child of assisted reproduction.**

1249 If a husband provides sperm for, or consents to, assisted reproduction by his wife as  
1250 provided in Section 78-45g-704, he is the father of a resulting child born to his wife.

1251 Section 90. Section **78-45g-704** is enacted to read:

1252 **78-45g-704. Consent to assisted reproduction.**

1253 (1) A consent to assisted reproduction by a married woman must be in a record signed  
1254 by the woman and her husband. This requirement does not apply to the donation of eggs for  
1255 assisted reproduction by another woman.

1256 (2) Failure of the husband to sign a consent required by Subsection (1), before or after  
1257 the birth of the child, does not preclude a finding that the husband is the father of a child born  
1258 to his wife if the wife and husband openly treat the child as their own.

1259 Section 91. Section **78-45g-705** is enacted to read:

1260 **78-45g-705. Limitation on husband's dispute of paternity.**

1261 (1) Except as otherwise provided in Subsection (2), the husband of a wife who gives  
1262 birth to a child by means of assisted reproduction may not challenge his paternity of the child  
1263 unless:

1264 (a) within two years after learning of the birth of the child he commences a proceeding  
1265 to adjudicate his paternity; and

1266 (b) the tribunal finds that he did not consent to the assisted reproduction, before or after  
1267 the birth of the child.

1268 (2) A proceeding to adjudicate paternity may be maintained at any time if the tribunal  
1269 determines that:

1270 (a) the husband did not provide sperm for, or before or after the birth of the child  
1271 consent to, assisted reproduction by his wife;

1272 (b) the husband and the mother of the child have not cohabited since the probable time  
1273 of assisted reproduction; and

1274 (c) the husband never openly treated the child as his own.

1275 (3) The limitation provided in this section applies to a marriage declared invalid after  
1276 assisted reproduction.

1277 Section 92. Section **78-45g-706** is enacted to read:

1278 **78-45g-706. Effect of dissolution of marriage.**

1279 (1) If a marriage is dissolved before placement of eggs, sperm, or an embryo, the  
1280 former spouse is not a parent of the resulting child unless the former spouse consented in a  
1281 record that if assisted reproduction were to occur after a divorce, the former spouse would be a  
1282 parent of the child.

1283 (2) The consent of the former spouse to assisted reproduction may be revoked by that  
1284 individual in a record at any time before placement of eggs, sperm, or embryos.

1285 Section 93. Section **78-45g-707** is enacted to read:

1286 **78-45g-707. Parental status of deceased spouse.**

1287 If a spouse dies before placement of eggs, sperm, or an embryo, the deceased spouse is  
1288 not a parent of the resulting child unless the deceased spouse consented in a record that if  
1289 assisted reproduction were to occur after death, the deceased spouse would be a parent of the  
1290 child.

1291 Section 94. Section **78-45g-801** is enacted to read:

1292 **Part 8. Gestational Agreement**

1293 **78-45g-801. Gestational agreement authorized.**

1294 (1) A prospective gestational mother, her husband if she is married, a donor or the  
1295 donors, and the intended parents may enter into a written agreement providing that:

1296 (a) the prospective gestational mother agrees to pregnancy by means of assisted  
1297 reproduction;

1298 (b) the prospective gestational mother, her husband if she is married, and the donors

1299 relinquish all rights and duties as the parents of a child conceived through assisted  
1300 reproduction; and

1301 (c) the intended parents become the parents of the child.

1302 (2) The intended parents shall be married, and both spouses must be parties to the  
1303 gestational agreement.

1304 (3) A gestational agreement is enforceable only if validated as provided in Section  
1305 78-45g-803.

1306 (4) A gestational agreement does not apply to the birth of a child conceived by means  
1307 of sexual intercourse.

1308 Section 95. Section **78-45g-802** is enacted to read:

1309 **78-45g-802. Requirements of petition.**

1310 (1) The intended parents and the prospective gestational mother may file a petition in  
1311 the district tribunal to validate a gestational agreement.

1312 (2) A petition to validate a gestational agreement may not be maintained unless either  
1313 the mother or intended parents have been residents of this state for at least 90 days.

1314 (3) The prospective gestational mother's husband, if she is married, must join in the  
1315 petition.

1316 (4) A copy of the gestational agreement must be attached to the petition.

1317 Section 96. Section **78-45g-803** is enacted to read:

1318 **78-45g-803. Hearing to validate gestational agreement.**

1319 (1) If the requirements of Subsection (2) are satisfied, a tribunal may issue an order  
1320 validating the gestational agreement and declaring that the intended parents will be the parents  
1321 of a child born during the term of the agreement.

1322 (2) The tribunal may issue an order under Subsection (1) only on finding that:

1323 (a) the residence requirements of Section 78-45g-802 have been satisfied and the  
1324 parties have submitted to jurisdiction of the tribunal under the jurisdictional standards of this  
1325 part;

1326 (b) medical evidence shows that the intended mother is unable to bear a child or is  
1327 unable to do so without unreasonable risk to her physical or mental health or to the unborn  
1328 child;

1329 (c) unless waived by the tribunal, a home study of the intended parents has been

1330 conducted in accordance with Section 78-30-3.5, and the intended parents meet the standards  
1331 of fitness applicable to adoptive parents;

1332 (d) all parties have voluntarily entered into the agreement and understand its terms;

1333 (e) the prospective gestational mother has had at least one pregnancy and delivery and  
1334 her bearing another child will not pose an unreasonable health risk to the unborn child or to the  
1335 physical or mental health of the prospective gestational mother;

1336 (f) adequate provision has been made for all reasonable health-care expense associated  
1337 with the gestational agreement until the birth of the child, including responsibility for those  
1338 expenses if the agreement is terminated; and

1339 (g) the consideration, if any, paid to the prospective gestational mother is reasonable.

1340 (3) Whether to validate a gestational agreement is within the discretion of the tribunal,  
1341 subject only to review for abuse of discretion.

1342 Section 97. Section **78-45g-804** is enacted to read:

1343 **78-45g-804. Inspection of records.**

1344 The proceedings, records, and identities of the individuals to a gestational agreement  
1345 under this part are subject to inspection under the confidentiality standards applicable to  
1346 adoptions as provided under other laws of this state.

1347 Section 98. Section **78-45g-805** is enacted to read:

1348 **78-45g-805. Exclusive, continuing jurisdiction.**

1349 Subject to the jurisdictional standards of Section 78-45c-201, the tribunal conducting a  
1350 proceeding under this part has exclusive, continuing jurisdiction of all matters arising out of the  
1351 gestational agreement until a child born to the gestational mother during the period governed  
1352 by the agreement attains the age of 180 days.

1353 Section 99. Section **78-45g-806** is enacted to read:

1354 **78-45g-806. Termination of gestational agreement.**

1355 (1) After issuance of an order under this part, but before the prospective gestational  
1356 mother becomes pregnant by means of assisted reproduction, the prospective gestational  
1357 mother, her husband, or either of the intended parents may terminate the gestational agreement  
1358 only by giving written notice of termination to all other parties.

1359 (2) The tribunal for good cause shown also may terminate the gestational agreement.

1360 (3) An individual who terminates an agreement shall file notice of the termination with

1361 the tribunal. On receipt of the notice, the tribunal shall vacate the order issued under this part.  
1362 An individual who does not notify the tribunal of the termination of the agreement is subject to  
1363 appropriate sanctions.

1364 (4) Neither a prospective gestational mother nor her husband, if any, is liable to the  
1365 intended parents for terminating an agreement pursuant to this section.

1366 Section 100. Section **78-45g-807** is enacted to read:

1367 **78-45g-807. Parentage under validated gestational agreement.**

1368 (1) Upon birth of a child to a gestational mother, the intended parents shall file notice  
1369 with the tribunal that a child has been born to the gestational mother within 300 days after  
1370 assisted reproduction. Thereupon, the tribunal shall issue an order:

1371 (a) confirming that the intended parents are the parents of the child;

1372 (b) if necessary, ordering that the child be surrendered to the intended parents; and

1373 (c) directing the Office of Vital Records to issue a birth certificate naming the intended  
1374 parents as parents of the child.

1375 (2) If the parentage of a child born to the gestational mother is in dispute as not the  
1376 result of an assisted reproduction, the tribunal shall order genetic testing to determine the  
1377 parentage of the child.

1378 Section 101. Section **78-45g-808** is enacted to read:

1379 **78-45g-808. Gestational agreement -- Miscellaneous provisions.**

1380 (1) A gestational agreement may provide for payment of consideration.

1381 (2) A gestational agreement may not limit the right of the gestational mother to make  
1382 decisions to safeguard her health or that of the embryo or fetus.

1383 (3) After the issuance of an order under this part, subsequent marriage of the  
1384 gestational mother does not affect the validity of a gestational agreement, and her husband's  
1385 consent to the agreement is not required, nor is her husband a presumed father of the resulting  
1386 child.

1387 Section 102. Section **78-45g-809** is enacted to read:

1388 **78-45g-809. Effect of nonvalidated gestational agreement.**

1389 (1) A gestational agreement, whether in a record or not, which is not validated by a  
1390 tribunal is not enforceable.

1391 (2) If a birth results under a gestational agreement that is not judicially validated as

1392 provided in this part, the parent-child relationship is determined as provided in Part 2,  
1393 Parent-child Relationship.

1394 (3) The individuals who are parties to a nonvalidated gestational agreement as intended  
1395 parents may be held liable for support of the resulting child, even if the agreement is otherwise  
1396 unenforceable. The liability under this Subsection (3) includes assessing all expenses and fees  
1397 as provided in Section 78-45g-622.

1398 Section 103. Section **78-45g-901** is enacted to read:

1399 **Part 9. Miscellaneous Provisions**

1400 **78-45g-901. Uniformity of application and construction.**

1401 This chapter is a uniform law. In applying and construing this chapter, consideration  
1402 shall be given to the need to promote uniformity of the law with respect to its subject matter  
1403 among the states that enact it.

1404 Section 104. Section **78-45g-902** is enacted to read:

1405 **78-45g-902. Transitional provision.**

1406 A proceeding to adjudicate parentage which was commenced before January 1, 2005 is  
1407 governed by the law in effect at the time the proceeding was commenced.

1408 Section 105. **Repealer.**

1409 This bill repeals:

1410 Section **76-7-204, Prohibition of surrogate parenthood agreements -- Status of**  
1411 **child -- Basis of custody.**

1412 Section **78-30-4.13, Notice of adoption proceedings.**

1413 Section **78-45a-1, Obligations of the father.**

1414 Section **78-45a-2, Determination of paternity -- Effect -- Enforcement.**

1415 Section **78-45a-3, Limitation on recovery from the father.**

1416 Section **78-45a-4, Limitations on recovery from father's estate.**

1417 Section **78-45a-5, Remedies.**

1418 Section **78-45a-6, Time of trial.**

1419 Section **78-45a-6.5, Standard of proof.**

1420 Section **78-45a-7, Authority for genetic testing.**

1421 Section **78-45a-10, Effect of genetic test results.**

1422 Section **78-45a-10.5, Parent-time rights of father.**

- 1423           Section **78-45a-11, Judgment.**
- 1424           Section **78-45a-11.5, Social security number in court records.**
- 1425           Section **78-45a-12, Security.**
- 1426           Section **78-45a-13, Settlement agreements.**
- 1427           Section **78-45a-14, Venue.**
- 1428           Section **78-45a-15, Uniformity of interpretation.**
- 1429           Section **78-45a-16, Short title.**
- 1430           Section **78-45a-17, Operation of act.**
- 1431           Section **78-45e-1, Chapter title.**
- 1432           Section **78-45e-2, Voluntary declaration of paternity.**
- 1433           Section **78-45e-4, Rescission of the declaration.**
- 1434           Section 106. **Effective date.**
- 1435           This bill takes effect on January 1, 2005.

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**Legislative Review Note**  
**as of 1-7-04 1:00 PM**

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

**Office of Legislative Research and General Counsel**

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**Fiscal Note**  
**Bill Number SB0045**

**Uniform Parentage Act**

*06-Feb-04*

*10:48 AM*

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**State Impact**

Provisions of this bill can be handled within existing budgets.

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**Individual and Business Impact**

It is not possible to quantify the fiscal impact of the legal judgments resulting from the bill.

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**Office of the Legislative Fiscal Analyst**