{deleted text} shows text that was in SB0179 but was deleted in SB0179S01.

inserted text shows text that was not in SB0179 but was inserted into SB0179S01.

DISCLAIMER: This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

Senator Lyle W. Hillyard proposes the following substitute bill:

#### UNIFORM PARENTAGE ACT AMENDMENTS

2016 GENERAL SESSION STATE OF UTAH

Chief Sponsor: Lyle W. Hillyard

House Sponsor: \(\)\ \rightarrow \(\)\ \rightarrow \(\)\ \Lowry \(\)Snow

#### **LONG TITLE**

#### **General Description:**

This bill {makes technical amendments to the Utah Uniform Parentage Act regarding parents and married couples} allows the enforcement of child support obligations against all parents.

#### **Highlighted Provisions:**

This bill:

- {makes changes throughout the act to allow the application of the act to same gender couples; and
- makes conforming and technical changes} allows the enforcement of child support
   obligations against all parents; and
- <u>states that a presumption of maternity shall be determined in the same manner as a presumption of paternity.</u>

#### Money Appropriated in this Bill:

None

#### **Other Special Clauses:**

None

#### **Utah Code Sections Affected:**

#### **AMENDS:**

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<del>{78B-6-110}</del>62A-11-307.1, as last amended by Laws of Utah <del>{2014}</del>1997, <del>{Chapter</del>}
          410} Chapters 174 and 232
       78B-6-120, as last amended by Laws of Utah 2013, Chapter 458
       78B-15-102, as renumbered and amended by Laws of Utah 2008, Chapter 3
       78B-15-104, as last amended by Laws of Utah 2010, Chapter 237
      78B-15-107, as renumbered and amended by Laws of Utah 2008, Chapter 3
      78B-15-111, as renumbered and amended by Laws of Utah 2008, Chapter 3
      78B-15-112, as renumbered and amended by Laws of Utah 2008, Chapter 3
      78B-15-113, as renumbered and amended by Laws of Utah 2008, Chapter 3
      78B-15-114, as renumbered and amended by Laws of Utah 2008, Chapter 3
       78B-15-115, as renumbered and amended by Laws of Utah 2008, Chapter 3
}
       78B-15-201, as renumbered and amended by Laws of Utah 2008, Chapter 3
       78B-15-202, as renumbered and amended by Laws of Utah 2008, Chapter 3
       78B-15-204, as renumbered and amended by Laws of Utah 2008, Chapter 3
       78B-15-301, as renumbered and amended by Laws of Utah 2008, Chapter 3
      78B-15-302, as renumbered and amended by Laws of Utah 2008, Chapter 3
       78B-15-303, as renumbered and amended by Laws of Utah 2008, Chapter 3
      78B-15-304, as renumbered and amended by Laws of Utah 2008, Chapter 3
      78B-15-305, as renumbered and amended by Laws of Utah 2008, Chapter 3
       78B-15-306, as renumbered and amended by Laws of Utah 2008, Chapter 3
      78B-15-307, as renumbered and amended by Laws of Utah 2008, Chapter 3
      78B-15-308, as renumbered and amended by Laws of Utah 2008, Chapter 3
       78B-15-310, as renumbered and amended by Laws of Utah 2008, Chapter 3
       78B-15-311, as renumbered and amended by Laws of Utah 2008, Chapter 3
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78B-15-312, as renumbered and amended by Laws of Utah 2008, Chapter 3

	78B-15-401, as renumbered and amended by Laws of Utah 2008, Chapter 3
	78B-15-402, as renumbered and amended by Laws of Utah 2008, Chapter 3
	78B-15-404, as renumbered and amended by Laws of Utah 2008, Chapter 3
	78B-15-405, as renumbered and amended by Laws of Utah 2008, Chapter 3
	78B-15-410, as renumbered and amended by Laws of Utah 2008, Chapter 3
-	78B-15-505, as renumbered and amended by Laws of Utah 2008, Chapter 3
-	78B-15-507, as renumbered and amended by Laws of Utah 2008, Chapter 3
	78B-15-602, as renumbered and amended by Laws of Utah 2008, Chapter 3
-	78B-15-603, as renumbered and amended by Laws of Utah 2008, Chapter 3
	78B-15-605, as renumbered and amended by Laws of Utah 2008, Chapter 3
	78B-15-606, as renumbered and amended by Laws of Utah 2008, Chapter 3
}	<b>78B-15-607</b> , as renumbered and amended by Laws of Utah 2008, Chapter 3
{	78B-15-608, as renumbered and amended by Laws of Utah 2008, Chapter 3
	78B-15-609, as renumbered and amended by Laws of Utah 2008, Chapter 3
	78B-15-613, as renumbered and amended by Laws of Utah 2008, Chapter 3
-	78B-15-614, as renumbered and amended by Laws of Utah 2008, Chapter 3
-	78B-15-615, as renumbered and amended by Laws of Utah 2008, Chapter 3
	78B-15-616, as renumbered and amended by Laws of Utah 2008, Chapter 3
	78B-15-617, as renumbered and amended by Laws of Utah 2008, Chapter 3
	78B-15-618, as renumbered and amended by Laws of Utah 2008, Chapter 3
	78B-15-620, as renumbered and amended by Laws of Utah 2008, Chapter 3
	78B-15-622, as renumbered and amended by Laws of Utah 2008, Chapter 3
	78B-15-623, as renumbered and amended by Laws of Utah 2008, Chapter 3
	78B-15-705, as renumbered and amended by Laws of Utah 2008, Chapter 3
	78B-15-801, as renumbered and amended by Laws of Utah 2008, Chapter 3
	78B-15-802, as renumbered and amended by Laws of Utah 2008, Chapter 3
	78B-15-803, as renumbered and amended by Laws of Utah 2008, Chapter 3
-	78B-15-806, as renumbered and amended by Laws of Utah 2008, Chapter 3
-	78B-15-808, as renumbered and amended by Laws of Utah 2008, Chapter 3

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

#### Section 1. Section **62A-11-307.1** is amended to read:

#### 62A-11-307.1. Collection directly from responsible parent.

- (1) The office may issue or modify an order under Section 62A-11-304.2 and collect under this part directly from a responsible parent if the procedural requirements of applicable law have been met and if public assistance is provided on behalf of that parent's dependent child. The direct right to issue an order under this Subsection (1) is independent of and in addition to the right derived from that assigned under Section 35A-3-108.
- (2) An order issuing or modifying a support obligation under Subsection (1), issued while public assistance was being provided for a dependent child, remains in effect and may be enforced by the office under Section 62A-11-306.1 after provision of public assistance ceases.
- (3) (a) The office may issue or modify an administrative order, subject to the procedural requirements of applicable law, that requires that obligee to pay to the office assigned support that an obligee receives and retains in violation of Subsection 62A-11-307.2(4) and may reduce to judgment any unpaid balance due.
- (b) The office may collect the judgment debt in the same manner as it collects any judgment for past-due support owed by an obligor.

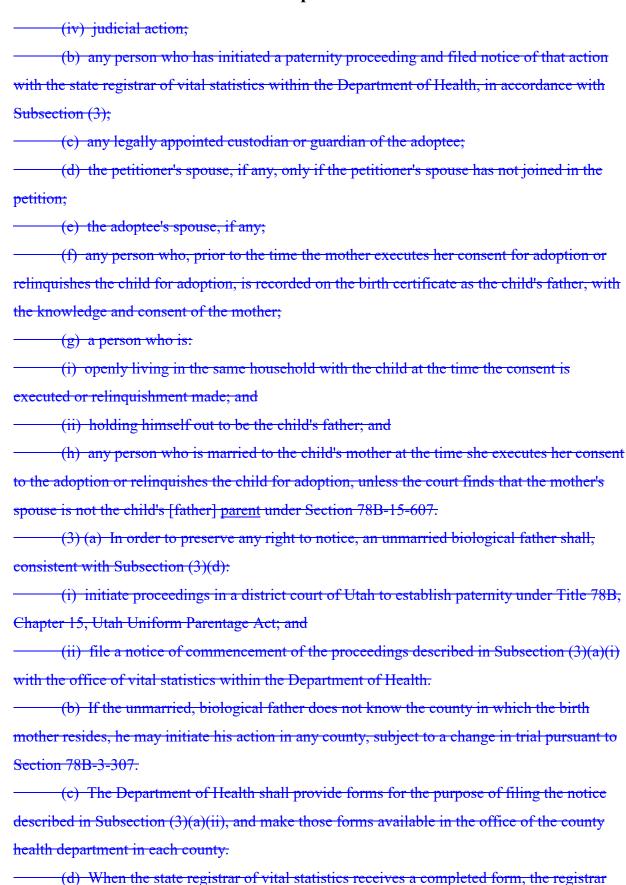
{Section 1. Section 78B-6-110 is amended to read:

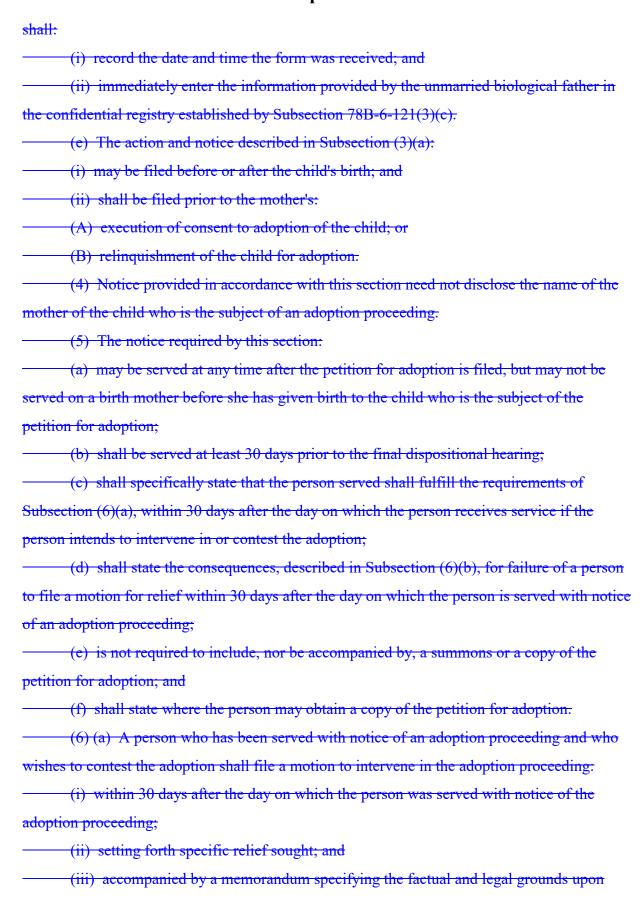
78B-6-110. Notice of adoption proceedings.

(1) (a) An unmarried biological father, by virtue of the fact that he has engaged in a sexual relationship with a woman:

(i) is considered to be on notice that a pregnancy and an adoption proceeding regarding the child may occur; and

- (ii) has a duty to protect his own rights and interests.
- (b) An unmarried biological father is entitled to actual notice of a birth or an adoption proceeding with regard to his child only as provided in this section or Section 78B-6-110.5.
  - (2) Notice of an adoption proceeding shall be served on each of the following persons:
- (a) any person or agency whose consent or relinquishment is required under Section 78B-6-120 or 78B-6-121, unless that right has been terminated by:
- (i) waiver;
- (ii) relinquishment;
- (iii) actual consent, as described in Subsection (12); or





which the motion is based.

(b) A person who fails to fully and strictly comply with all of the requirements described in Subsection (6)(a) within 30 days after the day on which the person was served with notice of the adoption proceeding: (i) waives any right to further notice in connection with the adoption; (ii) forfeits all rights in relation to the adoptee; and (iii) is barred from thereafter bringing or maintaining any action to assert any interest in the adoptee. (7) Service of notice under this section shall be made as follows: (a) (i) Subject to Subsection (5)(e), service on a person whose consent is necessary under Section 78B-6-120 or 78B-6-121 shall be in accordance with the provisions of the Utah Rules of Civil Procedure. (ii) If service of a person described in Subsection (7)(a)(i) is by publication, the court shall designate the content of the notice regarding the identity of the parties. (iii) The notice described in this Subsection (7)(a) may not include the name of a person seeking to adopt the adoptee. (b) (i) Except as provided in Subsection (7)(b)(ii) to any other person for whom notice is required under this section, service by certified mail, return receipt requested, is sufficient. (ii) If the service described in Subsection (7)(b)(i) cannot be completed after two attempts, the court may issue an order providing for service by publication, posting, or by any other manner of service. (c) Notice to a person who has initiated a paternity proceeding and filed notice of that action with the state registrar of vital statistics in the Department of Health in accordance with the requirements of Subsection (3), shall be served by certified mail, return receipt requested, at the last address filed with the registrar. (8) The notice required by this section may be waived in writing by the person entitled to receive notice. (9) Proof of service of notice on all persons for whom notice is required by this section shall be filed with the court before the final dispositional hearing on the adoption. (10) Notwithstanding any other provision of law, neither the notice of an adoption proceeding nor any process in that proceeding is required to contain the name of the person or

persons seeking to adopt the adoptee.

- (11) Except as to those persons whose consent to an adoption is required under Section 78B-6-120 or 78B-6-121, the sole purpose of notice under this section is to enable the person served to:
  - (a) intervene in the adoption; and
  - (b) present evidence to the court relevant to the best interest of the child.
- (12) In order to be excused from the requirement to provide notice as described in Subsection (2)(a) on the grounds that the person has provided consent to the adoption proceeding under Subsection (2)(a)(iii), the consent may not be implied consent, as described in Section 78B-6-120.1.
- †(4) Notwithstanding any other provision of law, the Office of Recovery Services shall have full standing and authority to establish and enforce child support obligations against an alleged parent currently or formerly in a same-sex marriage on the same terms as its authority against other mothers and fathers.

Section 2. Section **78B-6-120** is amended to read:

#### 78B-6-120. Necessary consent to adoption or relinquishment for adoption.

- (1) Except as provided in Subsection (2), consent to adoption of a child, or relinquishment of a child for adoption, is required from:
- (a) the adoptee, if the adoptee is more than 12 years of age, unless the adoptee does not have the mental capacity to consent;
  - (b) a \{\}man\{\} \{\person\}or woman\{\}who:
- (i) by operation of law under Section 78B-15-204, is recognized as the {{}} father {{}} father {{}} or mother of the proposed adoptee, unless:
  - (A) the presumption is rebutted under Section 78B-15-607; or
- (B) the man was not married to the mother of the proposed adoptee until after the mother consented to adoption, or relinquishment for adoption, of the proposed adoptee; or
  - (ii) is the father of the adoptee by a previous legal adoption;
  - (c) the mother of the adoptee;
- (d) a biological parent who has been adjudicated to be the child's biological father by a court of competent jurisdiction prior to the mother's execution of consent to adoption or her relinquishment of the child for adoption;

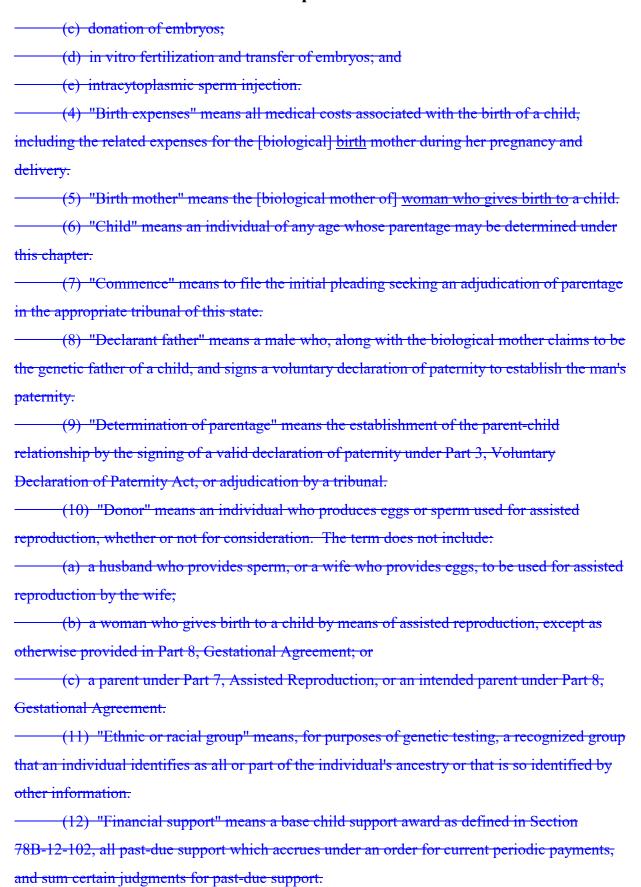
- (e) consistent with Subsection (3), a biological parent who has executed and filed a voluntary declaration of paternity with the state registrar of vital statistics within the Department of Health in accordance with Title 78B, Chapter 15, Utah Uniform Parentage Act, prior to the mother's execution of consent to adoption or her relinquishment of the child for adoption;
- (f) an unmarried biological father, of an adoptee, whose consent is not required under Subsection (1)(d) or (1)(e), only if he fully and strictly complies with the requirements of Sections 78B-6-121 and 78B-6-122; and
- (g) the person or agency to whom an adoptee has been relinquished and that is placing the child for adoption.
- (2) (a) The consent of a person described in Subsections (1)(b) through (g) is not required if the adoptee is 18 years of age or older.
- (b) The consent of a person described in Subsections (1)(b) through (f) is not required if the person's parental rights relating to the adoptee have been terminated.
- (3) For purposes of Subsection (1)(e), a voluntary declaration of paternity is considered filed when it is entered into a database that:
  - (a) can be accessed by the Department of Health; and
- (b) is designated by the state registrar of vital statistics as the official database for voluntary declarations of paternity.

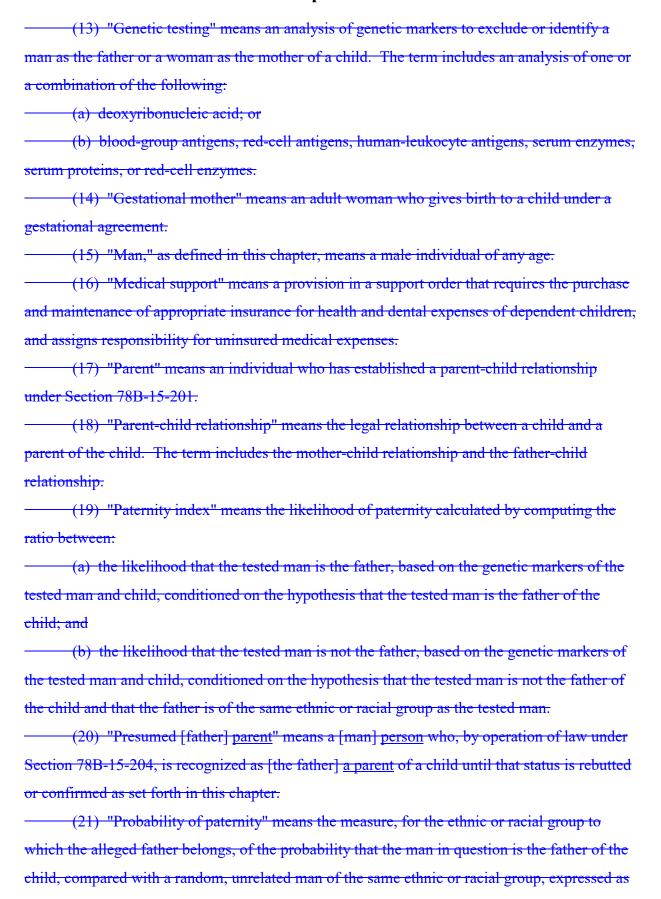
Section 3. Section <del>{78B-15-102}</del><del>78B-15-201</del> is amended to read:

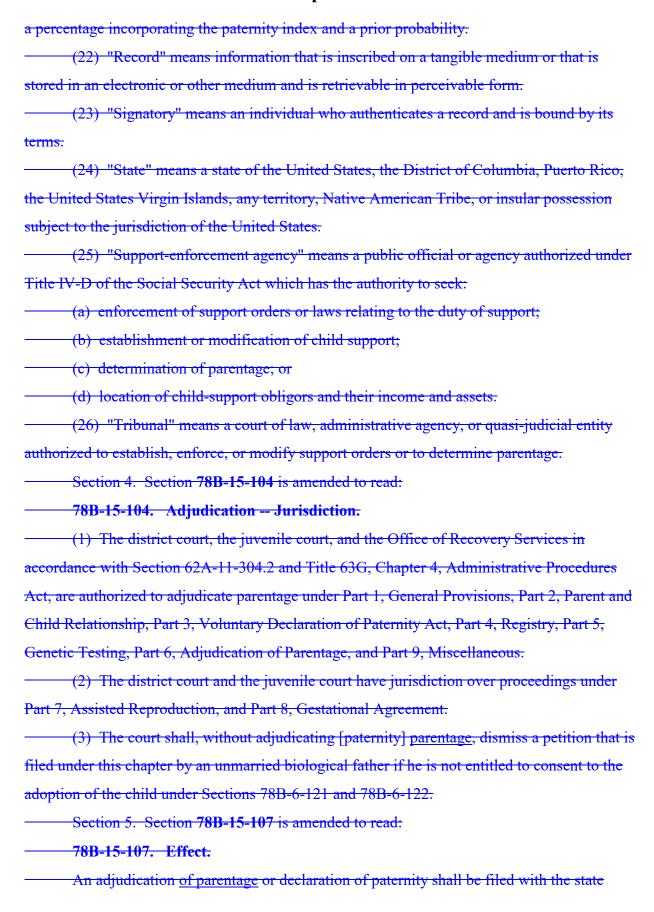
<del>₹ 78B-15-102. Definitions.</del>

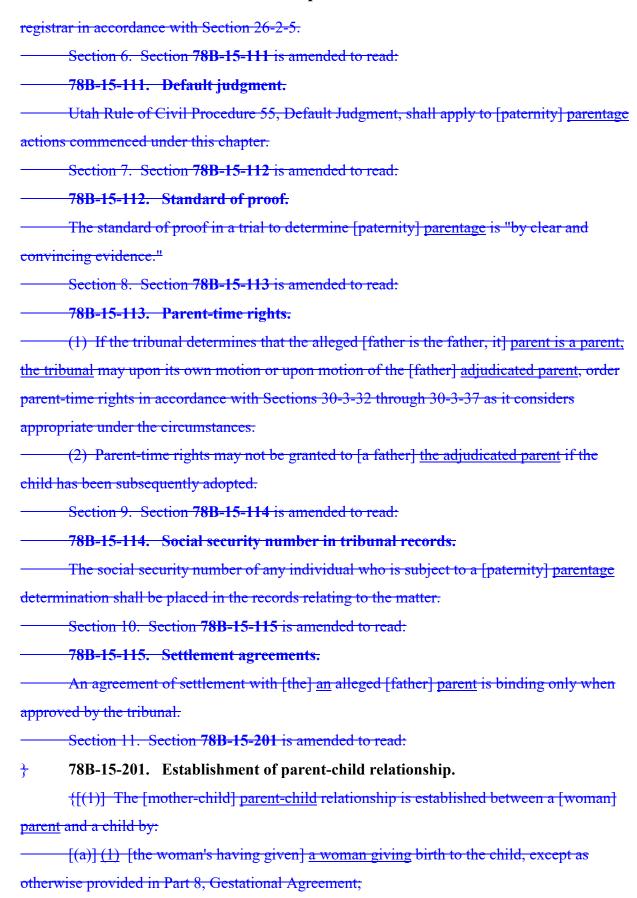
As used in this chapter:

- (1) "Adjudicated [father] parent" means a [man] person who has been adjudicated by a tribunal to be [the father] a parent of a child.
- (2) "Alleged father" means a man who alleges himself to be, or is alleged to be, the genetic father or a possible genetic father of a child, but whose paternity has not been determined.
- (3) "Assisted reproduction" means a method of causing pregnancy other than sexual intercourse. The term includes:
- (a) intrauterine insemination;
- (b) donation of eggs;







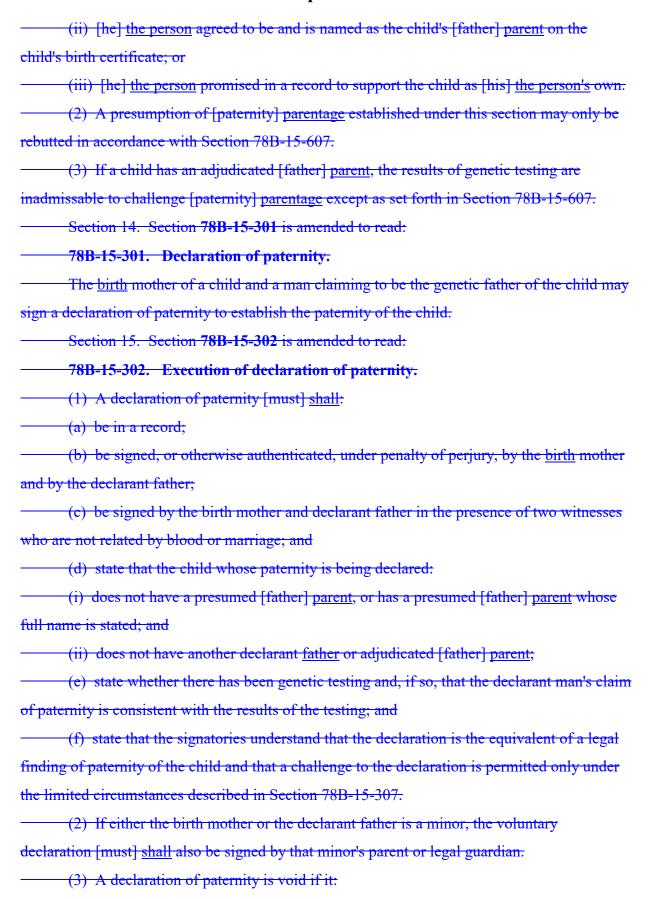


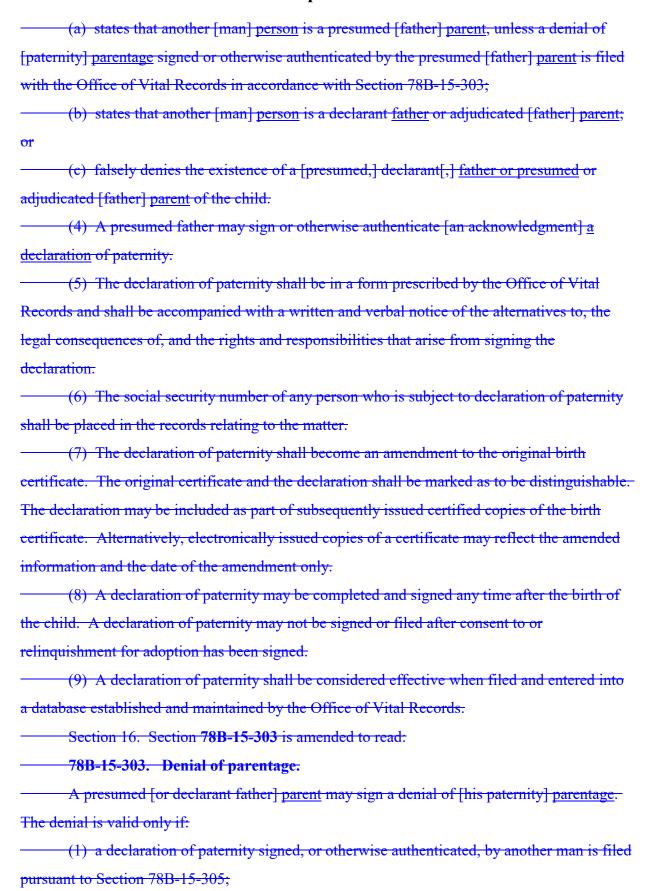
- -[(b)] (2) an adjudication of [the woman's maternity] parentage; [(c)] (3) adoption of the child [by the woman; or]; [(d)] (4) an adjudication confirming the [woman] person as a parent of a child born to a gestational mother if the agreement was validated under Part 8, Gestational Agreement, or is enforceable under other law[.]; (1) The father-child (1) (a) The mother-child relationship is established between a <del>{man}</del>woman and a child by:<del>{</del>} [(a)] (5) an unrebutted presumption of [the man's paternity] parentage of the child under Section 78B-15-204; [(b)] (6) an effective declaration of paternity by the man under Part 3, Voluntary Declaration of Paternity Act, unless the declaration has been rescinded or successfully challenged; or <del>-{(c)}</del> [(a)] (i) the woman's having given birth to the child, except as otherwise provided in Part 8, Gestational Agreement; [(b)] (ii) an adjudication of the {man's paternity} woman's maternity; {}}  $\left[\frac{d}{c}\right]$  (iii) adoption of the child by the  $\frac{c}{c}$ [({e)}] (7) the man having consented to assisted reproduction by a woman under Part 7, Assisted Reproduction, which resulted in the birth of the child[; or].  $\frac{\{(f)\}d}{(iv)}$  an adjudication confirming the  $\frac{\{(f)\}d}{\{(iv)\}}$  as a parent of a child born to a gestational mother if the agreement was validated under Part 8, Gestational Agreement, or is enforceable under other law ... Section 12}[-]; or (v) an unrebutted presumption of maternity of the child established in the same manner as under Section 78B-15-204. (b) In this chapter, the presumption of maternity shall be treated the same as a presumption of paternity as established in Subsection 78B-15-201(2)(a). (2) The father-child relationship is established between a man and a child by: (a) an unrebutted presumption of the man's paternity of the child under Section 78B-15-204;

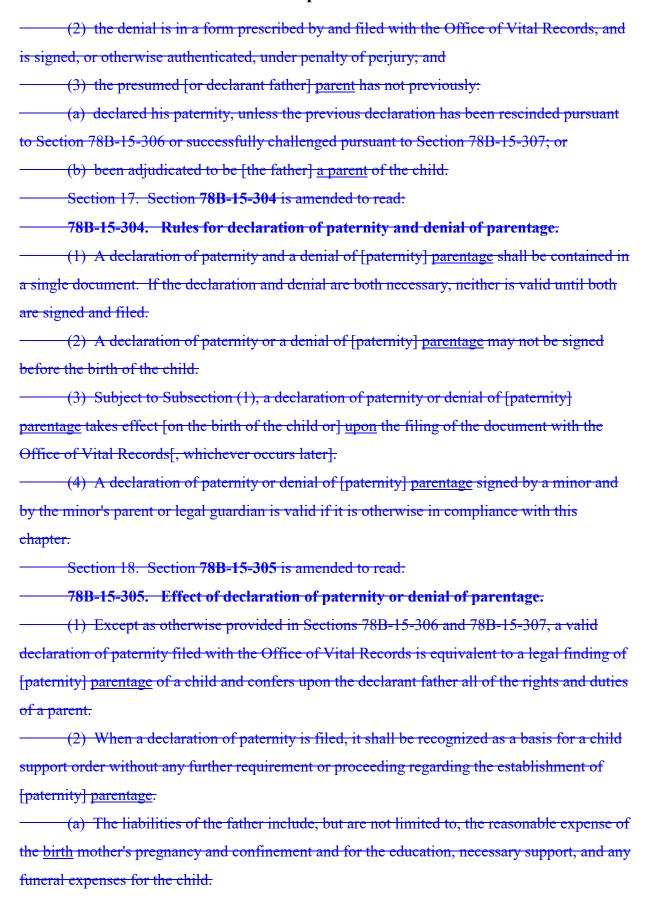
(b) an effective declaration of paternity by the man under Part 3, Voluntary Declaration

SB0179S01 compared with SB0179 of Paternity Act, unless the declaration has been rescinded or successfully challenged; (c) an adjudication of the man's paternity; (d) adoption of the child by the man; (e) the man having consented to assisted reproduction by a woman under Part 7, Assisted Reproduction, which resulted in the birth of the child; or (f) an adjudication confirming the man as a parent of a child born to a gestational mother if the agreement was validated under Part 8, Gestational Agreement, or is enforceable under other law. <u>Section 4</u>. Section  $\frac{78B-15-202}{78B-15-607}$  is amended to read: 78B-15-202. No discrimination based on marital status. A child born to parents who are not married to each other whose [paternity] parentage has been determined under this chapter has the same rights under the law as a child born to parents who are married to each other. Section 13. Section 78B-15-204 is amended to read: 78B-15-204. Presumption of parentage. (1) A [man] person is presumed to be [the father] a parent of a child if: (a) [he] the person and the birth mother of the child are married to each other and the child is born during the marriage; (b) [he] the person and the birth mother of the child were married to each other and the child is born within 300 days after the marriage is terminated by death, annulment, declaration of invalidity, or divorce, or after a decree of separation; (c) before the birth of the child, [he] the person and the birth mother of the child married each other in apparent compliance with law, even if the attempted marriage is or could be declared invalid, and the child is born during the invalid marriage or within 300 days after its termination by death, annulment, declaration of invalidity, or divorce or after a decree of separation; or (d) after the birth of the child, [he] the person and the birth mother of the child married

- (d) after the birth of the child, [he] the person and the birth mother of the child married each other in apparent compliance with law, whether or not the marriage is, or could be declared, invalid, [he] the person voluntarily asserted [his paternity] parentage of the child, and there is no other presumptive [father] parent of the child, and:
  - (i) the assertion is in a record filed with the Office of Vital Records;

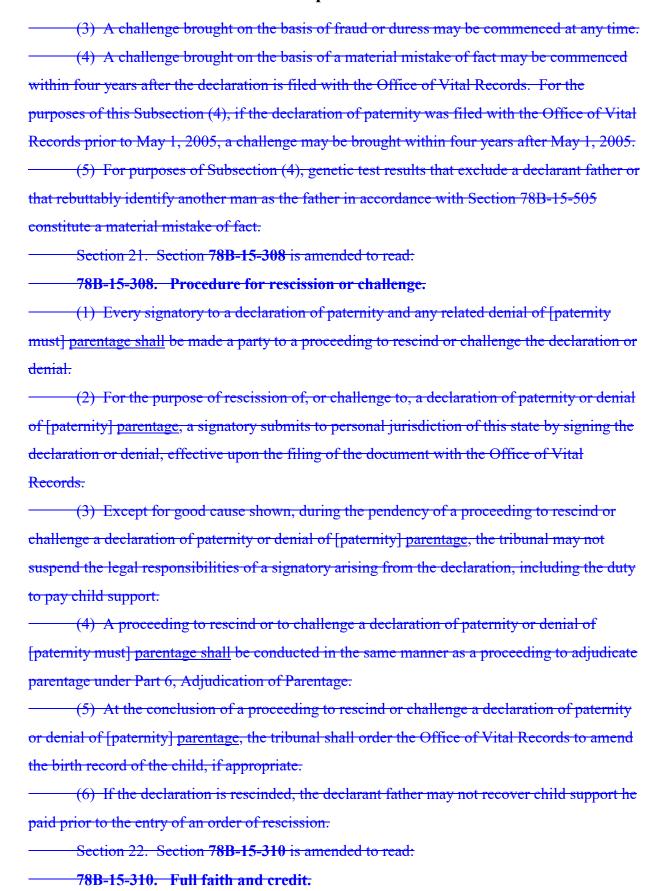


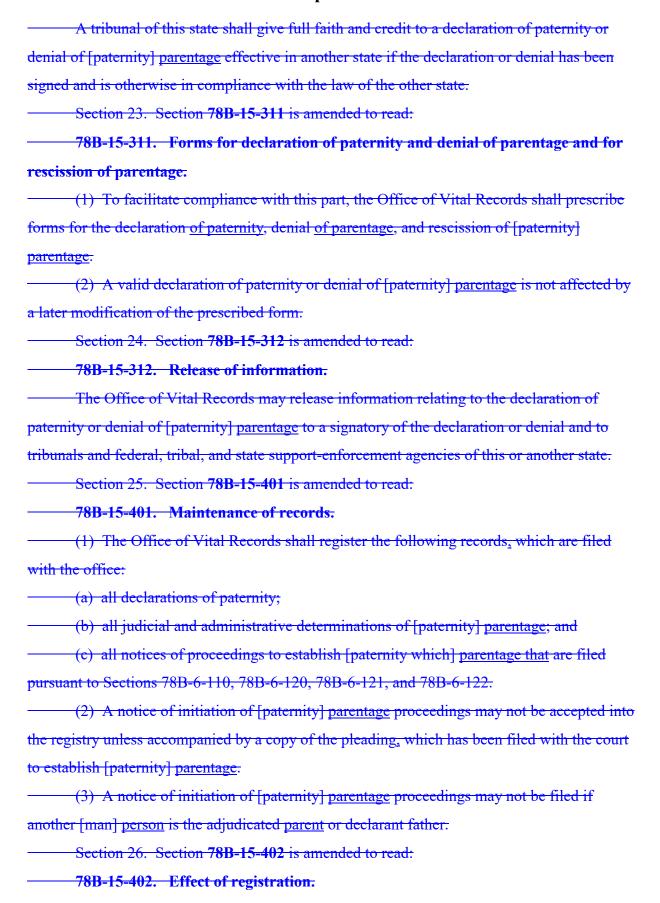


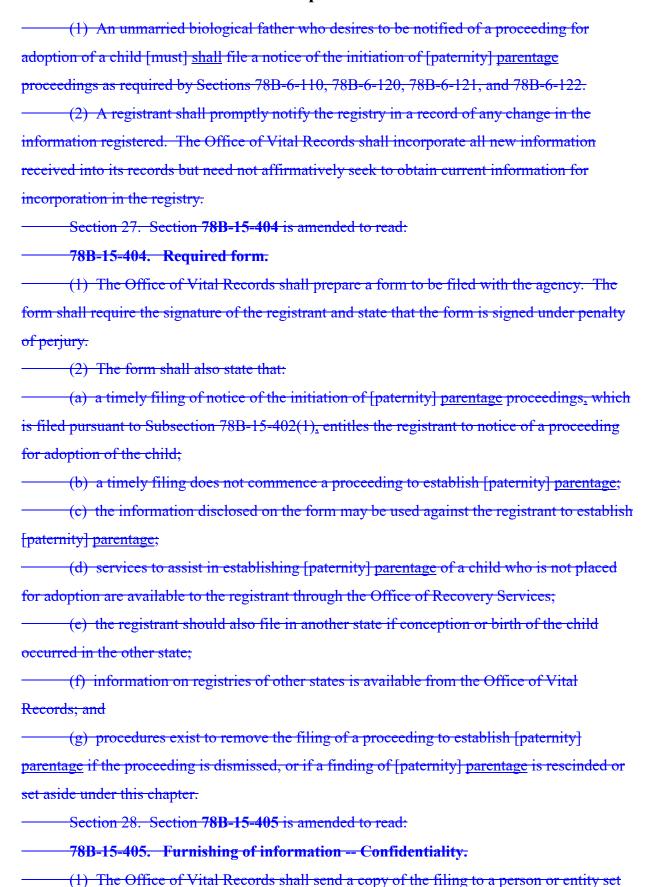


(b) When a father declares paternity, his liability for past amounts due is limited to the period of four years immediately preceding the date that the voluntary declaration of paternity was filed. (3) Except as otherwise provided in Sections 78B-15-306 and 78B-15-307, a valid denial of [paternity] parentage by a presumed [or declarant father] parent filed with the Office of Vital Records in conjunction with a valid declaration of paternity is equivalent to a legal finding of the [nonpaternity] nonparentage of the presumed [or declarant father] parent and discharges the presumed [or declarant father] parent from all rights and duties of a parent. If a valid denial of [paternity] parentage is filed with the Office of Vital Records, the [declarant or] presumed [father] parent may not recover child support [he] paid prior to the time of filing. Section 19. Section 78B-15-306 is amended to read: 78B-15-306. Proceeding for rescission. (1) A signatory may rescind a declaration of paternity or denial of [paternity] parentage by filing a voluntary rescission document with the Office of Vital Records in a form prescribed by the office before the earlier of: (a) 60 days after the effective date of the declaration or denial, as provided in Sections 78B-15-303 and 78B-15-304; or (b) the date of notice of the first adjudicative proceeding to which the signatory is a party, before a tribunal to adjudicate an issue relating to the child, including a proceeding that establishes support. (2) Upon receiving a voluntary rescission document from a signatory under Subsection (1), the Office of Vital Records shall provide notice of the rescission, by mail, to the other signatory at the last-known address of that signatory. Section 20. Section 78B-15-307 is amended to read: 78B-15-307. Challenge after expiration of period for rescission. (1) After the period for rescission under Section 78B-15-306 has expired, a signatory of a declaration of paternity or denial of [paternity] parentage, or a support-enforcement agency, may commence a proceeding to challenge the declaration or denial only on the basis of fraud, duress, or material mistake of fact. (2) A party challenging a declaration of paternity or denial of [paternity] parentage has

the burden of proof.

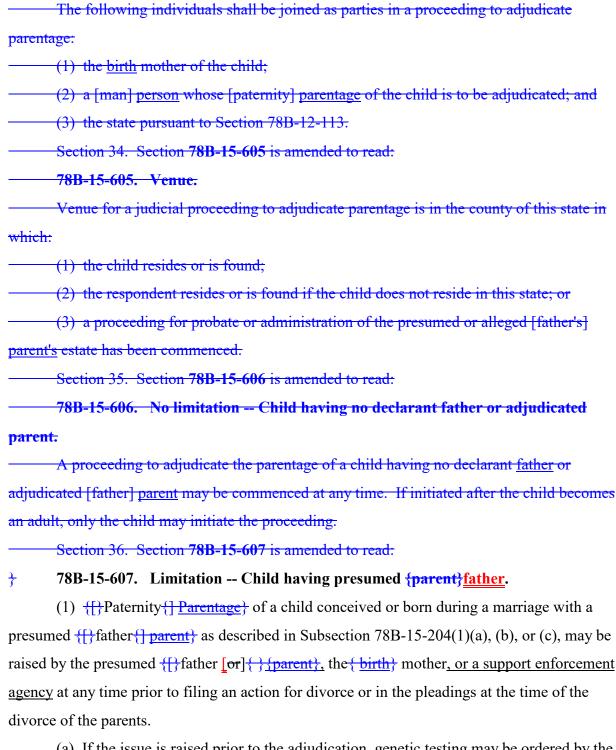






forth in Subsection (2), who has requested a copy. The copy of the filing shall be sent to the most recent address provided by the requestor. (2) Information contained in records which are filed pursuant to Section 78B-15-401 is confidential and may be released on request only to: (a) a tribunal or a person designated by the tribunal; (b) the birth mother of the child who is the subject of the filing; (c) an agency authorized by other law to receive the information; (d) a licensed child-placing agency; (e) the Office of Recovery Services, the Office of the Attorney General, or a support-enforcement agency of another state or tribe; (f) a party or the party's attorney of record in a proceeding under this chapter or in a proceeding for adoption of, or for termination of parental rights regarding, a child who is the subject of the filing; and (g) the registry of paternity or its equivalent in another state. Section 29. Section 78B-15-410 is amended to read: 78B-15-410. Admissibility of information. A certificate of search of the registry of paternity or its equivalent in this or another state is admissible in a proceeding for adoption of a child and, if relevant, in other legal proceedings. Section 30. Section 78B-15-505 is amended to read: 78B-15-505. Genetic testing results -- Rebuttal. (1) Under this chapter, a man is presumed to be identified as the father of a child if the genetic testing complies with this part and the results disclose that: (a) the man has at least a 99% probability of paternity, using a prior probability of 0.50, as calculated by using the combined paternity index obtained in the testing; and (b) a combined paternity index of at least 100 to 1. (2) A man identified under Subsection (1) as the father of the child may rebut the genetic testing results only by other genetic testing satisfying the requirements of this part which: (a) excludes the man as a genetic father of the child; or (b) identifies another man as the possible father of the child.

(3) If an issue is raised as to whether the appropriate ethnic or racial group database
was used by the testing laboratory, the testing laboratory will be asked to rerun the test using
the correct ethnic or racial group database. If the testing laboratory does not have an adequate
database, another testing laboratory may be engaged to perform the calculations.
(4) If a presumption of [paternity] parentage is not rebutted by a second test, the
tribunal shall issue an order establishing [paternity] parentage.
Section 31. Section 78B-15-507 is amended to read:
78B-15-507. Additional genetic testing.
The tribunal shall order additional genetic testing upon the request of a party who
contests the result of the original testing. If the previous genetic testing identified a man as the
father of the child under Section 78B-15-505, the tribunal may not order additional testing
unless the party provides advance payment for the testing. If the tribunal orders a second
genetic test in accordance with this section, the additional testing [must] shall be completed
within 45 days of the tribunal's order or the requesting party's objection to the first test will be
automatically denied. If failure to complete the test occurs because of noncooperation of the
birth mother or unavailability of the child, the time will be tolled.
Section 32. Section 78B-15-602 is amended to read:
78B-15-602. Standing to maintain proceeding.
Subject to Part 3, Voluntary Declaration of Paternity Act, and Sections 78B-15-607 and
78B-15-609, a proceeding to adjudicate parentage may be maintained by:
(1) the child;
(2) the <u>birth</u> mother of the child;
(3) a [man] person whose [paternity] parentage of the child is to be adjudicated;
(4) the support-enforcement agency or other governmental agency authorized by other
<del>law;</del>
(5) an authorized adoption agency or licensed child-placing agency;
(6) a representative authorized by law to act for an individual who would otherwise be
entitled to maintain a proceeding but who is deceased, incapacitated, or a minor; or
(7) an intended parent under Part 8, Gestational Agreement.
Section 33. Section 78B-15-603 is amended to read:
78B-15-603. Parties to proceeding.



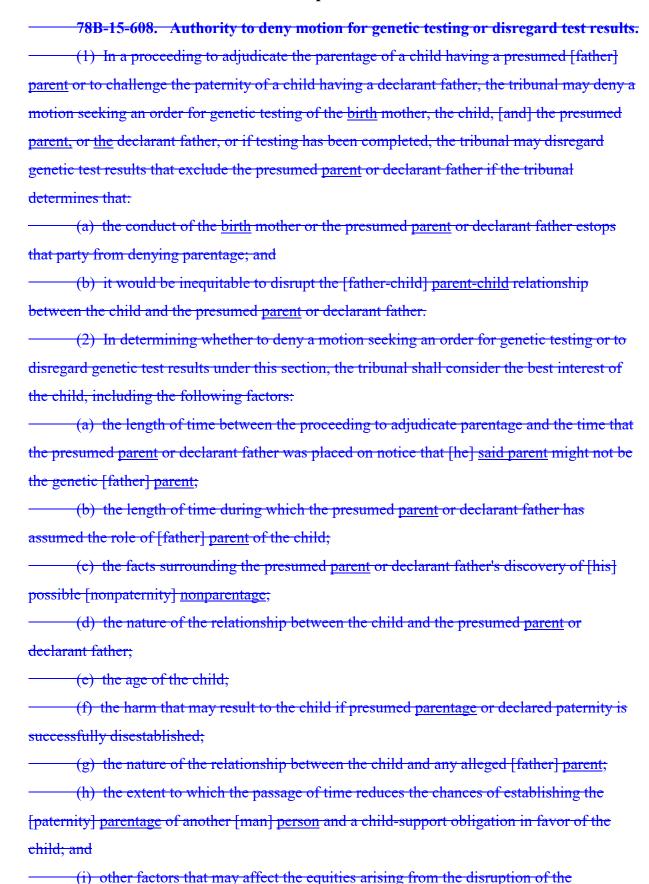
(a) If the issue is raised prior to the adjudication, genetic testing may be ordered by the tribunal in accordance with Section 78B-15-608. Failure of the {birth} mother of the child to appear for testing may result in an order allowing a motherless calculation of paternity. Failure of {{}} the mother{{}} a parent{} to make the child available may not result in a determination that the presumed {{}} father{{}} parent{}} is not {{}} the father{{}} a parent{}}, but shall allow for

appropriate proceedings to compel the cooperation of the {{}} mother{{}} noncompliant parent}. If the question of {{}} paternity{{}} parentage} has been raised in the pleadings in a divorce and the tribunal addresses the issue and enters an order, the parties are estopped from raising the issue again, and the order of the tribunal may not be challenged on the basis of material mistake of fact.

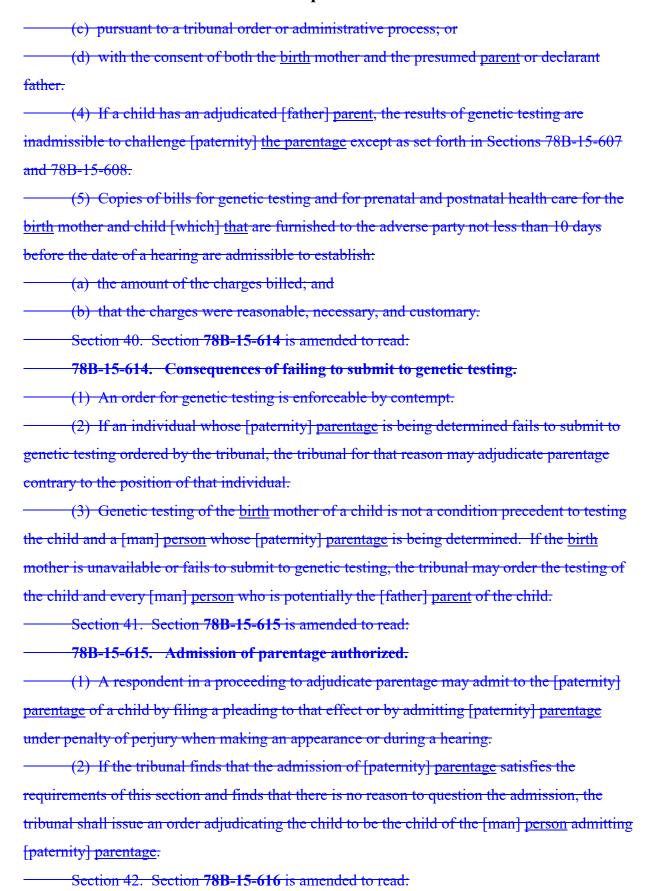
- (b) If the presumed {{}} father{{}} parent} seeks to rebut the presumption of {{}} parentity{{}} parentage}, then denial of a motion seeking an order for genetic testing or a decision to disregard genetic test results shall be based on a preponderance of the evidence.
- (c) If the {birth} mother seeks to rebut the presumption of {{}} paternity{{}} parentage}, the {birth} mother has the burden to show by a preponderance of the evidence that it would be in the best interests of the child to disestablish the parent-child relationship.
- (d) If a support enforcement agency seeks to rebut the presumption of parentage {, then denial of a} and the presumptive parent opposes the rebuttal, the agency's request shall be denied. Otherwise, the denial of the agency's motion seeking an order for genetic testing or a decision to disregard genetic test results shall be based on a preponderance of the evidence, taking into account the best interests of the child.
- (2) For the presumption outside of marriage described in Subsection 78B-15-204(1)(d), the presumption may be rebutted at any time if the tribunal determines that the presumed {{} birth} and the {birth} mother of the child neither cohabited nor engaged in sexual intercourse with each other during the probable time of conception.
  - (3) The presumption may be rebutted by:
  - (a) genetic test results that exclude the presumed {[]} father {[] parent};
- (b) genetic test results that rebuttably identify another {{}}man{{}} person{}} as the {{}}father{{}} parent{}} in accordance with Section 78B-15-505;
- (c) evidence that the presumed {[} father{] parent} and the{ birth} mother of the child neither cohabited nor engaged in sexual intercourse with each other during the probable time of conception; or
  - (d) an adjudication under this part.
- (4) There is no presumption to rebut if the presumed {{}} father {{}} parent} was properly served and there has been a final adjudication of the issue.

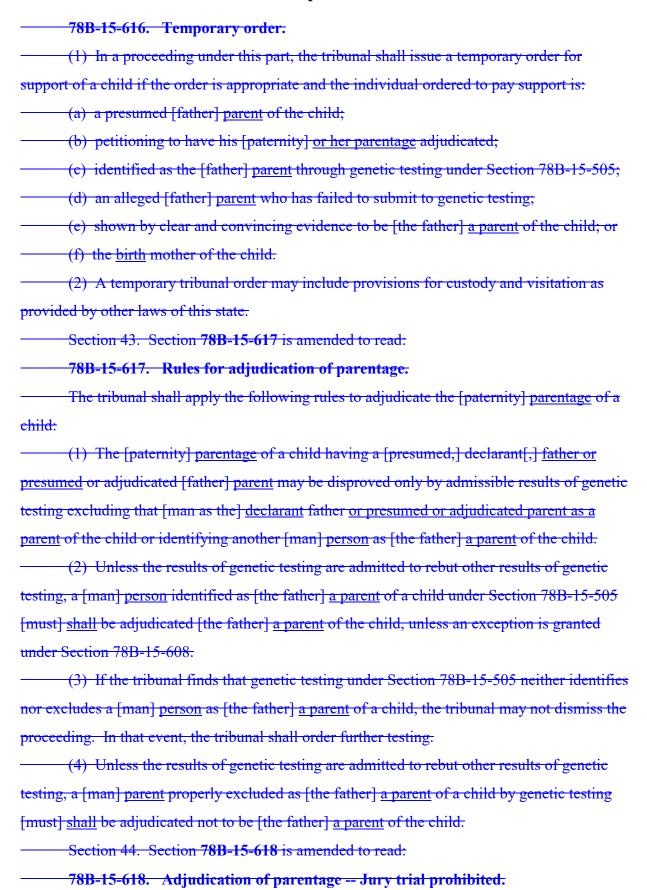
Section 37. Section 78B-15-608 is amended to read:

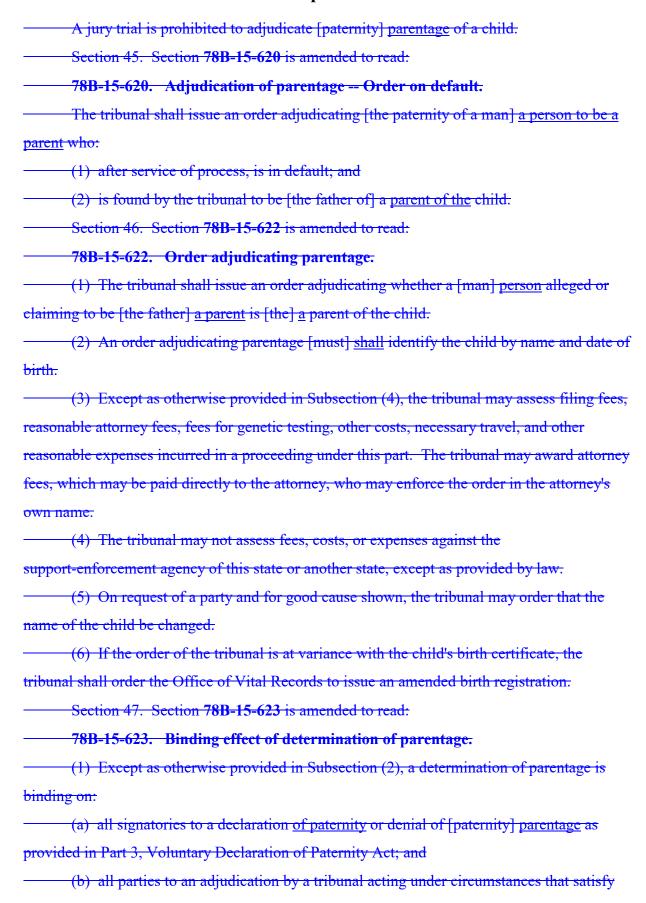
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[father-child] parent-child relationship between the child and the presumed parent or declarant father or the chance of other harm to the child. (3) If the tribunal denies a motion seeking an order for genetic testing or disregards genetic test results that exclude the presumed parent or declarant father, [it] the tribunal shall issue an order adjudicating the presumed parent or declarant father to be [the father] a parent of the child. Section 38. Section 78B-15-609 is amended to read: 78B-15-609. Limitation -- Child having declarant father. (1) If a child has a declarant father, a signatory to the declaration of paternity or denial of [paternity] parentage or a support-enforcement agency may commence a proceeding seeking to rescind the declaration or denial or challenge the [paternity] parentage of the child only within the time allowed under Section 78B-15-306 or 78B-15-307. (2) A proceeding under this section is subject to the application of the principles of estoppel established in Section 78B-15-608. Section 39. Section 78B-15-613 is amended to read: 78B-15-613. Admissibility of results of genetic testing -- Expenses. (1) Except as otherwise provided in Subsection (3), a record of a genetic-testing expert is admissible as evidence of the truth of the facts asserted in the report unless a party objects to its admission within 14 days after its receipt by the objecting party and cites specific grounds for exclusion. Unless a party files a timely objection, testimony shall be in affidavit form. The admissibility of the report is not affected by whether the testing was performed: (a) voluntarily or pursuant to an order of the tribunal; or (b) before or after the commencement of the proceeding. (2) A party objecting to the results of genetic testing may call one or more genetic-testing experts to testify in person or by telephone, video conference, deposition, or another method approved by the tribunal. Unless otherwise ordered by the tribunal, the party offering the testimony bears the expense for the expert testifying. (3) If a child has a presumed parent or declarant father, the results of genetic testing are inadmissible to adjudicate parentage unless performed: (a) pursuant to Section 78B-15-503; (b) within the time periods set forth in this chapter; and

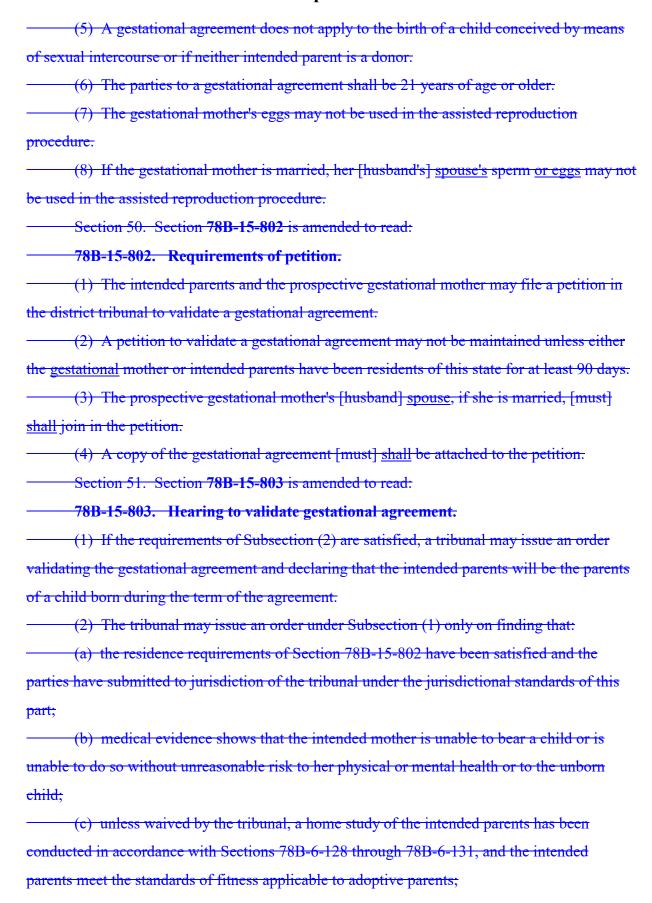


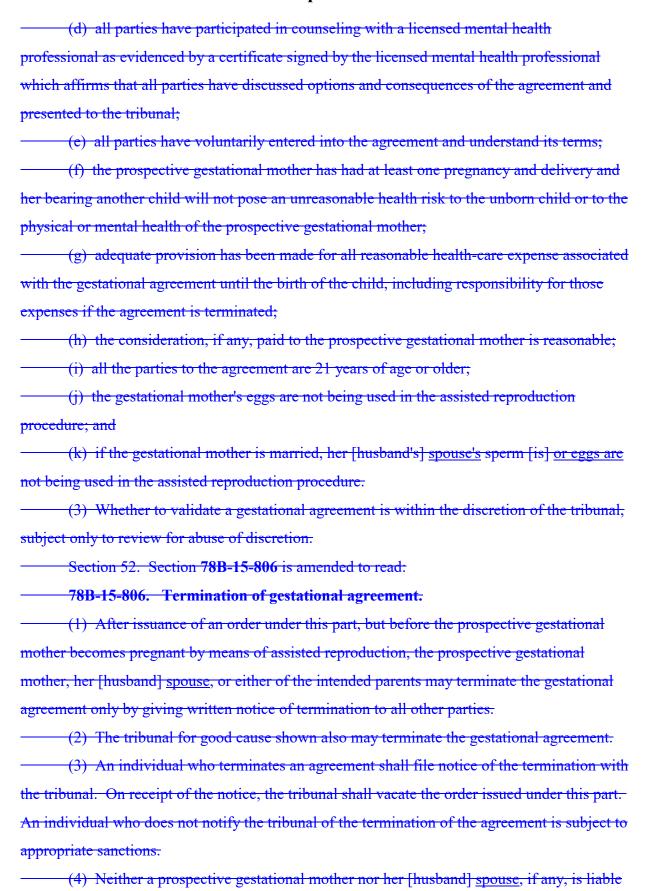


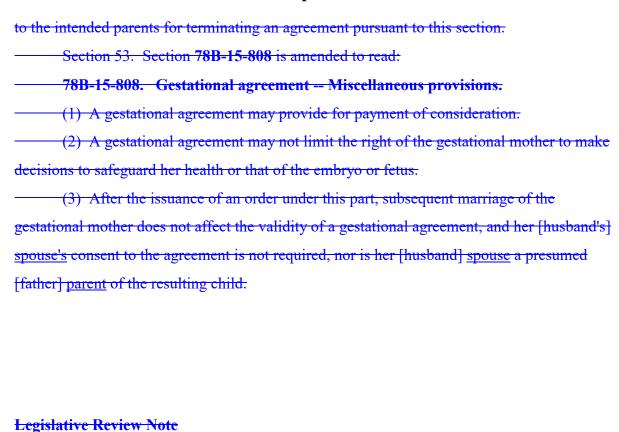


the jurisdictional requirements of Section 78B-14-201. (2) A child is not bound by a determination of parentage under this chapter unless: (a) the determination was based on an unrescinded declaration of paternity and the declaration is consistent with the results of genetic testing; (b) the adjudication of parentage was based on a finding consistent with the results of genetic testing and the consistency is declared in the determination or is otherwise shown; or (c) the child was a party or was represented in the proceeding determining parentage by a guardian ad litem. (3) In a proceeding to dissolve a marriage, the tribunal is considered to have made an adjudication of the parentage of a child if the question of [paternity] parentage is raised and the tribunal adjudicates according to Part 6, Adjudication of Parentage, and the final order: (a) expressly identifies a child as a "child of the marriage," "issue of the marriage," or similar words indicating that the [husband is the father] spouse is a parent of the child; or (b) provides for support of the child by the [husband] spouse unless [paternity] parentage is specifically disclaimed in the order. (4) The tribunal is not considered to have made an adjudication of the parentage of a child if the child was born at the time of entry of the order and other children are named as children of the marriage, but that child is specifically not named. (5) Once the [paternity] parentage of a child has been adjudicated, an individual who was not a party to the [paternity] parentage proceeding may not challenge the [paternity] parentage, unless: (a) the party seeking to challenge can demonstrate a fraud upon the tribunal; (b) the challenger can demonstrate by clear and convincing evidence that the challenger did not know about the adjudicatory proceeding or did not have a reasonable opportunity to know of the proceeding; and (c) there would be harm to the child to leave the order in place. (6) A party to an adjudication of [paternity] parentage may challenge the adjudication only under law of this state relating to appeal, vacation of judgments, or other judicial review. Section 48. Section 78B-15-705 is amended to read: 78B-15-705. Limitation on spouse's dispute of parentage. (1) Except as otherwise provided in Subsection (2), the [husband] spouse of a [wife]

birth mother who gives birth to a child by means of assisted reproduction may not challenge [his paternity] the spouse's parentage of the child unless: (a) within two years after learning of the birth of the child [he] the spouse commences a proceeding to adjudicate [his paternity] parentage of the child; and (b) the tribunal finds that [he] the spouse did not consent to the assisted reproduction, before or after the birth of the child. (2) A proceeding to adjudicate [paternity] parentage may be maintained at any time if the tribunal determines that: (a) the husband did not provide sperm for, or before or after the birth of the child consent to, assisted reproduction by his wife; (b) the [husband] spouse and the birth mother of the child have not cohabited since the probable time of assisted reproduction; and (c) the [husband] spouse never openly treated the child as [his] the spouse's own. (3) The limitation provided in this section applies to a marriage declared invalid after assisted reproduction. Section 49. Section 78B-15-801 is amended to read: 78B-15-801. Gestational agreement authorized. (1) A prospective gestational mother, her [husband] spouse if she is married, a donor or the donors, and the intended parents may enter into a written agreement providing that: (a) the prospective gestational mother agrees to pregnancy by means of assisted reproduction; (b) the prospective gestational mother, her [husband] spouse if she is married, and the donors relinquish all rights and duties as the parents of a child conceived through assisted reproduction; and (c) the intended parents become the parents of the child. (2) The intended gestational mother may not currently be receiving Medicaid or any other state assistance. (3) The intended parents shall be married, and both spouses [must] shall be parties to the gestational agreement. (4) A gestational agreement is enforceable only if validated as provided in Section <del>78B-15-803.</del>







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