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

(1) if an intended parent or child resides in New York state, in the county where the intended parent resides any time after pregnancy is achieved or in the county where the child was born or resides or in the county where the birth is intended to occur; or

(2) if neither an intended parent nor the child reside in New York state, up to ninety days after the birth of the child in the county where the child was born.

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

(c) Where the court finds the following statements in the petition to be true, the court shall adjudicate the intended parent or parents to be the parent or parents of the child without the need for additional proceedings or documentation:

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

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

(3) in cases where there is a non-gestating intended parent, a statement from the gestating intended parent and non-gestating intended parent that the non-gestating intended parent consented to assisted reproduction pursuant to section 581-304 of this article; and

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

The court may, in its discretion, dispense with testimony to establish the truthfulness of the statements.

(d) The following shall be deemed sufficient proof of a donor's donative intent for purposes of this section:

(1) where gametes or embryos have been released to a gamete or embryo storage facility or were donated in the presence of a health care practitioner, either:

(i) a statement or documentation from the gamete or embryo storage

facility or health care practitioner stating or demonstrating that such gametes or embryos had previously been released;

(ii) a record from the gamete or embryo donor or donors evidencing intent to release the gametes or embryos; or

(iii) clear and convincing evidence that the gamete or embryo donor or donors confirmed, prior to donation, that the donor or donors would have no parental or proprietary interest in the gametes or embryos;

(2) where the gametes or embryos were not released to a gamete or embryo storage facility or donated in the presence of a health care practitioner, either:

(i) a record from the gamete or embryo donor acknowledging the donation and confirming that the donor or donors shall have no parental or proprietary interest in the gametes or embryos. The record shall be signed by the intended parent or parents and the gamete or embryo donor or donors:

(A) before a notary public, or

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

(C) before a health care practitioner; or

(ii) clear and convincing evidence that the gamete or embryo donor or donors agreed, prior to the gametes or embryos being used for assisted reproduction, that the donor or donors would have no parental or proprietary interest in the gametes or embryos.

(3) Except for those agreements executed in compliance with section 581-306 of this article, this subdivision shall not apply where the person providing the gametes or embryos is the spouse of the intended parent.

(e) In the absence of evidence pursuant to subparagraphs (i) and (ii) of paragraph one and subparagraph (i) of paragraph two of subdivision (d) of this section, notice shall be given to the donor at least twenty days prior to the date set for the proceeding to determine the existence of donative intent by delivery of a copy of the petition and notice pursuant to section three hundred eight of the civil practice law and rules. If an intended parent or an intended parent's spouse is not a petitioner, such notice shall also be given to such person who shall be a necessary party unless the intended parent proceeded without the participation of their spouse in compliance with subdivision (b) of section 581-305 or section 581-306 of this article. Upon a showing to

the court, by affidavit or otherwise, on or before the date of the proceeding or within such further time as the court may allow, that personal service cannot be effected at the last known address or addresses of the donor or donors, and/or the non-petitioning intended parent, if any, with reasonable effort, notice may be given, without prior court order therefore, at least twenty days prior to the proceeding by registered or certified mail directed to such last known address or addresses. Notice by publication shall not be required to be given to anyone entitled to notice pursuant to the provisions of this section.

Notwithstanding the above, where there is evidence that sperm is provided under the supervision of a health care practitioner to someone other than the sperm provider's intimate partner or spouse without a record of the sperm provider's intent to parent, notice is not required.

(f) In cases not covered by subdivision (c) of this section, the court shall adjudicate the parentage of the child consistent with part three of this article.

(g) Where the requirements of subdivision (c) of this section are met or where the court finds the intended parent or parents to be a parent under subdivision (f) of this section, the court shall issue a judgment of parentage:

(1) declaring the intended parent or parents to be the legal parent or parents of the child immediately upon the birth of the child; and

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

(3) if there is a donor or donors, ordering that any donor is not a parent of the child; and

(4) ordering that:

* (i) Pursuant to section two hundred fifty-four of the judiciary law, the clerk of the court shall transmit to the state commissioner of health, or for a person born in New York city, to the commissioner of health of the city of New York, on a form prescribed by the commissioner, a written notification of such entry together with such other facts as may assist in identifying the birth record of the person whose parentage was in issue and, if such person whose parentage has

been determined is under eighteen years of age, the clerk shall also transmit forthwith to the registry operated by the department of social services pursuant to section three hundred seventy-two-c of the social services law a notification of such determination; and

* NB Effective until December 21, 2027

* (i) The hospital birth registrar shall report the parentage of the child on the record of live birth in conformity with the judgment of parentage, if the judgment of parentage is issued before the birth of the child; and

* NB Effective December 21, 2027

(ii) If a change to the child's birth certificate is necessitated by the judgment of parentage, then pursuant to section two hundred fifty-four of the judiciary law, the clerk of the court shall transmit to the state commissioner of health, or for a person born in New York city, to the commissioner of health of the city of New York, on a form prescribed by the commissioner, a written notification of such entry together with such other facts as may assist in identifying the birth record of the person whose parentage was in issue and, if such person whose parentage has been determined is under eighteen years of age, the clerk shall also transmit forthwith to the registry operated by the department of social services pursuant to section three hundred seventy-two-c of the social services law a notification of such determination; and

(iii) Pursuant to section forty-one hundred thirty-eight of the public health law and NYC Public Health Code section 207.05 that upon receipt of a judgment of parentage the local registrar where a child is born will report the parentage of the child to the appropriate department of health in conformity with the court order. If an original birth certificate has already been issued, the appropriate department of health will amend the birth certificate in an expedited manner and seal the previously issued birth certificate except that it may be rendered accessible to the child at eighteen years of age or the legal parent or parents; and

* (5) if the judgment of parentage is issued prior to the birth of the child, ordering the petitioner or petitioners, within fourteen days of such birth, to provide the court with notification thereof, together with such other facts as may assist in identifying the birth record of

the child whose parentage was in issue. Such notification shall be in writing on a form to be prescribed by the chief administrator of the courts. The court shall thereafter issue an amended judgment of parentage that includes the child's name as it appears on the child's birth certificate and the child's date of birth.

* NB Effective December 21, 2027