

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 reproduc-
3 tion 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 repro-
4 duction 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 subdi-
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.