

1 **UNIFORM PARENTAGE ACT**

2 2005 GENERAL SESSION

3 STATE OF UTAH

4 **Sponsor: Lyle W. Hillyard**

5

LONG TITLE

6 **General Description:**

7 This bill enacts the Utah Uniform Parentage Act.

8 **Highlighted Provisions:**

9 This bill:

- 10
- 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 has an immediate effective date.

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28 **75-2-114**, as repealed and reenacted by Chapter 39, Laws of Utah 1998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 **78-30-4.13**, as last amended by Chapter 122, Laws of Utah 2004

30 ENACTS:

31 **78-45g-101**, Utah Code Annotated 1953

32 **78-45g-102**, Utah Code Annotated 1953

33 **78-45g-103**, Utah Code Annotated 1953

34 **78-45g-104**, Utah Code Annotated 1953

35 **78-45g-105**, Utah Code Annotated 1953

36 **78-45g-106**, Utah Code Annotated 1953

37 **78-45g-107**, Utah Code Annotated 1953

38 **78-45g-108**, Utah Code Annotated 1953

39 **78-45g-109**, Utah Code Annotated 1953

40 **78-45g-110**, Utah Code Annotated 1953

41 **78-45g-111**, Utah Code Annotated 1953

42 **78-45g-112**, Utah Code Annotated 1953

43 **78-45g-113**, Utah Code Annotated 1953

44 **78-45g-114**, Utah Code Annotated 1953

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

46 **78-45g-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-401**, Utah Code Annotated 1953
- 64 **78-45g-402**, Utah Code Annotated 1953
- 65 **78-45g-403**, Utah Code Annotated 1953
- 66 **78-45g-404**, Utah Code Annotated 1953
- 67 **78-45g-405**, Utah Code Annotated 1953
- 68 **78-45g-406**, Utah Code Annotated 1953
- 69 **78-45g-407**, Utah Code Annotated 1953
- 70 **78-45g-408**, Utah Code Annotated 1953
- 71 **78-45g-409**, Utah Code Annotated 1953
- 72 **78-45g-410**, Utah Code Annotated 1953
- 73 **78-45g-501**, Utah Code Annotated 1953
- 74 **78-45g-502**, Utah Code Annotated 1953
- 75 **78-45g-503**, Utah Code Annotated 1953
- 76 **78-45g-504**, Utah Code Annotated 1953
- 77 **78-45g-505**, Utah Code Annotated 1953
- 78 **78-45g-506**, Utah Code Annotated 1953
- 79 **78-45g-507**, Utah Code Annotated 1953
- 80 **78-45g-508**, Utah Code Annotated 1953
- 81 **78-45g-509**, Utah Code Annotated 1953
- 82 **78-45g-510**, Utah Code Annotated 1953
- 83 **78-45g-511**, Utah Code Annotated 1953
- 84 **78-45g-601**, Utah Code Annotated 1953
- 85 **78-45g-602**, Utah Code Annotated 1953
- 86 **78-45g-603**, Utah Code Annotated 1953
- 87 **78-45g-604**, Utah Code Annotated 1953
- 88 **78-45g-605**, Utah Code Annotated 1953
- 89 **78-45g-606**, Utah Code Annotated 1953

90 **78-45g-607**, Utah Code Annotated 1953
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98 **78-45g-615**, Utah Code Annotated 1953
99 **78-45g-616**, Utah Code Annotated 1953
100 **78-45g-617**, Utah Code Annotated 1953
101 **78-45g-618**, Utah Code Annotated 1953
102 **78-45g-619**, Utah Code Annotated 1953
103 **78-45g-620**, Utah Code Annotated 1953
104 **78-45g-621**, Utah Code Annotated 1953
105 **78-45g-622**, Utah Code Annotated 1953
106 **78-45g-623**, Utah Code Annotated 1953
107 **78-45g-701**, Utah Code Annotated 1953
108 **78-45g-702**, Utah Code Annotated 1953
109 **78-45g-703**, Utah Code Annotated 1953
110 **78-45g-704**, Utah Code Annotated 1953
111 **78-45g-705**, Utah Code Annotated 1953
112 **78-45g-706**, Utah Code Annotated 1953
113 **78-45g-707**, Utah Code Annotated 1953
114 **78-45g-801**, Utah Code Annotated 1953
115 **78-45g-802**, Utah Code Annotated 1953
116 **78-45g-803**, Utah Code Annotated 1953
117 **78-45g-804**, Utah Code Annotated 1953
118 **78-45g-805**, Utah Code Annotated 1953
119 **78-45g-806**, Utah Code Annotated 1953
120 **78-45g-807**, Utah Code Annotated 1953

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



149 *Be it enacted by the Legislature of the state of Utah:*
150 Section 1. Section **26-2-2** is amended to read:
151 **26-2-2. Definitions.**

152 As used in this chapter:

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

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

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

158 (b) that was not born alive.

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

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

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

169 (a) a licensed funeral director;

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

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

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

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

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

176 (9) "Physician" means a person licensed to practice as a physician or osteopath in this
177 state under Title 58, Chapter 67, Utah Medical Practice Act or Chapter 68, Utah Osteopathic
178 Medical Practice Act.

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

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

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

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

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

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

192 **26-2-5. Birth certificates -- Execution and registration requirements.**

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

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

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

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

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

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

210 (4) (a) For live births that occur outside a birthing facility, the birth certificate shall be
211 completed and filed by the physician, nurse, midwife, or other person primarily responsible for
212 providing assistance to the mother at the birth. If there is no such person, either the
213 [~~presumptive~~] presumed or declarant father shall complete and file the certificate. In his

214 absence, the mother shall complete and file the certificate, and in the event of her death or
215 disability, the owner or operator of the premises where the birth occurred shall do so.

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

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

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

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

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

226 (C) the opportunity to sign the declaration;

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

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

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

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

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

239 (6) (a) The state registrar shall publish a form for the voluntary declaration of paternity,
240 a description of the process for filing a voluntary declaration of paternity, and of the rights and
241 responsibilities established or effected by that filing, in accordance with Title 78, ~~[Chapter 45e,~~
242 ~~Voluntary Declaration of Paternity]~~ Chapter 45g, Utah Uniform Parentage Act.

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

245 upon request.

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

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

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

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

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

255 **30-1-17.2. Action to determine validity of marriage -- Orders relating to parties,
256 property, and children -- Presumption of paternity in marriage.**

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

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

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

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

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

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

275 (d) after the birth of the child, he and the mother of the child have married each other

276 in apparent compliance with law, whether or not the marriage is, or could be declared, invalid,
277 he voluntarily asserted his paternity of the child, and there is no other presumptive father of the
278 child, and:

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

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

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

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

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

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

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

293 **75-2-114. Parent and child relationship.**

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

299 (2) An adopted individual is the child of the adopting parent or parents and not of the
300 natural parents, but adoption of a child by the spouse of either natural parent has no effect on:
301 (a) the relationship between the child and that natural parent; or
302 (b) the right of the child or a descendant of the child to inherit from or through the
303 other natural parent.

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

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

308 **78-30-4.13. Notice of adoption proceedings.**

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

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

315 (a) any person or agency whose consent or relinquishment is required under Section
316 78-30-4.14 unless that right has been terminated by waiver, relinquishment, consent, or judicial
317 action;

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

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

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

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

324 (f) any person who, prior to the time the mother executes her consent for adoption or
325 relinquishes the child to a licensed child-placing agency, is recorded on the birth certificate as
326 the child's father, with the knowledge and consent of the mother;

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

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

332 (3) (a) In order to preserve any right to notice and consent, an unmarried, biological
333 father may initiate proceedings to establish paternity under Title 78, Chapter [~~45a, Uniform Act~~
334 ~~on Paternity~~] 45g, Utah Uniform Parentage Act, and file a notice of the initiation of those
335 proceedings with the state registrar of vital statistics within the Department of Health prior to
336 the mother's execution of consent or her relinquishment to an agency. That action and notice
337 may also be filed prior to the child's birth.

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

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

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

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

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

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

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

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

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

368 (c) Notice to a person who has initiated a paternity proceeding and filed notice of that

369 action with the state registrar of vital statistics in the Department of Health in accordance with
 370 the requirements of Subsection (3), shall be served by certified mail, return receipt requested, at
 371 the last address filed with the registrar.

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

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

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

379 (11) Except as to those persons whose consent to an adoption is required under Section
 380 78-30-4.14, the sole purpose of notice under this section is to enable the person served to
 381 intervene in the adoption and present evidence to the court relevant to the best interest of the
 382 child.

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

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

385 **Part 1. General Provisions**

386 **78-45g-101. Title.**

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

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

389 **78-45g-102. Definitions.**

390 As used in this chapter:

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

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

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

398 (a) intrauterine insemination;

399 (b) donation of eggs;

400 (c) donation of embryos;

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

402 (e) intracytoplasmic sperm injection.

403 (4) "Birth expenses" means all medical costs associated with the birth of a child,

404 including the related expenses for the biological mother during her pregnancy and delivery.

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

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

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

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

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

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

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

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

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

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

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

430 (13) "Genetic testing" means an analysis of genetic markers to exclude or identify a

431 man as the father or a woman as the mother of a child. The term includes an analysis of one or
432 a combination of the following:

433 (a) deoxyribonucleic acid; or

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

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

438 (15) "Man," as defined in this chapter, means a male individual of any age.

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

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

444 (18) "Parent-child relationship" means the legal relationship between a child and a
445 parent of the child. The term includes the mother-child relationship and the father-child
446 relationship.

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

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

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

455 (20) "Presumed father" means a man who, by operation of law under Section
456 78-45g-204, is recognized as the father of a child until that status is rebutted or confirmed as
457 set forth in this chapter.

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

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

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

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

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

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

472 (b) establishment or modification of child support;

473 (c) determination of parentage; or

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

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

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

478 **78-45g-103. Scope -- Choice of law.**

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

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

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

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

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

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

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

493 **78-45g-104. Adjudication -- Jurisdiction.**

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

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

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

500 **78-45g-105. Protection of participants.**

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

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

506 **78-45g-106. Determination of maternity.**

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

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

510 **78-45g-107. Effect.**

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

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

514 **78-45g-108. Obligation to provide address.**

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

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

518 **78-45g-109. Limitation on recovery from the father.**

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

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

522 **78-45g-110. Duty of attorney general and county attorney.**

523 Whenever the state commences an action under this chapter, it shall be the duty of the

524 attorney general or the county attorney of the county where the obligee resides to represent the
525 state. Neither the attorney general nor the county attorney represents or has an attorney-client
526 relationship with the obligee or the obligor in carrying out his responsibilities under this
527 chapter.

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

529 **78-45g-111. Default judgment.**

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

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

533 **78-45g-112. Standard of proof.**

534 The standard of proof in a trial to determine paternity is "by clear and convincing
535 evidence."

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

537 **78-45g-113. Parent-time rights of father.**

538 (1) If the tribunal determines that the alleged father is the father, it may upon its own
539 motion or upon motion of the father, order parent-time rights in accordance with Sections
540 30-3-32 through 30-3-37 as it considers appropriate under the circumstances.

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

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

544 **78-45g-114. Social Security number in tribunal records.**

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

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

548 **78-45g-115. Settlement agreements.**

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

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

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

553 **78-45g-201. Establishment of parent-child relationship.**

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

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

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

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

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

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

563 (a) an un rebutted presumption of the man's paternity of the child under Section
564 78-45g-204;

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

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

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

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

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

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

575 **78-45g-202. No discrimination based on marital status.**

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

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

580 **78-45g-203. Consequences of establishment of parentage.**

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

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

585 **78-45g-204. Presumption of paternity.**

- 586 (1) A man is presumed to be the father of a child if:
587 (a) he and the mother of the child are married to each other and the child is born during
588 the marriage;
589 (b) he and the mother of the child were married to each other and the child is born
590 within 300 days after the marriage is terminated by death, annulment, declaration of invalidity,
591 or divorce, or after a decree of separation;
592 (c) before the birth of the child, he and the mother of the child married each other in
593 apparent compliance with law, even if the attempted marriage is or could be declared invalid,
594 and the child is born during the invalid marriage or within 300 days after its termination by
595 death, annulment, declaration of invalidity, or divorce or after a decree of separation; or
596 (d) after the birth of the child, he and the mother of the child married each other in
597 apparent compliance with law, whether or not the marriage is, or could be declared, invalid, he
598 voluntarily asserted his paternity of the child, and there is no other presumptive father of the
599 child, and:
600 (i) the assertion is in a record filed with the Office of Vital Records;
601 (ii) he agreed to be and is named as the child's father on the child's birth certificate; or
602 (iii) he promised in a record to support the child as his own.
603 (2) A presumption of paternity established under this section may only be rebutted in
604 accordance with Section 78-45g-607.
605 (3) If a child has an adjudicated father, the results of genetic testing are inadmissible to
606 challenge paternity except as set forth in Section 78-45g-607.
607 Section 25. Section **78-45g-301** is enacted to read:
608 **Part 3. Voluntary Declaration of Paternity**
609 **78-45g-301. Declaration of paternity.**
610 The mother of a child and a man claiming to be the genetic father of the child may sign
611 a declaration of paternity to establish the paternity of the child.
612 Section 26. Section **78-45g-302** is enacted to read:
613 **78-45g-302. Execution of declaration of paternity.**
614 (1) A declaration of paternity must:
615 (a) be in a record;
616 (b) be signed, or otherwise authenticated, under penalty of perjury, by the mother and

617 by the declarant father;

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

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

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

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

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

626 (f) state that the signatories understand that the declaration is the equivalent of a legal
627 finding of paternity of the child and that a challenge to the declaration is permitted only under
628 the limited circumstances described in Section 78-45g-307.

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

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

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

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

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

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

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

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

646 (7) The declaration of paternity shall become an amendment to the original birth
647 certificate. The original certificate and the declaration shall be marked as to be distinguishable.

648 The declaration may be included as part of subsequently issued certified copies of the birth
649 certificate. Alternatively, electronically issued copies of a certificate may reflect the amended
650 information and the date of the amendment only.

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

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

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

657 **78-45g-303. Denial of paternity.**

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

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

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

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

665 (a) declared his paternity, unless the previous declaration has been rescinded pursuant
666 to Section 78-45g-306 or successfully challenged pursuant to Section 78-45g-307; or

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

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

669 **78-45g-304. Rules for declaration and denial of paternity.**

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

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

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

678 (4) A declaration of paternity or denial of paternity signed by a minor and by the

679 minor's parent or legal guardian is valid if it is otherwise in compliance with this chapter.

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

681 **78-45g-305. Effect of declaration or denial of paternity.**

682 (1) Except as otherwise provided in Sections 78-45g-306 and 78-45g-307, a valid
683 declaration of paternity filed with the Office of Vital Records is equivalent to a legal finding of
684 paternity of a child and confers upon the declarant father all of the rights and duties of a parent.

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

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

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

694 (3) Except as otherwise provided in Sections 78-45g-306 and 78-45g-307, a valid
695 denial of paternity by a presumed or declarant father filed with the Office of Vital Records in
696 conjunction with a valid declaration of paternity is equivalent to a legal finding of the
697 nonpaternity of the presumed or declarant father and discharges the presumed or declarant
698 father from all rights and duties of a parent. If a valid denial of paternity is filed with the
699 Office of Vital Records, the declarant or presumed father may not recover child support he paid
700 prior to the time of filing.

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

702 **78-45g-306. Proceeding for rescission.**

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

706 (1) 60 days after the effective date of the declaration or denial, as provided in Sections
707 78-45g-303 and 78-45g-304; or

708 (2) the date of notice of the first adjudicative proceeding to which the signatory is a
709 party, before a tribunal to adjudicate an issue relating to the child, including a proceeding that

710 establishes support.

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

712 **78-45g-307. Challenge after expiration of period for rescission.**

713 (1) After the period for rescission under Section 78-45g-306 has expired, a signatory of
714 a declaration of paternity or denial of paternity, or a support-enforcement agency, may
715 commence a proceeding to challenge the declaration or denial only on the basis of fraud,
716 duress, or material mistake of fact.

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

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

720 (4) A challenge brought on the basis of a material mistake of fact may be commenced
721 within four years after the declaration is filed with the Office of Vital Records. For the
722 purposes of this Subsection (4), if the declaration of paternity was filed with the Office of Vital
723 Records prior to May 1, 2005, a challenge may be brought within four years after May 1, 2005.

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

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

728 **78-45g-308. Procedure for rescission or challenge.**

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

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

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

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

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

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

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

747 **78-45g-309. Ratification barred.**

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

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

751 **78-45g-310. Full faith and credit.**

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

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

756 **78-45g-311. Forms for declaration and denial of paternity and for rescission of**
757 **Paternity.**

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

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

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

763 **78-45g-312. Release of information.**

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

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

768 **78-45g-313. Adoption of rules.**

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

771 Section 38. Section **78-45g-401** is enacted to read:

Part 4. Registry of Paternity**78-45g-401. Maintenance of records.**

(1) The Office of Vital Records shall register the following records which are filed with the office:

(a) all declarations of paternity;

(b) all judicial and administrative determinations of paternity; and

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

(2) A notice of initiation of paternity proceedings may not be accepted into the registry unless accompanied by a copy of the pleading which has been filed with the court to establish paternity.

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

Section 39. Section **78-45g-402** is enacted to read:

78-45g-402. Effect of registration.

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

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

Section 40. Section **78-45g-403** is enacted to read:

78-45g-403. Notice of proceeding.

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

Section 41. Section **78-45g-404** is enacted to read:

78-45g-404. Required form.

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

803 (2) The form shall also state that:

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

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

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

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

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

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

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

818 Section 42. Section **78-45g-405** is enacted to read:

819 **78-45g-405. Furnishing of information -- Confidentiality.**

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

823 (2) Information contained in records which are filed pursuant to Section 78-45g-401 is
824 confidential and may be released on request only to:

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

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

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

828 (d) a licensed child-placing agency;

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

831 (f) a party or the party's attorney of record in a proceeding under this chapter or in a
832 proceeding for adoption of, or for termination of parental rights regarding, a child who is the
833 subject of the filing; and

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

835 Section 43. Section **78-45g-406** is enacted to read:

836 **78-45g-406. Penalty for releasing information.**

837 A person who, with malicious intent, releases confidential information from the Office
838 of Vital Records which is filed pursuant to Section 78-45g-401 to a person or agency not
839 authorized to receive the information under Section 78-45g-405 is guilty of a class B
840 misdemeanor.

841 Section 44. Section **78-45g-407** is enacted to read:

842 **78-45g-407. Removal of registration.**

843 The Office of Vital Records may remove a registration in accordance with rules
844 adopted by the office in accordance with Title 63, Chapter 46a, Utah Administrative
845 Rulemaking Act.

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

847 **78-45g-408. Fees for registry.**

848 (1) A fee may not be charged to remove a registration.

849 (2) Except as otherwise provided in Subsection (3), the Office of Vital Records may
850 charge a reasonable fee for registering records pursuant to Section 78-45g-401, making a
851 search of the registry, and for furnishing a certificate.

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

855 Section 46. Section **78-45g-409** is enacted to read:

856 **78-45g-409. Search of records -- Certificate.**

857 (1) Upon the request of an individual, tribunal, or agency identified in Section
858 78-45g-405, the Office of Vital Records shall search its records for any registration made
859 pursuant to Section 78-45g-401 and furnish to the requestor a certificate of search which shall
860 be signed on behalf of the office and state that:

861 (a) a search has been made of the records of the Office of Vital Records; and

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

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

864 (ii) has not been found.

865 (2) A petitioner shall file the certificate of search with the tribunal in connection with a
866 proceeding for adoption.

867 Section 47. Section **78-45g-410** is enacted to read:

868 **78-45g-410. Admissibility of information.**

869 A certificate of search of the registry of paternity in this or another state is admissible in
870 a proceeding for adoption of a child and, if relevant, in other legal proceedings.

871 Section 48. Section **78-45g-501** is enacted to read:

872 **Part 5. Genetic Testing**

873 **78-45g-501. Scope of part.**

874 This part governs genetic testing of an individual to determine parentage, whether the
875 individual:

876 (1) voluntarily submits to testing; or

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

878 Section 49. Section **78-45g-502** is enacted to read:

879 **78-45g-502. Order for testing.**

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

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

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

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

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

892 Section 50. Section **78-45g-503** is enacted to read:

893 **78-45g-503. Requirements for genetic testing.**

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

- 896 (a) the American Association of Blood Banks, or a successor to its functions;
897 (b) the American Society for Histocompatibility and Immunogenetics, or a successor to
898 its functions; or
899 (c) an accrediting body designated by the federal Secretary of Health and Human
900 Services.

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

905 Section 51. Section **78-45g-504** is enacted to read:

906 **78-45g-504. Report of genetic testing.**

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

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

- 913 (a) the names and photographs of the individuals whose specimens have been taken;
914 (b) the names of the individuals who collected the specimens;
915 (c) the places and dates the specimens were collected;
916 (d) the names of the individuals who received the specimens in the testing laboratory;
917 (e) the dates the specimens were received; and
918 (f) the finger prints of the individuals whose specimens have been taken.

919 Section 52. Section **78-45g-505** is enacted to read:

920 **78-45g-505. Genetic testing results -- Rebuttal.**

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

- 923 (a) the man has at least a 99% probability of paternity, using a prior probability of 0.50,
924 as calculated by using the combined paternity index obtained in the testing; and
925 (b) a combined paternity index of at least 100 to 1.

926 (2) A man identified under Subsection (1) as the father of the child may rebut the

927 genetic testing results only by other genetic testing satisfying the requirements of this part
928 which:

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

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

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

935 (4) If a presumption of paternity is not rebutted by a second test, the tribunal shall issue
936 an order establishing paternity.

937 Section 53. Section **78-45g-506** is enacted to read:

938 **78-45g-506. Costs of genetic testing.**

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

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

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

944 (c) as agreed by the parties; or

945 (d) as ordered by the tribunal.

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

948 Section 54. Section **78-45g-507** is enacted to read:

949 **78-45g-507. Additional genetic testing.**

950 The tribunal shall order additional genetic testing upon the request of a party who
951 contests the result of the original testing. If the previous genetic testing identified a man as the
952 father of the child under Section 78-45g-505, the tribunal may not order additional testing
953 unless the party provides advance payment for the testing. If the tribunal orders a second
954 genetic test in accordance with this section, the additional testing must be completed within 45
955 days of the tribunal's order or the requesting party's objection to the first test will be
956 automatically denied. If failure to complete the test occurs because of noncooperation of the
957 mother or unavailability of the child, the time will be tolled.

958 Section 55. Section **78-45g-508** is enacted to read:

959 **78-45g-508. Genetic testing when specimens not available.**

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

964 (a) the parents of the man;

965 (b) brothers and sisters of the man;

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

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

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

970 Section 56. Section **78-45g-509** is enacted to read:

971 **78-45g-509. Deceased individual.**

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

973 Section 57. Section **78-45g-510** is enacted to read:

974 **78-45g-510. Identical brothers.**

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

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

982 Section 58. Section **78-45g-511** is enacted to read:

983 **78-45g-511. Confidentiality of genetic testing.**

984 Release of the report of genetic testing for parentage is controlled by Title 63, Chapter
985 2, Government Records Access and Management Act.

986 Section 59. Section **78-45g-601** is enacted to read:

987 **Part 6. Adjudication of Parentage**

988 **78-45g-601. Proceeding authorized -- Definition.**

989 (1) An adjudicative proceeding may be maintained to determine the parentage of a
990 child. A judicial proceeding is governed by the rules of civil procedure. An administrative
991 proceeding is governed by Title 63, Chapter 46b, Administrative Procedures Act.

992 (2) For the purposes of this part, "divorce" also includes an annulment.

993 Section 60. Section **78-45g-602** is enacted to read:

994 **78-45g-602. Standing to maintain proceeding.**

995 Subject to Part 3, Voluntary Declaration of Paternity, and Sections 78-45g-607 and
996 78-45g-609, a proceeding to adjudicate parentage may be maintained by:

997 (1) the child;

998 (2) the mother of the child;

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

1000 (4) the support-enforcement agency or other governmental agency authorized by other
1001 law;

1002 (5) an authorized adoption agency or licensed child-placing agency;

1003 (6) a representative authorized by law to act for an individual who would otherwise be
1004 entitled to maintain a proceeding but who is deceased, incapacitated, or a minor; or

1005 (7) an intended parent under Part 8, Gestational Agreement.

1006 Section 61. Section **78-45g-603** is enacted to read:

1007 **78-45g-603. Parties to proceeding.**

1008 The following individuals shall be joined as parties in a proceeding to adjudicate
1009 parentage:

1010 (1) the mother of the child;

1011 (2) a man whose paternity of the child is to be adjudicated; and

1012 (3) the state pursuant to Section 78-45-9.

1013 Section 62. Section **78-45g-604** is enacted to read:

1014 **78-45g-604. Personal jurisdiction.**

1015 (1) An individual may not be adjudicated to be a parent unless the tribunal has personal
1016 jurisdiction over the individual.

1017 (2) A tribunal of this state having jurisdiction to adjudicate parentage may exercise
1018 personal jurisdiction over a nonresident individual, or the guardian or conservator of the

1019 individual, if the conditions prescribed in Section 78-45f-201 are fulfilled, or the individual has

1020 signed a declaration of paternity.

1021 (3) Lack of jurisdiction over one individual does not preclude the tribunal from making
1022 an adjudication of parentage binding on another individual over whom the tribunal has
1023 personal jurisdiction.

1024 Section 63. Section **78-45g-605** is enacted to read:

1025 **78-45g-605. Venue.**

1026 Venue for a judicial proceeding to adjudicate parentage is in the county of this state in
1027 which:

1028 (1) the child resides or is found;

1029 (2) the respondent resides or is found if the child does not reside in this state; or

1030 (3) a proceeding for probate or administration of the presumed or alleged father's estate
1031 has been commenced.

1032 Section 64. Section **78-45g-606** is enacted to read:

1033 **78-45g-606. No limitation -- Child having no declarant or adjudicated father.**

1034 A proceeding to adjudicate the parentage of a child having no declarant or adjudicated
1035 father may be commenced at any time. If initiated after the child becomes an adult, only the
1036 child may initiate the proceeding.

1037 Section 65. Section **78-45g-607** is enacted to read:

1038 **78-45g-607. Limitation -- Child having presumed father.**

1039 (1) Paternity of a child conceived or born during a marriage with a presumed father as
1040 described in Subsection 78-45g-204(1)(a), (b), or (c), may only be raised by the presumed
1041 father or the mother at any time prior to filing an action for divorce or in the pleadings at the
1042 time of the divorce of the parents.

1043 (a) If the issue is raised prior to the adjudication, genetic testing may be ordered by the
1044 tribunal in accordance with Section 78-45g-608. Failure of the mother of the child to appear
1045 for testing may result in an order allowing a motherless calculation of paternity. Failure of the
1046 mother to make the child available may not result in a determination that the presumed father is
1047 not the father, but shall allow for appropriate proceedings to compel the cooperation of the
1048 mother. Once paternity has been raised in the pleadings in a divorce and an order is entered,
1049 the parties are estopped from raising the issue again, and the order of the tribunal may not be
1050 challenged on the basis of material mistake of fact.

1051 (b) If the presumed father seeks to rebut the presumption of paternity, then denial of a
1052 motion seeking an order for genetic testing or a decision to disregard genetic test results shall
1053 be based on a preponderance of the evidence.

1054 (c) If the mother seeks to rebut the presumption of paternity, the mother has the burden
1055 to show by a preponderance of the evidence that it would be in the best interests of the child to
1056 disestablish the parent-child relationship.

1057 (2) For the presumption outside of marriage described in Subsection 78-45g-204(1)(d),
1058 the presumption may be rebutted at any time if the tribunal determines that the presumed father
1059 and the mother of the child neither cohabited nor engaged in sexual intercourse with each other
1060 during the probable time of conception.

1061 (3) The presumption may be rebutted by:

1062 (a) genetic test results that exclude the presumed father;

1063 (b) genetic test results that rebuttably identify another man as the father in accordance
1064 with Section 78-45g-505;

1065 (c) evidence that the presumed father and the mother of the child neither cohabited nor
1066 engaged in sexual intercourse with each other during the probable time of conception; or

1067 (d) an adjudication under this part.

1068 (4) There is no presumption to rebut if the presumed father was properly served and
1069 there has been a final adjudication of the issue.

1070 Section 66. Section **78-45g-608** is enacted to read:

1071 **78-45g-608. Authority to deny motion for genetic testing or disregard test results.**

1072 (1) In a proceeding to adjudicate the parentage of a child having a presumed father or
1073 to challenge the paternity of a child having a declarant father, the tribunal may deny a motion
1074 seeking an order for genetic testing of the mother, the child, and the presumed or declarant
1075 father, or if testing has been completed, the tribunal may disregard genetic test results that
1076 exclude the presumed or declarant father if the tribunal determines that:

1077 (a) the conduct of the mother or the presumed or declarant father estops that party from
1078 denying parentage; and

1079 (b) it would be inequitable to disrupt the father-child relationship between the child
1080 and the presumed or declarant father.

1081 (2) In determining whether to deny a motion seeking an order for genetic testing or to

1082 disregard genetic test results under this section, the tribunal shall consider the best interest of
1083 the child, including the following factors:

1084 (a) the length of time between the proceeding to adjudicate parentage and the time that
1085 the presumed or declarant father was placed on notice that he might not be the genetic father;

1086 (b) the length of time during which the presumed or declarant father has assumed the
1087 role of father of the child;

1088 (c) the facts surrounding the presumed or declarant father's discovery of his possible
1089 nonpaternity;

1090 (d) the nature of the relationship between the child and the presumed or declarant
1091 father;

1092 (e) the age of the child;

1093 (f) the harm that may result to the child if presumed or declared paternity is
1094 successfully disestablished;

1095 (g) the nature of the relationship between the child and any alleged father;

1096 (h) the extent to which the passage of time reduces the chances of establishing the
1097 paternity of another man and a child-support obligation in favor of the child; and

1098 (i) other factors that may affect the equities arising from the disruption of the
1099 father-child relationship between the child and the presumed or declarant father or the chance
1100 of other harm to the child.

1101 (3) If the tribunal denies a motion seeking an order for genetic testing or disregards
1102 genetic test results that exclude the presumed or declarant father, it shall issue an order
1103 adjudicating the presumed or declarant father to be the father of the child.

1104 Section 67. Section **78-45g-609** is enacted to read:

1105 **78-45g-609. Limitation -- Child having declarant father.**

1106 (1) If a child has a declarant father, a signatory to the declaration of paternity or denial
1107 of paternity or a support-enforcement agency may commence a proceeding seeking to rescind
1108 the declaration or denial or challenge the paternity of the child only within the time allowed
1109 under Section 78-45g-306 or 78-45g-307.

1110 (2) A proceeding under this section is subject to the application of the principles of
1111 estoppel established in Section 78-45g-608.

1112 Section 68. Section **78-45g-610** is enacted to read:

1113 **78-45g-610. Joinder of judicial proceedings.**

1114 (1) Except as otherwise provided in Subsection (2), a judicial proceeding to adjudicate
1115 parentage may be joined with a proceeding for adoption, termination of parental rights, child
1116 custody or visitation, child support, divorce, annulment, legal separation or separate
1117 maintenance, probate or administration of an estate, or other appropriate proceeding.

1118 (2) A respondent may not join a proceeding described in Subsection (1) with a
1119 proceeding to adjudicate parentage brought under the Uniform Interstate Family Support Act.

1120 Section 69. Section **78-45g-611** is enacted to read:

1121 **78-45g-611. Proceeding before birth.**

1122 A proceeding to determine parentage may be commenced before the birth of the child,
1123 but may not be concluded until after the birth of the child. The following actions may be taken
1124 before the birth of the child:

1125 (1) service of process;

1126 (2) discovery; and

1127 (3) except as prohibited by Section 78-45g-502, collection of specimens for genetic
1128 testing.

1129 Section 70. Section **78-45g-612** is enacted to read:

1130 **78-45g-612. Child as party -- Representation.**

1131 (1) A minor child is a permissible party, but is not a necessary party to a proceeding
1132 under this part.

1133 (2) The tribunal may appoint a guardian ad litem to represent a minor or incapacitated
1134 child if the child is a party or the tribunal finds that the interests of the child are not adequately
1135 represented.

1136 Section 71. Section **78-45g-613** is enacted to read:

1137 **78-45g-613. Admissibility of results of genetic testing -- Expenses.**

1138 (1) Except as otherwise provided in Subsection (3), a record of a genetic-testing expert
1139 is admissible as evidence of the truth of the facts asserted in the report unless a party objects to
1140 its admission within 14 days after its receipt by the objecting party and cites specific grounds
1141 for exclusion. Unless a party files a timely objection, testimony shall be in affidavit form. The
1142 admissibility of the report is not affected by whether the testing was performed:

1143 (a) voluntarily or pursuant to an order of the tribunal; or

1144 (b) before or after the commencement of the proceeding.

1145 (2) A party objecting to the results of genetic testing may call one or more
1146 genetic-testing experts to testify in person or by telephone, video conference, deposition, or
1147 another method approved by the tribunal. Unless otherwise ordered by the tribunal, the party
1148 offering the testimony bears the expense for the expert testifying.

1149 (3) If a child has a presumed or declarant father, the results of genetic testing are
1150 inadmissible to adjudicate parentage unless performed:

1151 (a) pursuant to Section 78-45g-503;

1152 (b) within the time periods set forth in this chapter; and

1153 (c) pursuant to a tribunal order or administrative process; or

1154 (d) with the consent of both the mother and the presumed or declarant father.

1155 (4) If a child has an adjudicated father, the results of genetic testing are inadmissible to
1156 challenge paternity except as set forth in Sections 78-45g-607 and 78-45g-608.

1157 (5) Copies of bills for genetic testing and for prenatal and postnatal health care for the
1158 mother and child which are furnished to the adverse party not less than ten days before the date
1159 of a hearing are admissible to establish:

1160 (a) the amount of the charges billed; and

1161 (b) that the charges were reasonable, necessary, and customary.

1162 Section 72. Section **78-45g-614** is enacted to read:

1163 **78-45g-614. Consequences of failing to submit to genetic testing.**

1164 (1) An order for genetic testing is enforceable by contempt.

1165 (2) If an individual whose paternity is being determined fails to submit to genetic
1166 testing ordered by the tribunal, the tribunal for that reason may adjudicate parentage contrary to
1167 the position of that individual.

1168 (3) Genetic testing of the mother of a child is not a condition precedent to testing the
1169 child and a man whose paternity is being determined. If the mother is unavailable or fails to
1170 submit to genetic testing, the tribunal may order the testing of the child and every man who is
1171 potentially the father of the child.

1172 Section 73. Section **78-45g-615** is enacted to read:

1173 **78-45g-615. Admission of paternity authorized.**

1174 (1) A respondent in a proceeding to adjudicate parentage may admit to the paternity of

1175 a child by filing a pleading to that effect or by admitting paternity under penalty of perjury
1176 when making an appearance or during a hearing.

1177 (2) If the tribunal finds that the admission of paternity satisfies the requirements of this
1178 section and finds that there is no reason to question the admission, the tribunal shall issue an
1179 order adjudicating the child to be the child of the man admitting paternity.

1180 Section 74. Section **78-45g-616** is enacted to read:

1181 **78-45g-616. Temporary order.**

1182 (1) In a proceeding under this part, the tribunal shall issue a temporary order for
1183 support of a child if the order is appropriate and the individual ordered to pay support is:

1184 (a) a presumed father of the child;

1185 (b) petitioning to have his paternity adjudicated;

1186 (c) identified as the father through genetic testing under Section 78-45g-505;

1187 (d) an alleged father who has failed to submit to genetic testing;

1188 (e) shown by clear and convincing evidence to be the father of the child; or

1189 (f) the mother of the child.

1190 (2) A temporary tribunal order may include provisions for custody and visitation as
1191 provided by other laws of this state.

1192 Section 75. Section **78-45g-617** is enacted to read:

1193 **78-45g-617. Rules for adjudication of paternity.**

1194 The tribunal shall apply the following rules to adjudicate the paternity of a child:

1195 (1) The paternity of a child having a presumed, declarant, or adjudicated father may be
1196 disproved only by admissible results of genetic testing excluding that man as the father of the
1197 child or identifying another man as the father of the child.

1198 (2) Unless the results of genetic testing are admitted to rebut other results of genetic
1199 testing, a man identified as the father of a child under Section 78-45g-505 must be adjudicated
1200 the father of the child, unless an exception is granted under Section 78-45g-608.

1201 (3) If the tribunal finds that genetic testing under Section 78-45g-505 neither identifies
1202 nor excludes a man as the father of a child, the tribunal may not dismiss the proceeding. In that
1203 event, the tribunal shall order further testing.

1204 (4) Unless the results of genetic testing are admitted to rebut other results of genetic
1205 testing, a man properly excluded as the father of a child by genetic testing must be adjudicated

1206 not to be the father of the child.

1207 Section 76. Section **78-45g-618** is enacted to read:

1208 **78-45g-618. Adjudication of parentage -- Jury trial prohibited.**

1209 A jury trial is prohibited to adjudicate paternity of a child.

1210 Section 77. Section **78-45g-619** is enacted to read:

1211 **78-45g-619. Adjudication of parentage -- Hearings -- Inspection of records.**

1212 (1) On request of a party and for good cause shown, the tribunal may close a
1213 proceeding under this part.

1214 (2) A final order in a proceeding under this part is available for public inspection.

1215 Other papers and records are available only with the consent of the parties or on order of the
1216 tribunal for good cause.

1217 Section 78. Section **78-45g-620** is enacted to read:

1218 **78-45g-620. Adjudication of parentage -- Order on default.**

1219 The tribunal shall issue an order adjudicating the paternity of a man who:

1220 (1) after service of process, is in default; and

1221 (2) is found by the tribunal to be the father of a child.

1222 Section 79. Section **78-45g-621** is enacted to read:

1223 **78-45g-621. Adjudication of parentage -- Dismissal for want of prosecution.**

1224 The tribunal may issue an order dismissing a proceeding commenced under this chapter
1225 for want of prosecution only without prejudice. An order of dismissal for want of prosecution
1226 purportedly with prejudice is void and has only the effect of a dismissal without prejudice.

1227 Section 80. Section **78-45g-622** is enacted to read:

1228 **78-45g-622. Order adjudicating parentage.**

1229 (1) The tribunal shall issue an order adjudicating whether a man alleged or claiming to
1230 be the father is the parent of the child.

1231 (2) An order adjudicating parentage must identify the child by name and date of birth.

1232 (3) Except as otherwise provided in Subsection (4), the tribunal may assess filing fees,
1233 reasonable attorney's fees, fees for genetic testing, other costs, necessary travel, and other
1234 reasonable expenses incurred in a proceeding under this part. The tribunal may award
1235 attorney's fees, which may be paid directly to the attorney, who may enforce the order in the
1236 attorney's own name.

1237 (4) The tribunal may not assess fees, costs, or expenses against the
1238 support-enforcement agency of this state or another state, except as provided by law.

1239 (5) On request of a party and for good cause shown, the tribunal may order that the
1240 name of the child be changed.

1241 (6) If the order of the tribunal is at variance with the child's birth certificate, the
1242 tribunal shall order the Office of Vital Records to issue an amended birth registration.

1243 Section 81. Section **78-45g-623** is enacted to read:

1244 **78-45g-623. Binding effect of determination of parentage.**

1245 (1) Except as otherwise provided in Subsection (2), a determination of parentage is
1246 binding on:

1247 (a) all signatories to a declaration or denial of paternity as provided in Part 3,
1248 Voluntary Declaration of Paternity; and

1249 (b) all parties to an adjudication by a tribunal acting under circumstances that satisfy
1250 the jurisdictional requirements of Section 78-45f-201.

1251 (2) A child is not bound by a determination of parentage under this chapter unless:

1252 (a) the determination was based on an unrescinded declaration of paternity and the
1253 declaration is consistent with the results of genetic testing;

1254 (b) the adjudication of parentage was based on a finding consistent with the results of
1255 genetic testing and the consistency is declared in the determination or is otherwise shown; or

1256 (c) the child was a party or was represented in the proceeding determining parentage by
1257 a guardian ad litem.

1258 (3) In a proceeding to dissolve a marriage, the tribunal is considered to have made an
1259 adjudication of the parentage of a child if the final order:

1260 (a) expressly identifies a child as a "child of the marriage," "issue of the marriage," or
1261 similar words indicating that the husband is the father of the child; or

1262 (b) provides for support of the child by the husband unless paternity is specifically
1263 disclaimed in the order.

1264 (4) The tribunal is not considered to have made an adjudication of the parentage of a
1265 child if the child was born at the time of entry of the order and other children are named as
1266 children of the marriage, but that child is specifically not named.

1267 (5) Once the paternity of a child has been adjudicated, an individual who was not a

1268 party to the paternity proceeding may not challenge the paternity, unless:

1269 (a) the party seeking to challenge can demonstrate a fraud upon the tribunal;

1270 (b) the challenger can demonstrate by clear and convincing evidence that the challenger

1271 did not know about the adjudicatory proceeding or did not have a reasonable opportunity to

1272 know of the proceeding; and

1273 (c) there would be irreparable harm to the child to leave the order in place.

1274 (6) A party to an adjudication of paternity may challenge the adjudication only under

1275 law of this state relating to appeal, vacation of judgments, or other judicial review.

1276 Section 82. Section **78-45g-701** is enacted to read:

1277 **Part 7. Child of Assisted Reproduction**

1278 **78-45g-701. Scope.**

1279 This part does not apply to the birth of a child conceived by means of sexual

1280 intercourse, or as result of a gestational agreement as provided in Part 8, Gestational

1281 Agreement.

1282 Section 83. Section **78-45g-702** is enacted to read:

1283 **78-45g-702. Parental status of donor.**

1284 A donor is not a parent of a child conceived by means of assisted reproduction.

1285 Section 84. Section **78-45g-703** is enacted to read:

1286 **78-45g-703. Husband's paternity of child of assisted reproduction.**

1287 If a husband provides sperm for, or consents to, assisted reproduction by his wife as

1288 provided in Section 78-45g-704, he is the father of a resulting child born to his wife.

1289 Section 85. Section **78-45g-704** is enacted to read:

1290 **78-45g-704. Consent to assisted reproduction.**

1291 (1) A consent to assisted reproduction by a married woman must be in a record signed

1292 by the woman and her husband. This requirement does not apply to the donation of eggs for

1293 assisted reproduction by another woman.

1294 (2) Failure of the husband to sign a consent required by Subsection (1), before or after

1295 the birth of the child, does not preclude a finding that the husband is the father of a child born

1296 to his wife if the wife and husband openly treat the child as their own.

1297 Section 86. Section **78-45g-705** is enacted to read:

1298 **78-45g-705. Limitation on husband's dispute of paternity.**

1299 (1) Except as otherwise provided in Subsection (2), the husband of a wife who gives
1300 birth to a child by means of assisted reproduction may not challenge his paternity of the child
1301 unless:

1302 (a) within two years after learning of the birth of the child he commences a proceeding
1303 to adjudicate his paternity; and

1304 (b) the tribunal finds that he did not consent to the assisted reproduction, before or after
1305 the birth of the child.

1306 (2) A proceeding to adjudicate paternity may be maintained at any time if the tribunal
1307 determines that:

1308 (a) the husband did not provide sperm for, or before or after the birth of the child
1309 consent to, assisted reproduction by his wife;

1310 (b) the husband and the mother of the child have not cohabited since the probable time
1311 of assisted reproduction; and

1312 (c) the husband never openly treated the child as his own.

1313 (3) The limitation provided in this section applies to a marriage declared invalid after
1314 assisted reproduction.

1315 Section 87. Section **78-45g-706** is enacted to read:

1316 **78-45g-706. Effect of dissolution of marriage.**

1317 (1) If a marriage is dissolved before placement of eggs, sperm, or an embryo, the
1318 former spouse is not a parent of the resulting child unless the former spouse consented in a
1319 record that if assisted reproduction were to occur after a divorce, the former spouse would be a
1320 parent of the child.

1321 (2) The consent of the former spouse to assisted reproduction may be revoked by that
1322 individual in a record at any time before placement of eggs, sperm, or embryos.

1323 Section 88. Section **78-45g-707** is enacted to read:

1324 **78-45g-707. Parental status of deceased spouse.**

1325 If a spouse dies before placement of eggs, sperm, or an embryo, the deceased spouse is
1326 not a parent of the resulting child unless the deceased spouse consented in a record that if
1327 assisted reproduction were to occur after death, the deceased spouse would be a parent of the
1328 child.

1329 Section 89. Section **78-45g-801** is enacted to read:

1330 **Part 8. Gestational Agreement**

1331 **78-45g-801. Gestational agreement authorized.**

1332 (1) A prospective gestational mother, her husband if she is married, a donor or the
1333 donors, and the intended parents may enter into a written agreement providing that:

1334 (a) the prospective gestational mother agrees to pregnancy by means of assisted
1335 reproduction;

1336 (b) the prospective gestational mother, her husband if she is married, and the donors
1337 relinquish all rights and duties as the parents of a child conceived through assisted
1338 reproduction; and

1339 (c) the intended parents become the parents of the child.

1340 (2) The intended parents shall be married, and both spouses must be parties to the
1341 gestational agreement.

1342 (3) A gestational agreement is enforceable only if validated as provided in Section
1343 78-45g-803.

1344 (4) A gestational agreement does not apply to the birth of a child conceived by means
1345 of sexual intercourse.

1346 Section 90. Section **78-45g-802** is enacted to read:

1347 **78-45g-802. Requirements of petition.**

1348 (1) The intended parents and the prospective gestational mother may file a petition in
1349 the district tribunal to validate a gestational agreement.

1350 (2) A petition to validate a gestational agreement may not be maintained unless either
1351 the mother or intended parents have been residents of this state for at least 90 days.

1352 (3) The prospective gestational mother's husband, if she is married, must join in the
1353 petition.

1354 (4) A copy of the gestational agreement must be attached to the petition.

1355 Section 91. Section **78-45g-803** is enacted to read:

1356 **78-45g-803. Hearing to validate gestational agreement.**

1357 (1) If the requirements of Subsection (2) are satisfied, a tribunal may issue an order
1358 validating the gestational agreement and declaring that the intended parents will be the parents
1359 of a child born during the term of the agreement.

1360 (2) The tribunal may issue an order under Subsection (1) only on finding that:

1361 (a) the residence requirements of Section 78-45g-802 have been satisfied and the
1362 parties have submitted to jurisdiction of the tribunal under the jurisdictional standards of this
1363 part;

1364 (b) medical evidence shows that the intended mother is unable to bear a child or is
1365 unable to do so without unreasonable risk to her physical or mental health or to the unborn
1366 child;

1367 (c) unless waived by the tribunal, a home study of the intended parents has been
1368 conducted in accordance with Section 78-30-3.5, and the intended parents meet the standards
1369 of fitness applicable to adoptive parents;

1370 (d) all parties have voluntarily entered into the agreement and understand its terms;

1371 (e) the prospective gestational mother has had at least one pregnancy and delivery and
1372 her bearing another child will not pose an unreasonable health risk to the unborn child or to the
1373 physical or mental health of the prospective gestational mother;

1374 (f) adequate provision has been made for all reasonable health-care expense associated
1375 with the gestational agreement until the birth of the child, including responsibility for those
1376 expenses if the agreement is terminated; and

1377 (g) the consideration, if any, paid to the prospective gestational mother is reasonable.

1378 (3) Whether to validate a gestational agreement is within the discretion of the tribunal,
1379 subject only to review for abuse of discretion.

1380 Section 92. Section **78-45g-804** is enacted to read:

1381 **78-45g-804. Inspection of records.**

1382 The proceedings, records, and identities of the individuals to a gestational agreement
1383 under this part are subject to inspection under the confidentiality standards applicable to
1384 adoptions as provided under other laws of this state.

1385 Section 93. Section **78-45g-805** is enacted to read:

1386 **78-45g-805. Exclusive, continuing jurisdiction.**

1387 Subject to the jurisdictional standards of Section 78-45c-201, the tribunal conducting a
1388 proceeding under this part has exclusive, continuing jurisdiction of all matters arising out of the
1389 gestational agreement until a child born to the gestational mother during the period governed
1390 by the agreement attains the age of 180 days.

1391 Section 94. Section **78-45g-806** is enacted to read:

1392 **78-45g-806. Termination of gestational agreement.**

1393 (1) After issuance of an order under this part, but before the prospective gestational
1394 mother becomes pregnant by means of assisted reproduction, the prospective gestational
1395 mother, her husband, or either of the intended parents may terminate the gestational agreement
1396 only by giving written notice of termination to all other parties.

1397 (2) The tribunal for good cause shown also may terminate the gestational agreement.

1398 (3) An individual who terminates an agreement shall file notice of the termination with
1399 the tribunal. On receipt of the notice, the tribunal shall vacate the order issued under this part.

1400 An individual who does not notify the tribunal of the termination of the agreement is subject to
1401 appropriate sanctions.

1402 (4) Neither a prospective gestational mother nor her husband, if any, is liable to the
1403 intended parents for terminating an agreement pursuant to this section.

1404 Section 95. Section **78-45g-807** is enacted to read:

1405 **78-45g-807. Parentage under validated gestational agreement.**

1406 (1) Upon birth of a child to a gestational mother, the intended parents shall file notice
1407 with the tribunal that a child has been born to the gestational mother within 300 days after
1408 assisted reproduction. Thereupon, the tribunal shall issue an order:

1409 (a) confirming that the intended parents are the parents of the child;

1410 (b) if necessary, ordering that the child be surrendered to the intended parents; and

1411 (c) directing the Office of Vital Records to issue a birth certificate naming the intended
1412 parents as parents of the child.

1413 (2) If the parentage of a child born to the gestational mother is in dispute as not the
1414 result of an assisted reproduction, the tribunal shall order genetic testing to determine the
1415 parentage of the child.

1416 Section 96. Section **78-45g-808** is enacted to read:

1417 **78-45g-808. Gestational agreement -- Miscellaneous provisions.**

1418 (1) A gestational agreement may provide for payment of consideration.

1419 (2) A gestational agreement may not limit the right of the gestational mother to make
1420 decisions to safeguard her health or that of the embryo or fetus.

1421 (3) After the issuance of an order under this part, subsequent marriage of the
1422 gestational mother does not affect the validity of a gestational agreement, and her husband's

1423 consent to the agreement is not required, nor is her husband a presumed father of the resulting
1424 child.

1425 Section 97. Section **78-45g-809** is enacted to read:

1426 **78-45g-809. Effect of nonvalidated gestational agreement.**

1427 (1) A gestational agreement, whether in a record or not, which is not validated by a
1428 tribunal is not enforceable.

1429 (2) If a birth results under a gestational agreement that is not judicially validated as
1430 provided in this part, the parent-child relationship is determined as provided in Part 2,

1431 Parent-child Relationship.

1432 (3) The individuals who are parties to a nonvalidated gestational agreement as intended
1433 parents may be held liable for support of the resulting child, even if the agreement is otherwise
1434 unenforceable. The liability under this Subsection (3) includes assessing all expenses and fees
1435 as provided in Section 78-45g-622.

1436 Section 98. Section **78-45g-901** is enacted to read:

1437 **Part 9. Miscellaneous Provisions**

1438 **78-45g-901. Uniformity of application and construction.**

1439 This chapter is a uniform law. In applying and construing this chapter, consideration
1440 shall be given to the need to promote uniformity of the law with respect to its subject matter
1441 among the states that enact it.

1442 Section 99. Section **78-45g-902** is enacted to read:

1443 **78-45g-902. Transitional provision.**

1444 A proceeding to adjudicate parentage which was commenced before May 1, 2005 is
1445 governed by the law in effect at the time the proceeding was commenced.

1446 Section 100. **Repealer.**

1447 This bill repeals:

1448 Section **76-7-204, Prohibition of surrogate parenthood agreements -- Status of**
1449 **child -- Basis of custody.**

1450 Section **78-45a-1, Obligations of the father.**

1451 Section **78-45a-2, Determination of paternity -- Effect -- Enforcement.**

1452 Section **78-45a-3, Limitation on recovery from the father.**

1453 Section **78-45a-4, Limitations on recovery from father's estate.**

- 1454 Section **78-45a-5, Remedies.**
- 1455 Section **78-45a-6, Time of trial.**
- 1456 Section **78-45a-6.5, Standard of proof.**
- 1457 Section **78-45a-7, Authority for genetic testing.**
- 1458 Section **78-45a-10, Effect of genetic test results.**
- 1459 Section **78-45a-10.5, Parent-time rights of father.**
- 1460 Section **78-45a-11, Judgment.**
- 1461 Section **78-45a-11.5, Social security number in court records.**
- 1462 Section **78-45a-12, Security.**
- 1463 Section **78-45a-13, Settlement agreements.**
- 1464 Section **78-45a-14, Venue.**
- 1465 Section **78-45a-15, Uniformity of interpretation.**
- 1466 Section **78-45a-16, Short title.**
- 1467 Section **78-45a-17, Operation of act.**
- 1468 Section **78-45e-1, Chapter title.**
- 1469 Section **78-45e-2, Voluntary declaration of paternity.**
- 1470 Section **78-45e-4, Rescission of the declaration.**
- 1471 Section 101. **Effective date.**
- 1472 If approved by two-thirds of all members elected to each house, this bill takes effect
- 1473 upon approval by the governor, or the day following the constitutional time limit of Utah
- 1474 Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto,
- 1475 the date of veto override.

Legislative Review Note
as of 12-7-04 8:44 AM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel

Interim Committee Note
as of 12-08-04 1:30 PM

The Law Enforcement and Criminal Justice Interim Committee recommended this bill.