§ 4135-b. Voluntary acknowledgments of parentage. 1. (a) Immediately preceding or following the in-hospital birth of a child to an unmarried 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 unmarried person who gave birth to the child and the alleged genetic parent, if such alleged genetic parent 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 person or to a person who gave birth to a child conceived through assisted reproduction and alleged persons to complete an acknowledgment of parentage witnessed by two persons not related to the signatory. Such acknowledgment, if signed by both parties, at any time following the birth of a child, shall be filed with the registrar at the same time at which the certificate of live birth is filed, if possible, or anytime thereafter. Nothing herein shall be deemed to require the person in charge of such hospital or his or her designee to seek out or otherwise locate an alleged genetic parent or intended parent of a child conceived through assisted reproduction who is not readily identifiable or available.

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

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

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

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

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

(i) A person other than the signatories is a presumed parent of the child under section twenty-four of the domestic relations law;

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

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

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

(v) A signatory is a gamete donor under section 581-302 of the family court act;

(vi) The acknowledgment is signed by a person who asserts that they are a parent under section 581-303 of the family court act of a child conceived through assisted reproduction, but the child was not conceived through assisted reproduction.

(e) The acknowledgment shall be executed on a form provided by the commissioner developed in consultation with the commissioner of the office of temporary and disability assistance, which shall: (i) include the social security number of the signatories; (ii) provide in plain language (A) a statement by the person who gave birth to the child consenting to the acknowledgment of parentage and a statement that the other signatory is the only possible other genetic parent or that the other signatory is an intended parent and the child was conceived through assisted reproduction, (B) a statement by the, alleged genetic parent, if any, that he or she is the genetic parent of the child, and (C) a statement that the signing of the acknowledgment of parentage by both parties shall have the same force and effect as an order of parentage or filiation entered after a court hearing by a court of competent jurisdiction, including an obligation to provide support for the child except that, only if filed with the registrar of the district in which the birth certificate has been filed, will the acknowledgment have such force and effect with respect to inheritance rights; and (iii) include the name and address, if known, of any gamete donors.

(f) Prior to the execution of an acknowledgment of parentage, the person who gave birth to the child and the other signatory shall be provided orally, which may be through the use of audio or video equipment, and in writing with such information as is required pursuant to this section with respect to their rights and the consequences of signing a voluntary acknowledgment of parentage including, but not limited to:

(i) that the signing of the acknowledgment of parentage shall

establish the parentage of the child and shall have the same force and effect as an order of parentage or filiation issued by a court of competent jurisdiction establishing the duty of both parties to provide support for the child;

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

(iii) that if made a respondent in a proceeding to establish parentage the signatory other than the person who gave birth to the child has a right to free legal representation if indigent;

(iv) that an alleged genetic parent has a right to a genetic marker test or to a DNA test when available;

(v) that by executing the acknowledgment, the alleged genetic parent waives their right to a hearing, to which they would otherwise be entitled, on the issue of parentage;

(vi) that a copy of the acknowledgment of parentage shall be filed with the registry created by section three hundred seventy-two-c of the social services law, and that such filing may establish the child's right to inheritance from the alleged genetic parent or the other intended parent of a child conceived through assisted reproduction pursuant to clause (B) of subparagraph two of paragraph (a) of section 4-1.2 of the estates, powers and trusts law;

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

(viii) that no further judicial or administrative proceedings are required to ratify an unchallenged acknowledgment of parentage provided, however, that:

(A) A signatory to an acknowledgment of parentage, who had attained the age of eighteen at the time of execution of the acknowledgment, shall have the right to rescind the acknowledgment within the earlier of

sixty days from the date of signing the acknowledgment or the date of an administrative or a judicial proceeding (including, but not limited to, a proceeding to establish a support order) relating to the child in which the signatory is a party, provided that the "date of an administrative or a judicial proceeding" shall be the date by which the respondent is required to answer the petition;

(B) A signatory to an acknowledgment of parentage, who had not attained the age of eighteen at the time of execution of the acknowledgment, shall have the right to rescind the acknowledgment anytime up to sixty days after the signatory's attaining the age of eighteen years or sixty days after the date on which the respondent is required to answer a petition (including, but not limited to, a petition to establish a support order) relating to the child, whichever is earlier; provided, however, that the signatory must have been advised at such proceeding of his or her right to file a petition to vacate the acknowledgment within sixty days of the date of such proceeding;

(ix) that after the expiration of the time limits set forth in clauses (A) and (B) of subparagraph (viii) of this paragraph, any of the signatories may challenge the acknowledgment of parentage in court only on the basis of fraud, duress, or material mistake of fact, with the burden of proof on the party challenging the voluntary acknowledgment;

(x) that the person who gave birth to the child and the other signatory may wish to consult with attorneys before executing the acknowledgment; and that they have the right to seek legal representation and supportive services including counseling regarding such acknowledgment;

(xi) that the acknowledgment of parentage may be the basis for the signatory other than the person who gave birth to the child establishing custody and visitation rights to the child and for requiring the consent of the signatory other than the person who gave birth to the child prior to an adoption proceeding;

(xii) that the refusal of the person who gave birth to the child to sign the acknowledgment shall not be deemed a failure to cooperate in establishing parentage of the child; and

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

In addition, the governing body of such hospital shall ensure that appropriate staff shall provide to the person who gave birth to the child and the other signatory, prior to the discharge from the hospital of the person who gave birth to the child, the opportunity to speak with hospital staff to obtain clarifying information and answers to their questions about parentage establishment, and shall also provide the telephone number of the local support collection unit.

(g) Within ten days after receiving the certificate of birth, the registrar shall furnish without charge to each parent or guardian of the child or to the person who gave birth at the address designated by her for that purpose, a certified copy of the certificate of birth and, if applicable, a certified copy of the written acknowledgment of parentage. If the person who gave birth is in receipt of child support enforcement services pursuant to title six-A of article three of the social services law, the registrar also shall furnish without charge a certified copy of the certificate of birth and, if applicable, a certified copy of the written acknowledgment of parentage to the social services district of the county within which the person who gave birth resides.

2. (a) When a child's parentage is acknowledged voluntarily pursuant to section one hundred eleven-k of the social services law, the social services official shall file the executed acknowledgment with the registrar of the district in which the birth occurred and in which the birth certificate has been filed.

(b) Where a child's parentage has not been acknowledged voluntarily pursuant to paragraph (a) of subdivision one of this section or paragraph (a) of this subdivision, the person who gave birth to the child and the other signatory may voluntarily acknowledge a child's parentage pursuant to this paragraph by signing the acknowledgment of parentage.

(c) A signatory to an acknowledgment of parentage, who has attained the age of eighteen at the time of execution of the acknowledgment shall have the right to rescind the acknowledgment within the earlier of sixty days from the date of signing the acknowledgment or the date of an administrative or a judicial proceeding (including, but not limited to, a proceeding to establish a support order) relating to the child in which either signatory is a party; provided that for purposes of this

section, the "date of an administrative or a judicial proceeding" shall be the date by which the respondent is required to answer the petition.

(d) A signatory to an acknowledgment of parentage, who has not attained the age of eighteen at the time of execution of the acknowledgment, shall have the right to rescind the acknowledgment anytime up to sixty days after the signatory's attaining the age of eighteen years or sixty days after the date on which the respondent is required to answer a petition (including, but not limited to, a petition to establish a support order) relating to the child in which the signatory is a party, whichever is earlier; provided, however, that the signatory must have been advised at such proceeding of his or her right to file a petition to vacate the acknowledgment within sixty days of the date of such proceeding.

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

3. (a) An acknowledgment of parentage executed by any two people eligible to sign such an acknowledgment under paragraph (b) of subdivision one of this section, married or unmarried, shall establish the parentage of a child and shall have the same force and effect as an order of parentage or filiation issued by a court of competent jurisdiction. Such acknowledgement shall thereafter be filed with the registrar pursuant to subdivision one or two of this section.

(b) A registrar with whom an acknowledgment of parentage has been filed pursuant to subdivision one or two of this section shall file the acknowledgment with the state department of health, the New York city department of health and mental hygiene and the registry operated by the department of social services pursuant to section three hundred seventy-two-c of the social services law. If the acknowledgment includes the name and address of any known gamete donors of a child conceived through assisted reproduction, the state department of health or the New

York city department of health and mental hygiene shall mail a copy to the known donors listed on the form with the social security numbers of the signatories redacted.

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

5. A new certificate of birth shall be issued if the certificate of birth of the child as defined in paragraph (b) of subdivision one of section four thousand one hundred thirty-five of this article has been filed without entry of the name of the signatory other than the person who gave birth, and the commissioner thereafter receives a notarized acknowledgment of parentage accompanied by the written consent of the person who gave birth to the child and other signatory to the entry of the name of such person, which consent may also be to a change in the surname of the child.

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