

# STATE OF NEW YORK

1071--A

2019-2020 Regular Sessions

## IN ASSEMBLY

January 14, 2019

Introduced by M. of A. PAULIN, ZEBROWSKI, WEPRIN, GALEF, JAFFEE, OTIS, COOK, STIRPE, BENEDETTO, BRONSON, MOSLEY, ORTIZ, DINOWITZ, L. ROSENTHAL, STECK, HEVESI, SIMON, WOERNER, SOLAGES, CARROLL, FAHY, SEAWRIGHT, DE LA ROSA, ROZIC, SIMOTAS, LAVINE, EPSTEIN, DICKENS -- Multi-Sponsored by -- M. of A. ENGLEBRIGHT, GOTTFRIED, PEOPLES-STOKES, THIELE -- read once and referred to the Committee on Judiciary -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the family court act, in relation to establishing the child-parent security act; to amend the domestic relations law, in relation to surrogate parenting agreements; to amend the public health law, in relation to voluntary acknowledgments of parentage and to repeal section 73 of the domestic relations law, relating to legitimacy of children born by artificial insemination

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The family court act is amended by adding a new article 5-C  
2 to read as follows:

3 ARTICLE 5-C

4 CHILD-PARENT SECURITY ACT

5 PART 1. General provisions (581-101 - 581-103)

6 2. Judgment of parentage (581-201 - 581-206)

7 3. Child of assisted reproduction (581-301 - 581-307)

8 4. Gestational agreement (581-401 - 581-408)

9 5. Payment to donors and gestational carriers (581-501 - 581-502)

10 6. Miscellaneous provisions (581-601 - 581-604)

11 PART 1

12 GENERAL PROVISIONS

13 Section 581-101. Short title.

14 581-102. Purpose.

EXPLANATION--Matter in italics (underscored) is new; matter in brackets [-] is old law to be omitted.

LBD01279-04-9

1           581-103. Definitions.

2           § 581-101. Short title. This article shall be known and may be cited  
3 as the "child-parent security act".

4           § 581-102. Purpose. The purpose of this article is to legally estab-  
5 lish a child's relationship to his or her parents where the child is  
6 conceived through assisted reproduction except for children born to a  
7 surrogate who contributed the gametes used in conception.

8           § 581-103. Definitions. (a) "Assisted reproduction" means a method of  
9 causing pregnancy other than sexual intercourse and includes but is not  
10 limited to:

- 11           1. intrauterine or vaginal insemination;
- 12           2. donation of gametes;
- 13           3. donation of embryos;
- 14           4. in vitro fertilization and transfer of embryos; and
- 15           5. intracytoplasmic sperm injection.

16           (b) "Child" means a live born individual of any age whose parentage  
17 may be determined under this act or other law.

18           (c) "Compensation" means payment of any valuable consideration for  
19 time, effort, pain and/or risk to health in excess of reasonable medical  
20 and ancillary costs.

21           (d) "Donor" means an individual who does not intend to be a parent who  
22 produces gametes and provides them to another person, other than the  
23 individual's spouse, for use in assisted reproduction. The term does  
24 not include a person who is a parent under part three of this article.  
25 Donor also includes an individual who had dispositional control of an  
26 embryo who then transfers dispositional control and relinquishes all  
27 present and future parental and inheritance rights and obligations to a  
28 resulting child.

29           (e) "Embryo" means a cell or group of cells containing a diploid  
30 complement of chromosomes or group of such cells, not a gamete or  
31 gametes, that has the potential to develop into a live born human being  
32 if transferred into the body of a woman under conditions in which  
33 gestation may be reasonably expected to occur.

34           (f) "Embryo transfer" means all medical and laboratory procedures that  
35 are necessary to effectuate the transfer of an embryo into the uterine  
36 cavity.

37           (g) "Gamete" means a cell containing a haploid complement of DNA that  
38 has the potential to form an embryo when combined with another gamete.  
39 Sperm and eggs are gametes. A gamete may consist of nuclear DNA from one  
40 human being combined with the cytoplasm, including cytoplasmic DNA, of  
41 another human being.

42           (h) "Gestational agreement" is a contract between an intended parent  
43 and a gestational carrier intended to result in a live birth where the  
44 child will be the legal child of the intended parents.

45           (i) "Gestational carrier" means an adult person not an intended  
46 parent, who enters into a gestational agreement to bear a child who will  
47 be the legal child of the intended parent so long as she has not  
48 provided the egg used to conceive the resulting child.

49           (j) "Gestational carrier arrangement" means the process by which a  
50 gestational carrier attempts to carry and give birth to a child created  
51 through assisted reproduction so long as the gestational carrier has not  
52 provided the egg used to conceive the resulting child.

53           (k) "Health care practitioner" means an individual licensed or certi-  
54 fied under title eight of the education law acting within his or her  
55 scope of practice.

1 (l) "Intended parent" is an individual who manifests the intent to be  
2 legally bound as the parent of a child resulting from assisted reprod-  
3 uction or a gestational carrier arrangement provided he or she meets the  
4 requirements of this article.

5 (m) "In vitro fertilization" means the formation of a human embryo  
6 outside the human body.

7 (n) "Parent" means an individual who has established a parent-child  
8 relationship under this act or other law.

9 (o) "Participant" is an individual who either: provides a gamete that  
10 is used in assisted reproduction, is an intended parent, is a gestation-  
11 al carrier, or is the spouse of an intended parent or gestational carri-  
12 er.

13 (p) "Record" means information inscribed in a tangible medium or  
14 stored in an electronic or other medium that is retrievable in perceiva-  
15 ble form.

16 (q) "Retrieval" means the procurement of eggs or sperm from a gamete  
17 provider.

18 (r) "Spouse" means an individual married to another, or who has a  
19 legal relationship entered into under the laws of the United States or  
20 of any state, local or foreign jurisdiction, which is substantially  
21 equivalent to a marriage, including a civil union or domestic partner-  
22 ship.

23 (s) "State" means a state of the United States, the District of Colum-  
24 bia, Puerto Rico, the United States Virgin Islands, or any territory or  
25 insular possession subject to the jurisdiction of the United States.

26 (t) "Transfer" means the placement of an embryo or gametes into the  
27 body of a woman with the intent to achieve pregnancy and live birth.

28 PART 2

29 JUDGMENT OF PARENTAGE

30 Section 581-201. Judgment of parentage.

31 581-202. Proceeding for judgment of parentage of a child  
32 conceived through assisted reproduction.

33 581-203. Proceeding for judgment of parentage of a child  
34 conceived pursuant to a gestational carrier arrange-  
35 ment.

36 581-204. Judgment of parentage for intended parents who are  
37 spouses.

38 581-205. Inspection of records.

39 581-206. Jurisdiction, and exclusive continuing jurisdiction.

40 § 581-201. Judgment of parentage. (a) A civil proceeding may be main-  
41 tained to adjudicate the parentage of a child under the circumstances  
42 set forth in this article. This proceeding is governed by the civil  
43 practice law and rules.

44 (b) A judgment of parentage may be issued prior to birth but shall not  
45 become effective until the birth of the child.

46 (c) A judgment of parentage shall be issued by the court upon the  
47 petition of (1) a child, or (2) a parent, or (3) a participant, or (4) a  
48 person with a claim to parentage, or (5) the support/enforcement agency  
49 or other governmental agency authorized by other law, or (6) a represen-  
50 tative authorized by law to act for an individual who would otherwise be  
51 entitled to maintain a proceeding but who is deceased, incapacitated, or  
52 a minor, in order to legally establish the child-parent relationship of  
53 either a child born through assisted reproduction under part three of  
54 this article or a child born pursuant to a gestational carrier arrange-  
55 ment under part four of this article.

1 § 581-202. Proceeding for judgment of parentage of a child conceived  
2 through assisted reproduction. (a) A proceeding for a judgment of  
3 parentage with respect to a child conceived through assisted reprod-  
4 uction may be commenced:

5 (1) if the intended parent resides in New York state, in the county  
6 where the intended parent resides any time after pregnancy is achieved  
7 or in the county where the child was born or resides; or

8 (2) if the intended parent and child do not reside in New York state,  
9 up to ninety days after the birth of the child in the county where the  
10 child was born.

11 (b) The petition for a judgment of parentage must be verified.

12 (c) Where a petition includes the following statements, the court must  
13 adjudicate any intended parent to be the parent of the child:

14 (1) a statement that an intended parent has been a resident of the  
15 state for at least ninety days or if an intended parent is not a New  
16 York state resident, that the child will be or was born in the state  
17 within ninety days of filing; and

18 (2) a statement from the gestating parent that the gestating parent  
19 became pregnant as a result of assisted reproduction; and

20 (3) statements from the gestating parent, and where applicable, non-  
21 gestating intended parent or parents that they consented to assisted  
22 reproduction pursuant to section 581-304 of this article; and

23 (4) proof of any donor's donative intent.

24 (d) The following shall be deemed sufficient proof of a donor's dona-  
25 tive intent for purposes of this section:

26 (1) in the case of an anonymous donor or where gametes or embryos have  
27 previously been relinquished to a gamete or embryo storage facility or  
28 in the presence of a health care practitioner, a statement from the  
29 gamete or embryo storage facility or health care practitioner that the  
30 donor does not retain any parental or proprietary interest in the  
31 gametes or embryos; or

32 (2) in the case of a donation from a known donor, either: a. a record  
33 from the gamete or embryo donor acknowledging the donation and confirm-  
34 ing that the donor has no parental or proprietary interest in the  
35 gametes or embryos. The record shall be signed by the gamete or embryo  
36 donor. The record may be, but is not required to be, signed:

37 (i) before a notary public, or

38 (ii) before two witnesses who are not the intended parents, or

39 (iii) before a health care practitioner; or

40 b. clear and convincing evidence that the gamete or embryo donor  
41 agreed, prior to conception, with the gestating parent that the donor  
42 has no parental or proprietary interest in the gametes or embryos.

43 (3) In the absence of evidence pursuant to paragraph two of this  
44 subdivision, notice shall be given to the donor at least twenty days  
45 prior to the proceeding by delivery of a copy of the petition and  
46 notice. Upon a showing to the court, by affidavit or otherwise, on or  
47 before the date of the proceeding or within such further time as the  
48 court may allow, that personal service cannot be effected at the donor's  
49 last known address with reasonable effort, notice may be given, without  
50 prior court order therefore, at least twenty days prior to the proceed-  
51 ing by registered or certified mail directed to the donor's last known  
52 address. Notice by publication shall not be required to be given to a  
53 donor entitled to notice pursuant to the provisions of this section.

54 (4) Notwithstanding the above, where sperm is provided under the  
55 supervision of a health care practitioner to someone other than the  
56 sperm provider's intimate partner or spouse without a record of the

1 sperm provider's intent to parent, the sperm provider is presumed to be  
2 a donor and notice is not required.

3 (e) In cases not covered by subdivision (d) of this section, the court  
4 shall adjudicate the parentage of the child consistent with part three  
5 of this article.

6 (f) Where a petition for parentage demonstrates the consent of the  
7 intended parent to assisted reproduction pursuant to sections 581-303  
8 and 581-304 of this article, the donative intent pursuant to paragraph  
9 four of subdivision (c) of this section of the gamete or embryo donor  
10 and that the pregnancy resulted from assisted reproduction, the court  
11 shall issue a judgment of parentage:

12 (1) declaring, that upon the birth of the child, the intended parent  
13 is the legal parent of the child; and

14 (2) ordering the intended parent to assume responsibility for the  
15 maintenance and support of the child immediately upon the birth of the  
16 child; and

17 (3) ordering that upon the birth of the child, a copy of the judgment  
18 of parentage be served on the (i) department of health or New York city  
19 department of mental health and hygiene, or (ii) registrar of births in  
20 the hospital where the child is born and directing that the hospital  
21 report the parentage of the child to the appropriate department of  
22 health in conformity with the court order. If an original birth certif-  
23 icate has already issued, the court shall issue an order directing the  
24 appropriate department of health to amend the birth certificate in an  
25 expedited manner and seal the previously issued birth certificate.

26 § 581-203. Proceeding for judgment of parentage of a child conceived  
27 pursuant to a gestational carrier arrangement. (a) The proceeding may  
28 be commenced at any time after the gestational agreement has been  
29 executed by all of the parties. Any party to the gestational agreement  
30 not joining in the petition must be served with notice of the proceed-  
31 ing. Failure to respond to the notice shall be considered a default and  
32 no further notice shall be required.

33 (b) The petition for a judgment of parentage must be verified and  
34 include the following:

35 (1) a statement that the gestational carrier or the intended parent  
36 has been a resident of the state for at least ninety days at the time  
37 the gestational agreement was executed; and

38 (2) a certification from the attorneys representing the petitioners  
39 that the requirements of part four of this article have been met; and

40 (3) a statement from the parties that they entered into the gestation-  
41 al agreement knowingly and voluntarily.

42 (c) Where a petition satisfies subdivision (b) of this section the  
43 court shall issue a judgment of parentage, without additional  
44 proceedings or documentation:

45 (1) declaring, that upon the birth of the child born during the term  
46 of the gestational agreement, the intended parent is the legal parent of  
47 the child; and

48 (2) declaring, that upon the birth of the child born during the term  
49 of the gestational agreement, the gestational carrier, and the gesta-  
50 tional carrier's spouse, if any, is not the legal parent of the child;  
51 and

52 (3) ordering the gestational carrier and the gestational carrier's  
53 spouse, if any, to transfer the child to the intended parent if this has  
54 not already occurred; and

1 (4) ordering the intended parent to assume responsibility for the  
2 maintenance and support of the child immediately upon the birth of the  
3 child; and

4 (5) ordering that upon the birth of the child, a copy of the judgment  
5 of parentage be served on the (i) department of health or New York city  
6 department of mental health and hygiene, or (ii) registrar of births in  
7 the hospital where the child is born and directing that the hospital  
8 report the parentage of the child to the appropriate department of  
9 health in conformity with the court order. If an original birth certifi-  
10 cate has already issued, the court shall issue an order directing the  
11 appropriate department of health to amend the birth certificate in an  
12 expedited manner and seal the previously issued birth certificate.

13 (d) In the event the certification required by paragraph two of subdivi-  
14 vision (b) of this section cannot be made because of a technical or  
15 non-material deviation from the requirements of this article; the court  
16 may nevertheless enforce the agreement and issue a judgment of parentage  
17 if the court determines the agreement is in substantial compliance with  
18 the requirements of this article.

19 § 581-204. Judgment of parentage for intended parents who are spouses.  
20 Notwithstanding or without limitation on presumptions of parentage that  
21 apply, a judgment of parentage may be obtained under this part by  
22 intended parents who are each other's spouse.

23 § 581-205. Inspection of records. Court records relating to  
24 proceedings under this article shall be sealed. The parties to the  
25 proceeding and the child shall have the right to inspect the entire  
26 court record upon petition to the court.

27 § 581-206. Jurisdiction, and exclusive continuing jurisdiction. (a)  
28 Proceedings pursuant to this article may be instituted in the supreme,  
29 family or surrogate's court.

30 (b) Subject to the jurisdictional standards of section seventy-six of  
31 the domestic relations law, the court conducting a proceeding under this  
32 article has exclusive, continuing jurisdiction of all matters relating  
33 to the determination of parentage until the child attains the age of one  
34 hundred eighty days.

### 35 PART 3

#### 36 CHILD OF ASSISTED REPRODUCTION

37 Section 581-301. Scope of article.

38 581-302. Status of donor.

39 581-303. Parentage of child of assisted reproduction.

40 581-304. Consent to assisted reproduction.

41 581-305. Limitation on spouses' dispute of parentage of child of  
42 assisted reproduction.

43 581-306. Effect of embryo disposition agreement between intended  
44 parents which transfers legal rights and disposi-  
45 tioned control to one intended parent.

46 581-307. Effect of death of intended parent.

47 § 581-301. Scope of article. This article does not apply to the birth  
48 of a child conceived by means of sexual intercourse.

49 § 581-302. Status of donor. A donor is not a parent of a child  
50 conceived by means of assisted reproduction.

51 § 581-303. Parentage of child of assisted reproduction. (a) An indi-  
52 vidual who provides gametes for, or who consents to, assisted reprod-  
53 uction with the intent to be a parent of the child with the consent of  
54 the gestating parent as provided in section 581-304 of this part, is a  
55 parent of the resulting child for all legal purposes.



1 (b) The court shall issue a judgment of parentage pursuant to this  
2 article upon application by any participant.

3 § 581-304. Consent to assisted reproduction. (a) Where the intended  
4 parent who gives birth to a child by means of assisted reproduction is a  
5 spouse, the consent of both spouses to the assisted reproduction is  
6 presumed and neither spouse may challenge the parentage of the child,  
7 except as provided in section 581-305 of this part.

8 (b) Where the intended parent who gives birth to a child by means of  
9 assisted reproduction is not a spouse, the consent to the assisted  
10 reproduction must be in a record in such a manner as to indicate the  
11 mutual agreement of the intended parents to conceive and parent a child  
12 together.

13 (c) The absence of a record described in subdivision (b) of this  
14 section shall not preclude a finding that such consent existed if the  
15 court finds by clear and convincing evidence that at the time of the  
16 assisted reproduction the intended parents agreed to conceive and parent  
17 the child together.

18 § 581-305. Limitation on spouses' dispute of parentage of child of  
19 assisted reproduction. (a) Except as otherwise provided in subdivision  
20 (b) of this section, neither spouse may challenge the presumption of  
21 parentage of the child unless:

22 (1) within two years after learning of the birth of the child a  
23 proceeding is commenced to adjudicate parentage; and

24 (2) the court finds by clear and convincing evidence that either  
25 spouse did not consent for the non-gestating spouse to be a parent of  
26 the child.

27 (b) A proceeding for a judgment of parentage may be maintained at any  
28 time if the court finds by clear and convincing evidence that:

29 (1) the spouse did not consent to assisted reproduction by the indi-  
30 vidual who gave birth; and

31 (2) the spouse and the individual who gave birth have not cohabited  
32 since the spouse knew or had reason to know of the pregnancy; and

33 (3) the spouse never openly held out the child as his or her own.

34 (c) The limitation provided in this section applies to a spousal  
35 relationship that has been declared invalid after assisted reproduction  
36 or artificial insemination.

37 § 581-306. Effect of embryo disposition agreement between intended  
38 parents which transfers legal rights and dispositional control to one  
39 intended parent. (a) An embryo disposition agreement between intended  
40 parents with joint dispositional control of an embryo shall be binding  
41 under the following circumstances:

42 (1) it is in writing;

43 (2) each intended parent had the advice of independent legal counsel  
44 prior to its execution; and

45 (3) where the intended parents are married, transfer of legal rights  
46 and dispositional control occurs only upon divorce.

47 (b) The intended parent who transfers legal rights and dispositional  
48 control of the embryo is not a parent of any child conceived from the  
49 embryo unless the agreement states that he or she consents to be a  
50 parent.

51 (c) If the intended parent transferring legal rights and dispositional  
52 control consents to be a parent, he or she may withdraw his or her  
53 consent to be a parent upon written notice to the embryo storage facili-  
54 ty and to the other intended parent prior to transfer of the embryo. If  
55 he or she timely withdraws consent to be a parent he or she is not a

1 parent for any purpose including support obligations but the embryo  
2 transfer may still proceed.

3 (d) An embryo disposition agreement or advance directive that is not  
4 in compliance with subdivision (a) of this section may still be found to  
5 be enforceable by the court after balancing the respective interests of  
6 the parties except that the intended parent who divested him or herself  
7 of legal rights and dispositional control may not be declared to be a  
8 parent for any purpose without his or her consent. The parent awarded  
9 legal rights and dispositional control of the embryos shall, in this  
10 instance, be declared to be the only parent of the child.

11 § 581-307. Effect of death of intended parent. If an individual who  
12 consented in a record to be a parent by assisted reproduction dies  
13 before the transfer of eggs, sperm, or embryos, the deceased individual  
14 is not a parent of the resulting child unless the deceased individual  
15 consented in a signed record that if assisted reproduction were to occur  
16 after death, the deceased individual would be a parent of the child,  
17 provided that the record complies with the estates, powers and trusts  
18 law.

#### 19 PART 4

#### 20 GESTATIONAL AGREEMENT

21 Section 581-401. Gestational agreement authorized.

22 581-402. Eligibility.

23 581-403. Requirements of gestational agreement.

24 581-404. Termination of gestational agreement.

25 581-405. Gestational agreement: effect of subsequent spousal  
26 relationship.

27 581-406. Insufficient gestational agreement.

28 581-407. Absence of gestational agreement.

29 581-408. Dispute as to gestational agreement.

30 § 581-401. Gestational agreement authorized. (a) If eligible under  
31 this article to enter into a gestational agreement, a gestational carri-  
32 er, the gestational carrier's spouse if applicable, and the intended  
33 parent may enter into a gestational agreement which will be enforceable  
34 provided the gestational agreement meets the requirements of this arti-  
35 cle.

36 (b) A gestational agreement shall not apply to the birth of a child  
37 conceived by means of sexual intercourse.

38 (c) A gestational agreement may provide for payment of compensation  
39 under part five of this article.

40 § 581-402. Eligibility. (a) A gestational carrier shall be eligible  
41 to enter into an enforceable gestational agreement under this article if  
42 the gestational carrier has met the following requirements at the time  
43 the gestational agreement is executed:

44 (1) the gestational carrier is at least twenty-one years of age; and

45 (2) the gestational carrier has not provided the egg used to conceive  
46 the resulting child; and

47 (3) the gestational carrier has completed a medical evaluation with a  
48 health care practitioner relating to the anticipated pregnancy; and

49 (4) the gestational carrier, and the gestational carrier's spouse if  
50 applicable have been represented by independent legal counsel of their  
51 own choosing which may be paid for by the intended parent or parents  
52 regarding the terms of the gestational agreement and the potential legal  
53 consequences of the gestational carrier arrangement; and

54 (5) the gestational carrier has, or the gestational agreement stipu-  
55 lates that prior to the embryo transfer, the gestational carrier will



1 obtain, a health insurance policy that covers major medical treatments  
2 and hospitalization, and the health insurance policy has a term that  
3 extends throughout the duration of the expected pregnancy and for twelve  
4 weeks after the birth of the child; the policy may be procured and paid  
5 for by the intended parents on behalf of the gestational carrier pursu-  
6 ant to the gestational agreement.

7 (b) The intended parent shall be eligible to enter into an enforceable  
8 gestational agreement under this article if he, she, or they have met  
9 the following requirements at the time the gestational agreement was  
10 executed:

11 (1) the intended parent has been represented by independent legal  
12 counsel of his or her own choosing regarding the terms of the gestation-  
13 al agreement and the potential legal consequences of the gestational  
14 carrier arrangement; and

15 (2) he or she is an adult person who is not in a spousal relationship,  
16 or adult spouses together, or any two adults who are intimate partners  
17 together, except an adult in a spousal relationship is eligible to enter  
18 into an enforceable gestational agreement without his or her spouse if:

19 (i) they are living separate and apart pursuant to a decree or judg-  
20 ment of separation or pursuant to a written agreement of separation  
21 subscribed by the parties thereto and acknowledged or proved in the form  
22 required to entitle a deed to be recorded; or

23 (ii) they have been living separate and apart for at least three years  
24 prior to execution of the gestational agreement.

25 (3) where the spouse is not a required party to the agreement, the  
26 spouse is not an intended parent and shall not have rights or obli-  
27 gations to the child.

28 § 581-403. Requirements of gestational agreement. (a) A gestational  
29 agreement shall be deemed to have satisfied the requirements of this  
30 article and be enforceable if it meets the following requirements:

31 (1) it shall be in a signed record verified by:

32 (i) the intended parents, and

33 (ii) the gestational carrier, and the gestational carrier's spouse if  
34 any, unless:

35 (A) the gestational carrier and the gestational carrier's spouse are  
36 living separate and apart pursuant to a decree or judgment of separation  
37 or pursuant to a written agreement of separation subscribed by the  
38 parties thereto and acknowledged or proved in the form required to enti-  
39 tle a deed to be recorded; or

40 (B) have been living separate and apart for at least three years prior  
41 to execution of the gestational agreement; and

42 (2) it shall be executed prior to the embryo transfer; and

43 (3) it shall be executed by a gestational carrier meeting the eligi-  
44 bility requirements of subdivision (a) of section 581-402 of this part  
45 and by the gestational carrier's spouse, unless the gestational carri-  
46 er's spouse's signature is not required as set forth in this section;  
47 and

48 (4) it shall be executed by intended parents meeting the eligibility  
49 requirements of subdivision (b) of section 581-402 of this part; and

50 (5) the gestational carrier and the gestational carrier's spouse if  
51 applicable and the intended parents shall have been represented by sepa-  
52 rate, independent legal counsel of their own choosing in all matters  
53 concerning the gestational agreement; and

54 (6) if the gestational agreement provides for the payment of compen-  
55 sation to the gestational carrier, those funds shall have been placed in  
56 escrow with an independent escrow agent prior to the gestational carri-

1 er's commencement of any medical procedure other than medical evalu-  
2 ations necessary to determine the gestational carrier's eligibility; and

3 (7) the gestational agreement must include information disclosing how  
4 the intended parents will cover the medical expenses of the gestational  
5 carrier and the child. If health care coverage is used to cover the  
6 medical expenses, the disclosure shall include a review of the health  
7 care policy provisions related to coverage for the gestational carrier's  
8 pregnancy, including any possible liability of the gestational carrier,  
9 third-party liability liens or other insurance coverage, and any notice  
10 requirements that could affect coverage or liability of the gestational  
11 carrier.

12 (8) the gestational agreement must include the following terms:

13 (i) As to the gestational carrier and the gestational carrier's  
14 spouse, if applicable:

15 (A) the agreement of the gestational carrier to undergo embryo trans-  
16 fer and attempt to carry and give birth to the child; and

17 (B) the agreement of the gestational carrier and the gestational  
18 carrier's spouse, if applicable, to surrender custody of all resulting  
19 children to the intended parent immediately upon the birth; and

20 (C) the name of the attorney representing the gestational carrier and,  
21 if applicable, her spouse; and

22 (D) the agreement that the right of the gestational carrier to make  
23 all health and welfare decisions regarding herself and her pregnancy and  
24 to utilize the services of a health care practitioner of her choosing  
25 may not be limited; and

26 (E) the agreement that the right of the gestational carrier to termi-  
27 nate the pregnancy or reduce the number of fetuses or embryos she is  
28 carrying may not be limited; and

29 (F) the right of the gestational carrier to obtain a life insurance  
30 policy designating the beneficiary of her choice which will be paid for  
31 by the intended parent; and

32 (G) the right of the gestational carrier, at her request, to obtain  
33 counseling to address issues resulting from her participation in the  
34 gestational carrier arrangement. The cost of that counseling shall be  
35 paid by the intended parents.

36 (ii) As to the intended parent or parents:

37 (A) the agreement to accept custody of all resulting children imme-  
38 diately upon birth regardless of number, gender, or mental or physical  
39 condition; and

40 (B) the agreement to assume responsibility for the support of the  
41 child immediately upon the child's birth; and

42 (C) the name of the attorney representing the gestational carrier and,  
43 if applicable, her spouse; and

44 (D) the agreement that the rights and obligations of the intended  
45 parent under the gestational agreement are not assignable; and

46 (E) the agreement of the intended parent to execute a will, prior to  
47 the embryo transfer, designating a guardian for the child who is author-  
48 ized to perform the intended parent's obligations pursuant to the gesta-  
49 tional agreement.

50 § 581-404. Termination of gestational agreement. After the execution  
51 of a gestational agreement but before the gestational carrier becomes  
52 pregnant by means of assisted reproduction, the gestational carrier, the  
53 gestational carrier's spouse, if applicable, or any intended parent may  
54 terminate the gestational agreement by giving notice of termination in a  
55 record to all other parties. Upon proper termination of the gestational  
56 agreement the parties are released from all obligations recited in the

1 gestational agreement except that the intended parent remains responsi-  
2 ble for all expenses that are reimbursable under the agreement which  
3 have been incurred by the gestational carrier through the date of termi-  
4 nation. Unless the agreement provides otherwise, the gestational carrier  
5 is entitled to keep all payments she has received and obtain all  
6 payments to which she is entitled up until the date of termination.  
7 Neither a prospective gestational carrier nor the gestational carrier's  
8 spouse, if any, is liable to the intended parent for terminating a  
9 gestational agreement as provided in this section.

10 § 581-405. Gestational agreement: effect of subsequent spousal  
11 relationship. (a) After the execution of a gestational agreement under  
12 this article, the subsequent spousal relationship of the gestational  
13 carrier does not affect the validity of a gestational agreement, the  
14 gestational carrier's spouse's consent to the agreement shall not be  
15 required, and the gestational carrier's spouse shall not be the presumed  
16 parent of the resulting child.

17 (b) The subsequent separation or divorce of the intended parents does  
18 not affect the rights, duties and responsibilities of the intended  
19 parents as outlined in the gestational agreement.

20 § 581-406. Insufficient gestational agreement. If a gestational agree-  
21 ment does not meet the material requirements of this article, the agree-  
22 ment is not enforceable and the court shall determine parentage based on  
23 the intent of the parties, taking into account the best interests of the  
24 child.

25 § 581-407. Absence of gestational agreement. Where there is no gesta-  
26 tional agreement, the parentage of the child will be determined based on  
27 the best interests of the child taking into account the intent of the  
28 parties. An intended parent's absence of genetic connection to the child  
29 is not a sufficient basis to deny that individual a judgment of legal  
30 parentage.

31 § 581-408. Dispute as to gestational agreement. (a) Any dispute which  
32 is related to a gestational agreement other than disputes as to parent-  
33 age shall be resolved by the supreme court, which shall determine the  
34 respective rights and obligations of the parties.

35 (b) Except as expressly provided in the gestational agreement, the  
36 intended parent and the gestational carrier shall be entitled to all  
37 remedies available at law or equity in any dispute related to the gesta-  
38 tional agreement.

39 (c) There shall be no specific performance remedy available for a  
40 breach by the gestational carrier of a gestational agreement term that  
41 requires the gestational carrier to be impregnated or to terminate the  
42 pregnancy or to reduce the number of fetuses or embryos the gestational  
43 carrier is carrying.

#### 44 PART 5

#### 45 PAYMENT TO DONORS AND GESTATIONAL CARRIERS

46 Section 581-501. Reimbursement.

47 581-502. Compensation.

48 § 581-501. Reimbursement. (a) A donor who has entered into a valid  
49 agreement to be a donor, may receive reimbursement from an intended  
50 parent for economic losses incurred in connection with the donation  
51 which result from the retrieval or storage of gametes or embryos.

52 (b) Premiums paid for insurance against economic losses directly  
53 resulting from the retrieval or storage of gametes or embryos for  
54 donation may be reimbursed.

1 § 581-502. Compensation. (a) Compensation may be paid to a donor or  
 2 gestational carrier based on medical risks, physical discomfort, incon-  
 3 venience and the responsibilities they are undertaking in connection  
 4 with their participation in the assisted reproduction. Under no circum-  
 5 stances may compensation be paid to purchase gametes or embryos or to  
 6 pay for the relinquishment of a parental interest in a child.

7 (b) The compensation, if any, paid to a donor or gestational carrier  
 8 must be reasonable and negotiated in good faith between the parties, and  
 9 said payments to a gestational carrier shall not exceed the duration of  
 10 the pregnancy and recuperative period of up to eight weeks after the  
 11 birth of the child.

12 (c) Compensation may not be conditioned upon the purported quality or  
 13 genome-related traits of the gametes or embryos.

14 (d) Compensation may not be conditioned on actual genotypic or pheno-  
 15 typic characteristics of the donor or of the child.

## 16 PART 6

### 17 MISCELLANEOUS PROVISIONS

18 Section 581-601. Remedial.

19 581-602. Severability.

20 581-603. Parent under section seventy of the domestic relations  
 21 law.

22 581-604. Interpretation.

23 § 581-601. Remedial. This legislation is hereby declared to be a  
 24 remedial statute and is to be construed liberally to secure the benefi-  
 25 cial interests and purposes thereof for the best interests of the child.

26 § 581-602. Severability. The invalidation of any part of this legis-  
 27 lation by a court of competent jurisdiction shall not result in the  
 28 invalidation of any other part.

29 § 581-603. Parent under section seventy of the domestic relations law.  
 30 The term "parent" in section seventy of the domestic relations law shall  
 31 include a person established to be a parent under this article or any  
 32 other relevant law.

33 § 581-604. Interpretation. Unless the context indicates otherwise,  
 34 words importing the singular include and apply to several persons,  
 35 parties, or things; words importing the plural include the singular.

36 § 2. Section 73 of the domestic relations law is REPEALED.

37 § 3. Section 121 of the domestic relations law, as added by chapter  
 38 308 of the laws of 1992, is amended to read as follows:

39 § 121. Definitions. When used in this article, unless the context or  
 40 subject matter manifestly requires a different interpretation:

41 1. "~~Birth mother~~ Genetic surrogate" shall mean a woman who gives  
 42 birth to a child who is her genetic child pursuant to a surrogate  
 43 parenting ~~contract~~ agreement.

44 2. "~~Genetic father~~ Intended parent" shall mean a ~~[man who provides~~  
 45 ~~sperm for the birth of a child born pursuant to a surrogate parenting~~  
 46 ~~contract.~~

47 ~~3. "Genetic mother" shall mean a woman who provides an ovum for the~~  
 48 ~~birth of a child born pursuant to a surrogate parenting contract]~~ person  
 49 who enters into a surrogate parenting agreement with the intent to be  
 50 the legal parent of the child born to the genetic surrogate.

51 ~~[4.]~~ 3. "Surrogate parenting ~~contract~~ agreement" shall mean any  
 52 agreement, oral or written, in which:

53 (a) a ~~woman~~ genetic surrogate agrees either to be inseminated with  
 54 the sperm of a ~~man~~ person who is not her ~~husband~~ spouse or to be  
 55 impregnated with an embryo that is the product of ~~an~~ the genetic

1 surrogate's ovum fertilized with the sperm of a [~~man~~] person who is not  
2 her [~~husband~~] spouse; and

3 (b) the [~~woman~~] genetic surrogate agrees [~~to, or intends to, surrender~~  
4 ~~or consent to the adoption of~~] that the child born as a result of such  
5 insemination or impregnation will be the legal child of the intended  
6 parents and that she will not have any parental rights to said child.

7 § 4. Section 122 of the domestic relations law, as added by chapter  
8 308 of the laws of 1992, is amended to read as follows:

9 § 122. Public policy. [~~Surrogate parenting contracts are hereby~~  
10 ~~declared contrary to the public policy of this state, and are void and~~  
11 ~~unenforceable~~] Enforcement of a surrogate parenting agreement against a  
12 genetic surrogate who objects to the termination of her parental rights  
13 is contrary to the public policy of this state, and the surrogate  
14 parenting agreement is void and unenforceable.

15 § 5. Section 123 of the domestic relations law, as added by chapter  
16 308 of the laws of 1992, is amended to read as follows:

17 § 123. [~~Prohibitions and penalties~~] Permissible payments. [~~1. No~~  
18 ~~person or other entity shall knowingly request, accept, receive, pay or~~  
19 ~~give any fee, compensation or other remuneration, directly or indirect-~~  
20 ~~ly, in connection with any surrogate parenting contract, or induce,~~  
21 ~~arrange or otherwise assist in arranging a surrogate parenting contract~~  
22 ~~for a fee, compensation or other remuneration, except for~~] A genetic  
23 surrogate may receive the following payments:

24 [~~(a)~~] 1. reasonable compensation or living expenses in connection with  
25 a surrogate parenting agreement;

26 2. payments in connection with the adoption of a child permitted by  
27 subdivision six of section three hundred seventy-four of the social  
28 services law and disclosed pursuant to subdivision eight of section one  
29 hundred fifteen of this chapter; or

30 [~~(b)~~] 3. payments for reasonable and actual medical fees and hospital  
31 expenses for artificial insemination or in vitro fertilization services  
32 incurred by the [~~mother~~] genetic surrogate in connection with the birth  
33 of the child.

34 [~~2. (a) A birth mother or her husband, a genetic father and his wife,~~  
35 ~~and, if the genetic mother is not the birth mother, the genetic mother~~  
36 ~~and her husband who violate this section shall be subject to a civil~~  
37 ~~penalty not to exceed five hundred dollars.~~

38 [~~(b) Any other person or entity who or which induces, arranges or~~  
39 ~~otherwise assists in the formation of a surrogate parenting contract for~~  
40 ~~a fee, compensation or other remuneration or otherwise violates this~~  
41 ~~section shall be subject to a civil penalty not to exceed ten thousand~~  
42 ~~dollars and forfeiture to the state of any such fee, compensation or~~  
43 ~~remuneration in accordance with the provisions of subdivision (a) of~~  
44 ~~section seven thousand two hundred one of the civil practice law and~~  
45 ~~rules, for the first such offense. Any person or entity who or which~~  
46 ~~induces, arranges or otherwise assists in the formation of a surrogate~~  
47 ~~parenting contract for a fee, compensation or other remuneration or~~  
48 ~~otherwise violates this section, after having been once subject to a~~  
49 ~~civil penalty for violating this section, shall be guilty of a felony.]~~

50 § 6. Section 124 of the domestic relations law, as added by chapter  
51 308 of the laws of 1992, is amended to read as follows:

52 § 124. Proceedings regarding parental rights, status or obligations.  
53 [~~In any action or proceeding involving a dispute between the birth moth-~~  
54 ~~er and (i) the genetic father, (ii) the genetic mother, (iii) both the~~  
55 ~~genetic father and genetic mother, or (iv) the parent or parents of the~~  
56 ~~genetic father or genetic mother, regarding parental rights, status or~~



~~obligations with respect to a child born pursuant to a surrogate parenting contract.]~~ 1. After the birth of a child born pursuant to a surrogate parenting agreement, any party with a claim to legal parentage pursuant to the surrogate parenting agreement may petition for a judgment of parentage declaring the legal rights of the parties pursuant to the agreement.

2. If the genetic surrogate objects to the termination of her parental rights pursuant to a surrogate parenting agreement:

(a) the court shall not consider the [~~birth mother's~~] genetic surrogate's participation in a surrogate parenting [~~contract~~] agreement as adverse to her parental rights, status, or obligations; and

[~~2-~~] (b) the court, having regard to the circumstances of the case and of the respective parties including the parties' relative ability to pay such fees and expenses, in its discretion and in the interests of justice, may award to either party reasonable and actual counsel fees and legal expenses incurred in connection with such action or proceeding. Such award may be made in the order or judgment by which the particular action or proceeding is finally determined, or by one or more orders from time to time before the final order or judgment, or by both such order or orders and the final order or judgment; provided, however, that in any dispute involving a [~~birth mother~~] genetic surrogate who has executed a valid surrender or consent to the adoption, nothing in this section shall empower a court to make any award that it would not otherwise be empowered to direct.

3. (a) If a genetic surrogate has no objection to the termination of her parental rights pursuant to the surrogate parenting agreement, the court may issue an order which terminates the genetic surrogate's parental rights and declares the intended parent or parents to be the legal parent or parents of the child.

(b) The parties shall submit affidavits of financial disclosure to the court declaring all payments made to or on behalf of the genetic surrogate in connection with the surrogate parenting agreement prior to the issuance of any such order.

4. The court may refuse to issue said order if the court determines that:

(a) it is not in the best interests of the child; or

(b) the court determines that the genetic surrogate's failure to object to the termination of her parental rights was unduly influenced by financial duress in the form of unreasonably high compensation.

§ 7. Section 4135-b of the public health law, as added by chapter 59 of the laws of 1993, subdivisions 1 and 2 as amended by chapter 402 of the laws of 2013, and subdivision 3 as amended by chapter 170 of the laws of 1994, is amended to read as follows:

§ 4135-b. Voluntary acknowledgments of [~~paternity~~] parentage; child born out of wedlock. 1. (a) Immediately preceding or following the in-hospital birth of a child to an unmarried [~~woman~~] person or to a person who gave birth to a child conceived through assisted reproduction, the person in charge of such hospital or his or her designated representative shall provide to the [~~child's mother and~~] unmarried person who gave birth to the child and the putative father, if such father is readily identifiable and available, or to the person who gave birth and the other intended parent of a child conceived through assisted reproduction if such person is readily identifiable and available, the documents and written instructions necessary for such mother and putative [~~father~~] persons to complete an acknowledgment of [~~paternity~~] parentage witnessed by two persons not related to the signatory.



1 Such acknowledgment, if signed by both parties, at any time following  
2 the birth of a child, shall be filed with the registrar at the same time  
3 at which the certificate of live birth is filed, if possible, or anytime  
4 thereafter. Nothing herein shall be deemed to require the person in  
5 charge of such hospital or his or her designee to seek out or otherwise  
6 locate a putative father or intended parent of a child conceived through  
7 assisted reproduction who is not readily identifiable or available.

8 (b) The following persons may sign an acknowledgment of parentage to  
9 establish the parentage of the child:

10 (i) An unmarried person who gave birth to the child and another person  
11 who is a genetic parent.

12 (ii) A married or unmarried person who gave birth to the child and  
13 another person who is an intended parent under section 581-303 of the  
14 family court act of a child conceived through assisted reproduction.

15 (c) An acknowledgment of parentage shall be in a record signed by the  
16 person who gave birth to the child and by either the genetic parent  
17 other than the person who gave birth to the child or a person who is a  
18 parent under section 581-303 of the family court act of the child  
19 conceived through assisted reproduction.

20 (d) An acknowledgment of parentage is void if, at the time of signing,  
21 any of the following are true:

22 (i) A person other than the person who gave birth to the child or a  
23 person seeking to establish parentage through an acknowledgment of  
24 parentage is a presumed parent of the child under section twenty-four of  
25 the domestic relations law;

26 (ii) A court has entered a judgment of parentage of the child;

27 (iii) Another person has signed a valid acknowledgment of parentage  
28 with regard to the child;

29 (iv) The child has a parent under section 581-303 of the family court  
30 act other than the signatories;

31 (v) The person seeking to establish parentage is a gamete donor under  
32 section 581-302 of the family court act;

33 (vi) The person seeking to establish parentage asserts that he or she  
34 is a parent under section twenty-four of the domestic relations law;

35 (vii) The person seeking to establish parentage asserts that he or she  
36 is a parent of a child conceived through assisted reproduction and the  
37 person is in fact, not a parent under section 581-303 of the family  
38 court act.

39 (e) The acknowledgment shall be executed on a form provided by the  
40 commissioner developed in consultation with the appropriate commissioner  
41 of the department of family assistance, which shall include the social  
42 security number of the [~~mother~~] person who gave birth to the child and  
43 of the [~~putative-father~~] acknowledged parent and provide in plain  
44 language (i) a statement by the [~~mother~~] person who gave birth to the  
45 child consenting to the acknowledgment of [~~paternity~~] parentage and a  
46 statement that the [~~putative-father~~] acknowledged parent is the only  
47 possible [~~father~~] other generic parent or that the acknowledged parent  
48 is an intended parent and the child was conceived through assisted  
49 reproduction, (ii) a statement by the putative father, if any, that he  
50 is the biological father of the child, and (iii) a statement that the  
51 signing of the acknowledgment of [~~paternity~~] parentage by both parties  
52 shall have the same force and effect as an order of filiation entered  
53 after a court hearing by a court of competent jurisdiction, including an  
54 obligation to provide support for the child except that, only if filed  
55 with the registrar of the district in which the birth certificate has

1 been filed, will the acknowledgment have such force and effect with  
2 respect to inheritance rights.

3 ~~[(b)]~~ (f) Prior to the execution of an acknowledgment of [~~paternity~~]  
4 parentage, the [~~mother~~] person who gave birth to the child and the  
5 [~~putative father~~] other signatory shall be provided orally, which may be  
6 through the use of audio or video equipment, and in writing with such  
7 information as is required pursuant to this section with respect to  
8 their rights and the consequences of signing a voluntary acknowledgment  
9 of [~~paternity~~] parentage including, but not limited to:

10 (i) that the signing of the acknowledgment of [~~paternity~~] parentage  
11 shall establish the [~~paternity~~] parentage of the child and shall have  
12 the same force and effect as an order of [~~paternity~~] parentage or filia-  
13 tion issued by a court of competent jurisdiction establishing the duty  
14 of both parties to provide support for the child;

15 (ii) that if such an acknowledgment is not made, the [~~putative father~~]  
16 signatory other than the person who gave birth to the child can be held  
17 liable for support only if the family court, after a hearing, makes an  
18 order declaring that the [~~putative father~~] person is the [~~father~~] parent  
19 of the child whereupon the court may make an order of support which may  
20 be retroactive to the birth of the child;

21 (iii) that if made a respondent in a proceeding to establish [~~paterni-~~  
22 ~~ty~~] parentage the [~~putative father~~] signatory other than the person who  
23 gave birth to the child has a right to free legal representation if  
24 indigent;

25 (iv) that [~~the putative father~~] an alleged genetic parent has a right  
26 to a genetic marker test or to a DNA test when available;

27 (v) that by executing the acknowledgment, the [~~putative father~~]  
28 alleged genetic parent waives [~~his~~] their right to a hearing, to which  
29 [~~he~~] they would otherwise be entitled, on the issue of [~~paternity~~]  
30 parentage;

31 (vi) that a copy of the acknowledgment of [~~paternity~~] parentage shall  
32 be filed with the putative father registry pursuant to section three  
33 hundred seventy-two-c of the social services law, and that such filing  
34 may establish the child's right to inheritance from the putative father  
35 pursuant to clause (B) of subparagraph two of paragraph (a) of section  
36 4-1.2 of the estates, powers and trusts law;

37 (vii) that, if such acknowledgment is filed with the registrar of the  
38 district in which the birth certificate has been filed, such acknowledg-  
39 ment will establish inheritance rights from the putative father or the  
40 other intended parent of a child conceived through assisted reproduction  
41 pursuant to clause (A) of subparagraph two of paragraph (a) of section  
42 4-1.2 of the estates, powers and trusts law;

43 (viii) that no further judicial or administrative proceedings are  
44 required to ratify an unchallenged acknowledgment of [~~paternity~~] parent-  
45 age provided, however, that:

46 (A) A signatory to an acknowledgment of [~~paternity~~] parentage, who had  
47 attained the age of eighteen at the time of execution of the acknowledg-  
48 ment, shall have the right to rescind the acknowledgment within the  
49 earlier of sixty days from the date of signing the acknowledgment or the  
50 date of an administrative or a judicial proceeding (including, but not  
51 limited to, a proceeding to establish a support order) relating to the  
52 child in which the signatory is a party, provided that the "date of an  
53 administrative or a judicial proceeding" shall be the date by which the  
54 respondent is required to answer the petition;

55 (B) A signatory to an acknowledgment of [~~paternity~~] parentage, who had  
56 not attained the age of eighteen at the time of execution of the

1 acknowledgment, shall have the right to rescind the acknowledgment  
2 anytime up to sixty days after the signatory's attaining the age of  
3 eighteen years or sixty days after the date on which the respondent is  
4 required to answer a petition (including, but not limited to, a petition  
5 to establish a support order) relating to the child, whichever is earlier;  
6 provided, however, that the signatory must have been advised at such  
7 proceeding of his or her right to file a petition to vacate the acknowl-  
8 edgment within sixty days of the date of such proceeding;

9 (ix) that after the expiration of the time limits set forth in clauses  
10 (A) and (B) of subparagraph (viii) of this paragraph, any of the signa-  
11 tories may challenge the acknowledgment of [~~paternity~~] parentage in  
12 court only on the basis of fraud, duress, or material mistake of fact,  
13 with the burden of proof on the party challenging the voluntary acknowl-  
14 edgment;

15 (x) that the [~~putative father and mother~~] person who gave birth to the  
16 child and the other signatory may wish to consult with attorneys before  
17 executing the acknowledgment; and that they have the right to seek legal  
18 representation and supportive services including counseling regarding  
19 such acknowledgment;

20 (xi) that the acknowledgment of [~~paternity~~] parentage may be the basis  
21 for the [~~putative father~~] signatory other than the person who gave birth  
22 to the child establishing custody and visitation rights to the child and  
23 for requiring the [~~putative father's~~] consent of the signatory other  
24 than the person who gave birth to the child prior to an adoption  
25 proceeding;

26 (xii) that the [~~mother's~~] refusal of the person who gave birth to the  
27 child to sign the acknowledgment shall not be deemed a failure to coop-  
28 erate in establishing [~~paternity~~] parentage for the child; and

29 (xiii) that the child may bear the last name of either parent, or any  
30 combination thereof, which name shall not affect the legal status of the  
31 child.

32 In addition, the governing body of such hospital shall insure that  
33 appropriate staff shall provide to the [~~child's mother and putative~~  
34 ~~father~~] person who gave birth to the child and the other signatory,  
35 prior to the [~~mother's~~] discharge from the hospital of the person who  
36 gave birth to the child, the opportunity to speak with hospital staff to  
37 obtain clarifying information and answers to their questions about  
38 [~~paternity~~] parentage establishment, and shall also provide the tele-  
39 phone number of the local support collection unit.

40 [~~(e)~~] (g) Within ten days after receiving the certificate of birth,  
41 the registrar shall furnish without charge to each parent or guardian of  
42 the child or to the [~~mother~~] person who gave birth at the address desig-  
43 nated by her for that purpose, a certified copy of the certificate of  
44 birth and, if applicable, a certified copy of the written acknowledgment  
45 of [~~paternity~~] parentage. If the [~~mother~~] person who gave birth is in  
46 receipt of child support enforcement services pursuant to title six-A of  
47 article three of the social services law, the registrar also shall  
48 furnish without charge a certified copy of the certificate of birth and,  
49 if applicable, a certified copy of the written acknowledgment of [~~pater-~~  
50 ~~nity~~] parentage to the social services district of the county within  
51 which the [~~mother~~] person who gave birth resides.

52 2. (a) When a child's [~~paternity~~] parentage is acknowledged voluntar-  
53 ily pursuant to section one hundred eleven-k of the social services law,  
54 the social services official shall file the executed acknowledgment with  
55 the registrar of the district in which the birth occurred and in which  
56 the birth certificate has been filed.

1 (b) Where a child's [~~paternity~~] parentage has not been acknowledged  
2 voluntarily pursuant to paragraph (a) of subdivision one of this section  
3 or paragraph (a) of this subdivision, the [~~child's mother and the puta-~~  
4 ~~tive father~~] person who gave birth to the child and the other signatory  
5 may voluntarily acknowledge a child's [~~paternity~~] parentage pursuant to  
6 this paragraph by signing the acknowledgment of [~~paternity~~] parentage.

7 (c) A signatory to an acknowledgment of [~~paternity~~] parentage, who has  
8 attained the age of eighteen at the time of execution of the acknowledg-  
9 ment shall have the right to rescind the acknowledgment within the  
10 earlier of sixty days from the date of signing the acknowledgment or the  
11 date of an administrative or a judicial proceeding (including, but not  
12 limited to, a proceeding to establish a support order) relating to the  
13 child in which either signatory is a party; provided that for purposes  
14 of this section, the "date of an administrative or a judicial proceed-  
15 ing" shall be the date by which the respondent is required to answer the  
16 petition.

17 (d) A signatory to an acknowledgment of [~~paternity~~] parentage, who has  
18 not attained the age of eighteen at the time of execution of the  
19 acknowledgment, shall have the right to rescind the acknowledgment  
20 anytime up to sixty days after the signatory's attaining the age of  
21 eighteen years or sixty days after the date on which the respondent is  
22 required to answer a petition (including, but not limited to, a petition  
23 to establish a support order) relating to the child in which the signa-  
24 tory is a party, whichever is earlier; provided, however, that the  
25 signatory must have been advised at such proceeding of his or her right  
26 to file a petition to vacate the acknowledgment within sixty days of the  
27 date of such proceeding.

28 (e) After the expiration of the time limits set forth in paragraphs  
29 (c) and (d) of this subdivision, any of the signatories may challenge  
30 the acknowledgment of [~~paternity~~] parentage in court only on the basis  
31 of fraud, duress, or material mistake of fact, with the burden of proof  
32 on the party challenging the voluntary acknowledgment. The acknowledg-  
33 ment shall have full force and effect once so signed. The original or a  
34 copy of the acknowledgment shall be filed with the registrar of the  
35 district in which the birth certificate has been filed.

36 3. (a) An executed acknowledgment of [~~paternity~~] parentage executed by  
37 [~~the mother and father of a child born out of wedlock~~] any two people  
38 eligible to sign such an acknowledgment under paragraph (b) of subdivi-  
39 sion one of this section, married or unmarried, shall establish the  
40 [~~paternity~~] parentage of a child and shall have the same force and  
41 effect as an order of [~~paternity~~] parentage or filiation issued by a  
42 court of competent jurisdiction. Such acknowledgement shall thereafter  
43 be filed with the registrar pursuant to subdivision one or two of this  
44 section.

45 (b) A registrar with whom an acknowledgment of [~~paternity~~] parentage  
46 has been filed pursuant to subdivision one or two of this section shall  
47 file the acknowledgment with the state department of health and the  
48 putative father registry.

49 4. The court shall give full faith and credit to an acknowledgment of  
50 parentage effective in another state if the acknowledgment was in a  
51 signed record and otherwise complies with the law of the other state.

52 5. A new certificate of birth shall be issued if the certificate of  
53 birth of [~~a~~] the child [~~born out of wedlock~~] as defined in paragraph (b)  
54 of subdivision one of section four thousand one hundred thirty-five of  
55 this article has been filed without entry of the name of the [~~father~~]  
56 signatory other than the person who gave birth, and the commissioner

1 thereafter receives a notarized acknowledgment of [~~paternity~~] parentage  
2 accompanied by the written consent of the [~~putative father and mother~~]  
3 person who gave birth to the child and other signatory to the entry of  
4 the name of such [~~father~~] person, which consent may also be to a change  
5 in the surname of the child.

6 6. Any reference to an acknowledgment of paternity in any law of this  
7 state shall be interpreted to mean an acknowledgment of parentage signed  
8 pursuant to this section or signed in another state consistent with the  
9 law of that state.

10 § 8. This act shall take effect on the one hundred twentieth day after  
11 it shall have become a law. Effective immediately, the addition, amend-  
12 ment and/or repeal of any rule or regulation necessary for the implemen-  
13 tation of this act on its effective date are authorized to be made on or  
14 before such date.