

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

HOUSE BILL 373

57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025

INTRODUCED BY

Pamelya Herndon

AN ACT

RELATING TO FAMILY LAW; ENACTING THE REVISED UNIFORM PARENTAGE ACT; CLARIFYING THE DETERMINATION OF PARENTAGE, ASSISTED REPRODUCTION AND SURROGACY AGREEMENTS; PROVIDING PENALTIES; AMENDING SECTIONS OF THE NMSA 1978; REPEALING THE NEW MEXICO UNIFORM PARENTAGE ACT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

ARTICLE 1

GENERAL PROVISIONS

SECTION 1. A new Section 40-11B-101 NMSA 1978 is enacted to read:

"40-11B-101. [NEW MATERIAL] SHORT TITLE.--Chapter 40, Article 11B NMSA 1978 may be cited as the "Revised Uniform Parentage Act"."

SECTION 2. A new Section 40-11B-102 NMSA 1978 is enacted .229101.7

underscoring material = new
~~[bracketed material] = delete~~

underscoring material = new
[bracketed material] = delete

1 to read:

2 "40-11B-102. [NEW MATERIAL] DEFINITIONS.--As used in the
3 Revised Uniform Parentage Act:

4 A. "acknowledged parent" means an individual who
5 has established a parent-child relationship pursuant to Article
6 3 of the Revised Uniform Parentage Act;

7 B. "adjudicated parent" means an individual who has
8 been adjudicated to be a parent of a child by a court with
9 jurisdiction;

10 C. "alleged genetic parent" means an individual who
11 is alleged to be, or alleges that the individual is, a genetic
12 parent or possible genetic parent of a child whose parentage
13 has not been adjudicated; "alleged genetic parent" includes an
14 alleged genetic father and alleged genetic mother; "alleged
15 genetic parent" does not include:

- 16 (1) a presumed parent;
- 17 (2) an individual whose parental rights have
18 been terminated or declared not to exist; or
- 19 (3) a donor;

20 D. "assisted reproduction" means a method of
21 causing pregnancy other than sexual intercourse; "assisted
22 reproduction" includes:

- 23 (1) intrauterine or intracervical
24 insemination;
- 25 (2) donation of gametes;

.229101.7

1 (3) donation of embryos;
2 (4) in-vitro fertilization and transfer of
3 embryos; and

4 (5) intracytoplasmic sperm injection;

5 E. "birth" includes stillbirth;

6 F. "bureau" means the vital records and health
7 statistics bureau of the department of health;

8 G. "child" means an individual of any age whose
9 parentage may be determined pursuant to the Revised Uniform
10 Parentage Act;

11 H. "court" means a district court except when
12 referring to a court in a jurisdiction other than New Mexico;

13 I. "day" means a calendar day;

14 J. "determination of parentage" means establishment
15 of a parent-child relationship by a judicial or administrative
16 proceeding or signing of a valid acknowledgment of parentage
17 pursuant to Article 3 of the Revised Uniform Parentage Act;

18 K. "dissolution of marriage" means:

19 (1) a declaration that a marriage is void; or

20 (2) a decree of dissolution of marriage;

21 L. "donor" means an individual who provides gametes
22 intended for use in assisted reproduction, whether or not for
23 consideration; "donor" does not include:

24 (1) a woman who gives birth to a child
25 conceived by assisted reproduction, except as otherwise

1 provided in Article 8 of the Revised Uniform Parentage Act; or

2 (2) a parent pursuant to Article 7 of the
3 Revised Uniform Parentage Act or an intended parent pursuant to
4 Article 8 of that act;

5 M. "electronic" means relating to technology having
6 electromagnetic, digital, wireless, optical, electrical,
7 magnetic or similar capabilities;

8 N. "gamete" means sperm, egg or any part of sperm
9 or egg;

10 O. "genetic testing" means an analysis of genetic
11 markers to identify or exclude a genetic relationship;

12 P. "individual" means a natural person of any age;

13 Q. "intended parent" means an individual, married
14 or unmarried, who manifests an intent to be legally bound as a
15 parent of a child conceived by assisted reproduction;

16 R. "man" means a male individual of any age;

17 S. "notarial officer" means a notarial officer as
18 defined in Section 14-14A-2 NMSA 1978;

19 T. "parent" means an individual who has established
20 a parent-child relationship pursuant to Section 40-11B-201 NMSA
21 1978;

22 U. "parentage" or "parent-child relationship" means
23 the legal relationship between a child and a parent of the
24 child;

25 V. "presumed parent" means an individual who,

.229101.7

1 pursuant to Section 40-11B-204 NMSA 1978, is presumed to be a
2 parent of a child, unless the presumption is overcome in a
3 judicial proceeding, a valid denial of parentage is made
4 pursuant to Article 3 of the Revised Uniform Parentage Act or a
5 court adjudicates the individual to be a parent;

6 W. "record" means information that is inscribed on
7 a tangible medium or that is stored in an electronic or other
8 medium and is retrievable in perceivable form;

9 X. "separation" means a decree of separation or of
10 separate maintenance;

11 Y. "sign" means, with present intent to
12 authenticate or adopt a record:

13 (1) to execute or adopt a tangible symbol; or

14 (2) to attach to or logically associate with
15 the record an electronic symbol, sound or process;

16 Z. "signatory" means an individual who signs a
17 record;

18 AA. "state" means a state of the United States, the
19 District of Columbia, Puerto Rico, the United States Virgin
20 Islands or any territory or insular possession under the
21 jurisdiction of the United States; "state" includes a federally
22 recognized Indian nation, tribe or pueblo;

23 BB. "support-enforcement agency" means the health
24 care authority designated pursuant to Section 27-2-27 NMSA 1978
25 as the single state agency for the enforcement of child and

underscored material = new
[bracketed material] = delete

1 spousal support obligations pursuant to Title IV D of the
2 federal Social Security Act and any other public official or
3 agency authorized to seek:

4 (1) enforcement of support orders or laws
5 relating to the duty of support;

6 (2) establishment or modification of child
7 support;

8 (3) determination of parentage; or

9 (4) location of child-support obligors and
10 their income and assets;

11 CC. "transfer" means a procedure for assisted
12 reproduction by which an embryo or sperm is placed in the body
13 of the woman who will give birth to the child;

14 DD. "witnessed" means that at least one individual
15 who is authorized to sign has signed a record to verify that
16 the individual personally observed a signatory sign the record;
17 and

18 EE. "woman" means a female individual of any age."

19 SECTION 3. A new Section 40-11B-103 NMSA 1978 is enacted
20 to read:

21 "40-11B-103. [NEW MATERIAL] SCOPE.--

22 A. The Revised Uniform Parentage Act applies to an
23 adjudication or determination of parentage.

24 B. The Revised Uniform Parentage Act does not
25 create, affect, enlarge or diminish parental rights or duties

.229101.7

underscoring material = new
[bracketed material] = delete

1 pursuant to the Children's Code or other law of New Mexico
2 other than the Revised Uniform Parentage Act. The definition
3 or use of terms in the Revised Uniform Parentage Act shall not
4 be used to interpret, by analogy or otherwise, the same or
5 other terms in the Adoption Act or other law of New Mexico
6 other than the Revised Uniform Parentage Act."

7 SECTION 4. A new Section 40-11B-104 NMSA 1978 is enacted
8 to read:

9 "40-11B-104. [NEW MATERIAL] AUTHORIZED COURT.--The court
10 may adjudicate parentage pursuant to the Revised Uniform
11 Parentage Act and has jurisdiction over all actions pursuant to
12 that act."

13 SECTION 5. A new Section 40-11B-105 NMSA 1978 is enacted
14 to read:

15 "40-11B-105. [NEW MATERIAL] APPLICABLE LAW.--The court
16 shall apply the law of New Mexico to adjudicate parentage. The
17 applicable law does not depend on:

- 18 A. the place of birth of the child; or
19 B. the past or present residence of the child."

20 SECTION 6. A new Section 40-11B-106 NMSA 1978 is enacted
21 to read:

22 "40-11B-106. [NEW MATERIAL] DATA PRIVACY.--A proceeding
23 pursuant to the Revised Uniform Parentage Act is subject to law
24 of New Mexico other than that act that governs the health,
25 safety, privacy and liberty of a child or other individual who

.229101.7

underscored material = new
[bracketed material] = delete

1 could be affected by disclosure of information that could
2 identify the child or other individual, including address,
3 telephone number, digital contact information, place of
4 employment, social security number and the child's daycare
5 facility or school."

6 SECTION 7. A new Section 40-11B-107 NMSA 1978 is enacted
7 to read:

8 "40-11B-107. [NEW MATERIAL] ESTABLISHMENT OF MATERNITY
9 AND PATERNITY.--To the extent practicable, a provision of the
10 Revised Uniform Parentage Act applicable to a father-child
11 relationship applies to a mother-child relationship, and a
12 provision of that act applicable to a mother-child relationship
13 applies to a father-child relationship."

14 ARTICLE 2

15 PARENT-CHILD RELATIONSHIP

16 SECTION 8. A new Section 40-11B-201 NMSA 1978 is enacted
17 to read:

18 "40-11B-201. [NEW MATERIAL] ESTABLISHMENT OF PARENT-CHILD
19 RELATIONSHIP.--A parent-child relationship is established
20 between an individual and a child if:

21 A. the individual gives birth to the child, except
22 as otherwise provided in Article 8 of the Revised Uniform
23 Parentage Act;

24 B. there is a presumption pursuant to Section
25 40-11B-204 NMSA 1978 of the individual's parentage of the

.229101.7

underscoring material = new
[bracketed material] = delete

1 child, unless the presumption is overcome in a judicial
2 proceeding or a valid denial of parentage is made pursuant to
3 Article 3 of the Revised Uniform Parentage Act;

4 C. the individual is adjudicated a parent of the
5 child pursuant to Article 6 of the Revised Uniform Parentage
6 Act;

7 D. the individual adopts the child;

8 E. the individual acknowledges parentage of the
9 child pursuant to Article 3 of the Revised Uniform Parentage
10 Act, unless the acknowledgment is rescinded pursuant to Section
11 40-11B-308 NMSA 1978 or successfully challenged pursuant to
12 Article 3 or 6 of that act;

13 F. the individual's parentage of the child is
14 established pursuant to Article 7 of the Revised Uniform
15 Parentage Act; or

16 G. the individual's parentage of the child is
17 established pursuant to Article 8 of the Revised Uniform
18 Parentage Act."

19 SECTION 9. A new Section 40-11B-202 NMSA 1978 is enacted
20 to read:

21 "40-11B-202. [NEW MATERIAL] NO DISCRIMINATION BASED ON
22 MARITAL STATUS OF PARENT.--A parent-child relationship extends
23 equally to every child and parent, regardless of the marital
24 status of the parent."

25 SECTION 10. A new Section 40-11B-203 NMSA 1978 is enacted

.229101.7

underscoring material = new
~~[bracketed material] = delete~~

1 to read:

2 "40-11B-203. [NEW MATERIAL] CONSEQUENCES OF ESTABLISHING
3 PARENTAGE.--Unless parental rights are terminated or
4 extinguished by relinquishment and decree of adoption pursuant
5 to the Children's Code, a parent-child relationship established
6 pursuant to the Revised Uniform Parentage Act applies for all
7 purposes, except determinations of parental rights pursuant to
8 the Children's Code or as otherwise provided by law of New
9 Mexico other than the Revised Uniform Parentage Act."

10 SECTION 11. A new Section 40-11B-204 NMSA 1978 is enacted
11 to read:

12 "40-11B-204. [NEW MATERIAL] PRESUMPTION OF PARENTAGE.--

13 A. An individual is presumed to be a parent of a
14 child if:

15 (1) except as otherwise provided pursuant to
16 Article 8 of the Revised Uniform Parentage Act or law of New
17 Mexico other than that act:

18 (a) the individual and the woman who
19 gave birth to the child are married to each other and the child
20 is born during the marriage, regardless of whether the marriage
21 is or could be declared invalid;

22 (b) the individual and the woman who
23 gave birth to the child were married to each other and the
24 child is born not later than three hundred days after the
25 marriage is terminated by death or dissolution of marriage or

.229101.7

underscoring material = new
~~[bracketed material] = delete~~

1 after separation, regardless of whether the marriage is or
2 could be declared invalid; or

3 (c) the individual and the woman who
4 gave birth to the child married each other after the birth of
5 the child, regardless of whether the marriage is or could be
6 declared invalid, the individual at any time asserted parentage
7 of the child and: 1) the assertion is in a record filed with
8 the bureau; or 2) the individual agreed to be and is named as a
9 parent of the child on the birth certificate of the child; or

10 (2) the individual resided in the same
11 household with the child for the first two years of the life of
12 the child, including any period of temporary absence, and
13 openly held out the child as the individual's child.

14 B. A presumption of parentage pursuant to this
15 section may be overcome, and competing claims to parentage may
16 be resolved, only by an adjudication pursuant to Article 6 of
17 the Revised Uniform Parentage Act or a valid denial of
18 parentage pursuant to Article 3 of that act. Overcoming a
19 presumption of parentage pursuant to the Revised Uniform
20 Parentage Act does not apply to a presumption of parentage
21 established pursuant to the Adoption Act."

22 ARTICLE 3

23 VOLUNTARY ACKNOWLEDGMENT OF PARENTAGE

24 SECTION 12. A new Section 40-11B-301 NMSA 1978 is enacted
25 to read:

.229101.7

underscoring material = new
[bracketed material] = delete

1 "40-11B-301. [NEW MATERIAL] ACKNOWLEDGMENT OF
2 PARENTAGE.--A woman who gave birth to a child and an alleged
3 genetic father of the child, intended parent pursuant to
4 Article 7 of the Revised Uniform Parentage Act or presumed
5 parent may sign an acknowledgment of parentage to establish the
6 parentage of the child."

7 SECTION 13. A new Section 40-11B-302 NMSA 1978 is enacted
8 to read:

9 "40-11B-302. [NEW MATERIAL] EXECUTION OF ACKNOWLEDGMENT
10 OF PARENTAGE.--

11 A. An acknowledgment of parentage pursuant to
12 Section 40-11B-301 NMSA 1978 shall:

13 (1) be in a record signed by the woman who
14 gave birth to the child and by the individual seeking to
15 establish a parent-child relationship, and the signatures shall
16 be attested by a notarial officer or witnessed;

17 (2) state that the child whose parentage is
18 being acknowledged:

19 (a) does not have a presumed parent
20 other than the individual seeking to establish the parent-child
21 relationship or has a presumed parent whose full name is
22 stated; and

23 (b) does not have another acknowledged
24 parent, adjudicated parent or individual who is a parent of the
25 child pursuant to Article 7 or 8 of the Revised Uniform

.229101.7

underscoring material = new
[bracketed material] = delete

1 Parentage Act other than the woman who gave birth to the child;
2 and

3 (3) state that the signatories understand that
4 the acknowledgment is the equivalent of an adjudication of
5 parentage of the child and that a challenge to the
6 acknowledgment is permitted only under limited circumstances
7 and is barred two years after the effective date of the
8 acknowledgment.

9 B. An acknowledgment of parentage is void if, at
10 the time of signing:

11 (1) an individual other than the individual
12 seeking to establish parentage is a presumed parent, unless a
13 denial of parentage by the presumed parent in a signed record
14 is filed with the bureau; or

15 (2) an individual other than the woman who
16 gave birth to the child or the individual seeking to establish
17 parentage is an acknowledged or adjudicated parent or a parent
18 pursuant to Article 7 or 8 of the Revised Uniform Parentage
19 Act."

20 SECTION 14. A new Section 40-11B-303 NMSA 1978 is enacted
21 to read:

22 "40-11B-303. [NEW MATERIAL] DENIAL OF PARENTAGE.--A
23 presumed parent or alleged genetic parent may sign a denial of
24 parentage in a record. The denial of parentage is valid only
25 if:

.229101.7

underscoring material = new
[bracketed material] = delete

1 A. an acknowledgment of parentage by another
2 individual is filed pursuant to Section 40-11B-305 NMSA 1978;

3 B. the signature of the presumed parent or alleged
4 genetic parent is attested by a notarial officer or witnessed;
5 and

6 C. the presumed parent or alleged genetic parent
7 has not previously:

8 (1) completed a valid acknowledgment of
9 parentage, unless the previous acknowledgment was rescinded
10 pursuant to Section 40-11B-308 NMSA 1978 or challenged
11 successfully pursuant to Section 40-11B-309 NMSA 1978; or

12 (2) been adjudicated to be a parent of the
13 child."

14 SECTION 15. A new Section 40-11B-304 NMSA 1978 is enacted
15 to read:

16 "40-11B-304. [NEW MATERIAL] RULES FOR ACKNOWLEDGMENT OR
17 DENIAL OF PARENTAGE.--

18 A. An acknowledgment of parentage and a denial of
19 parentage may be contained in a single document or may be in
20 counterparts and may be filed with the bureau separately or
21 simultaneously. If filing of the acknowledgment and denial
22 both are required pursuant to the Revised Uniform Parentage
23 Act, neither is effective until both are filed.

24 B. An acknowledgment of parentage or denial of
25 parentage may be signed before or after the birth of the child.

.229101.7

underscoring material = new
~~[bracketed material]~~ = delete

1 C. Subject to Subsection A of this section, an
2 acknowledgment of parentage or denial of parentage takes effect
3 on the birth of the child or filing of the document with the
4 bureau, whichever occurs later.

5 D. An acknowledgment of parentage or denial of
6 parentage signed by a minor is valid if the acknowledgment
7 complies with the Revised Uniform Parentage Act."

8 SECTION 16. A new Section 40-11B-305 NMSA 1978 is enacted
9 to read:

10 "40-11B-305. [NEW MATERIAL] EFFECT OF ACKNOWLEDGMENT OR
11 DENIAL OF PARENTAGE.--

12 A. Except as otherwise provided in Sections
13 40-11B-308 and 40-11B-309 NMSA 1978, an acknowledgment of
14 parentage that complies with this article of the Revised
15 Uniform Parentage Act and is filed with the bureau is
16 equivalent to an adjudication of parentage of the child and
17 confers on the acknowledged parent all rights and duties of a
18 parent.

19 B. Except as otherwise provided in Sections
20 40-11B-308 and 40-11B-309 NMSA 1978, a denial of parentage by a
21 presumed parent or alleged genetic parent that complies with
22 this article of the Revised Uniform Parentage Act and is filed
23 with the bureau with an acknowledgment of parentage that
24 complies with this article of the Revised Uniform Parentage Act
25 is equivalent to an adjudication of the nonparentage of the

.229101.7

underscored material = new
[bracketed material] = delete

1 presumed parent or alleged genetic parent and discharges the
2 presumed parent or alleged genetic parent from all rights and
3 duties of a parent."

4 SECTION 17. A new Section 40-11B-306 NMSA 1978 is enacted
5 to read:

6 "40-11B-306. [NEW MATERIAL] NO FILING FEE.--The bureau
7 shall not charge a fee for filing an acknowledgment of
8 parentage or denial of parentage."

9 SECTION 18. A new Section 40-11B-307 NMSA 1978 is enacted
10 to read:

11 "40-11B-307. [NEW MATERIAL] RATIFICATION BARRED.--A court
12 conducting a judicial proceeding or an administrative agency
13 conducting an administrative proceeding is not required or
14 permitted to ratify an unchallenged acknowledgment of
15 parentage."

16 SECTION 19. A new Section 40-11B-308 NMSA 1978 is enacted
17 to read:

18 "40-11B-308. [NEW MATERIAL] PROCEEDING FOR RESCISSION.--A
19 signatory may rescind an acknowledgment of parentage or denial
20 of parentage only by means of a judicial proceeding to rescind
21 the acknowledgment or denial of parentage. A proceeding to
22 rescind an acknowledgment of parentage or a denial of parentage
23 shall be brought no later than the earlier of:

24 A. sixty days after the effective date of the
25 acknowledgment or denial, as provided in Section 40-11B-304

.229101.7

underscored material = new
[bracketed material] = delete

1 NMSA 1978;

2 B. in the case of a signatory who was a minor at
3 the time of acknowledgment, the later of:

4 (1) sixty days after the eighteenth birthday
5 of the signatory; or

6 (2) sixty days after the effective date of the
7 acknowledgment or denial, as provided in Section 40-11B-304
8 NMSA 1978; or

9 C. the date of the first hearing, in a proceeding
10 to which the signatory is a party, before a court to adjudicate
11 an issue relating to the child, including a proceeding that
12 establishes support."

13 SECTION 20. A new Section 40-11B-309 NMSA 1978 is enacted
14 to read:

15 "40-11B-309. [NEW MATERIAL] CHALLENGE AFTER EXPIRATION OF
16 PERIOD FOR RESCISSION.--

17 A. After the period for rescission pursuant to
18 Section 40-11B-308 NMSA 1978 expires, but not later than two
19 years after the effective date pursuant to Section 40-11B-304
20 NMSA 1978 of an acknowledgment of parentage or denial of
21 parentage, a signatory of the acknowledgment or denial may
22 commence a proceeding to challenge the acknowledgment or
23 denial, including a challenge brought pursuant to Section
24 40-11B-614 NMSA 1978, only on the basis of fraud, duress or
25 material mistake of fact.

.229101.7

underscoring material = new
~~[bracketed material] = delete~~

1 B. A challenge to an acknowledgment of parentage or
2 denial of parentage by an individual who was not a signatory to
3 the acknowledgment or denial is governed by Section 40-11B-610
4 NMSA 1978."

5 SECTION 21. A new Section 40-11B-310 NMSA 1978 is enacted
6 to read:

7 "40-11B-310. [NEW MATERIAL] PROCEDURE FOR CHALLENGE BY
8 SIGNATORY.--

9 A. Every signatory to an acknowledgment of
10 parentage and any related denial of parentage shall be made a
11 party to a proceeding to challenge the acknowledgment or
12 denial.

13 B. By signing an acknowledgment of parentage or
14 denial of parentage, a signatory submits to the personal
15 jurisdiction of the courts of New Mexico in a proceeding to
16 challenge the acknowledgment or denial, effective on the filing
17 of the acknowledgment or denial with the bureau.

18 C. The court may not suspend the legal
19 responsibilities arising from an acknowledgment of parentage,
20 including the duty to pay child support, during the pendency of
21 a proceeding to challenge the acknowledgment or a related
22 denial of parentage, unless the party challenging the
23 acknowledgment or denial shows good cause.

24 D. A party challenging an acknowledgment of
25 parentage or denial of parentage has the burden of proof.

.229101.7

underscored material = new
[bracketed material] = delete

1 E. If the court determines that a party has
2 satisfied the burden of proof pursuant to Subsection D of this
3 section, the court shall order the bureau to amend the birth
4 record of the child to reflect the legal parentage of the
5 child.

6 F. A proceeding to challenge an acknowledgment of
7 parentage or denial of parentage shall be conducted pursuant to
8 Article 6 of the Revised Uniform Parentage Act."

9 **SECTION 22.** A new Section 40-11B-311 NMSA 1978 is enacted
10 to read:

11 "40-11B-311. [NEW MATERIAL] FULL FAITH AND CREDIT.--The
12 court shall give full faith and credit to an acknowledgment of
13 parentage or denial of parentage effective in another state if
14 the acknowledgment or denial was in a signed record and
15 otherwise complies with law of the other state."

16 **SECTION 23.** A new Section 40-11B-312 NMSA 1978 is enacted
17 to read:

18 "40-11B-312. [NEW MATERIAL] FORMS FOR ACKNOWLEDGMENT AND
19 DENIAL OF PARENTAGE.--

20 A. The bureau shall prescribe forms for an
21 acknowledgment of parentage and denial of parentage.

22 B. A valid acknowledgment of parentage or denial of
23 parentage is not affected by a later modification of the form
24 pursuant to Subsection A of this section."

25 **SECTION 24.** A new Section 40-11B-313 NMSA 1978 is enacted

.229101.7

underscored material = new
[bracketed material] = delete

1 to read:

2 "40-11B-313. [NEW MATERIAL] RELEASE OF INFORMATION.--The
3 bureau may release information relating to an acknowledgment of
4 parentage or denial of parentage to a signatory of the
5 acknowledgment or denial, a court, federal agency and support-
6 enforcement agency of this or another state as permitted by the
7 provisions of Chapter 24, Article 14 NMSA 1978."

8 SECTION 25. A new Section 40-11B-314 NMSA 1978 is enacted
9 to read:

10 "40-11B-314. [NEW MATERIAL] ADOPTION OF RULES.--The
11 bureau may adopt rules pursuant to the State Rules Act to
12 implement this article of the Revised Uniform Parentage Act."

13 ARTICLE 4

14 REGISTRY OF PATERNITY

15 SECTION 26. A new Section 40-11B-401 NMSA 1978 is enacted
16 to read:

17 "40-11B-401. [NEW MATERIAL] ESTABLISHMENT OF REGISTRY.--
18 The putative father registry established pursuant to Section
19 32A-5-20 NMSA 1978 is also the registry of paternity
20 established pursuant to the Revised Uniform Parentage Act."

21 ARTICLE 5

22 GENETIC TESTING

23 SECTION 27. A new Section 40-11B-501 NMSA 1978 is enacted
24 to read:

25 "40-11B-501. [NEW MATERIAL] DEFINITIONS.--As used in this
.229101.7

1 article of the Revised Uniform Parentage Act:

2 A. "combined relationship index" means the product
3 of all tested relationship indices;

4 B. "ethnic or racial group" means, for the purpose
5 of genetic testing, a recognized group that an individual
6 identifies as the individual's ancestry or part of the ancestry
7 or that is identified by other information;

8 C. "hypothesized genetic relationship" means an
9 asserted genetic relationship between an individual and a
10 child;

11 D. "probability of parentage" means, for the ethnic
12 or racial group to which an individual alleged to be a parent
13 belongs, the probability that a hypothesized genetic
14 relationship is supported, compared to the probability that a
15 genetic relationship is supported between the child and a
16 random individual of the ethnic or racial group used in the
17 hypothesized genetic relationship, expressed as a percentage
18 incorporating the combined relationship index and a prior
19 probability; and

20 E. "relationship index" means a likelihood ratio
21 that compares the probability of a genetic marker given a
22 hypothesized genetic relationship and the probability of the
23 genetic marker given a genetic relationship between the child
24 and a random individual of the ethnic or racial group used in
25 the hypothesized genetic relationship."

.229101.7

underscored material = new
[bracketed material] = delete

1 SECTION 28. A new Section 40-11B-502 NMSA 1978 is enacted
2 to read:

3 "40-11B-502. [NEW MATERIAL] SCOPE OF ARTICLE 5--
4 LIMITATION ON USE OF GENETIC TESTING.--

5 A. This article of the Revised Uniform Parentage
6 Act governs genetic testing of an individual in a proceeding to
7 adjudicate parentage, whether the individual:

- 8 (1) voluntarily submits to testing; or
- 9 (2) is tested pursuant to an order of the
10 court or a support-enforcement agency.

11 B. Genetic testing shall not be used:

- 12 (1) to challenge the parentage of an
13 individual who is a parent pursuant to Article 7 or 8 of the
14 Revised Uniform Parentage Act; or
- 15 (2) to establish the parentage of an
16 individual who is a donor."

17 SECTION 29. A new Section 40-11B-503 NMSA 1978 is enacted
18 to read:

19 "40-11B-503. [NEW MATERIAL] AUTHORITY TO ORDER OR DENY
20 GENETIC TESTING.--

21 A. Except as otherwise provided in this article of
22 the Revised Uniform Parentage Act or Article 6 of the Revised
23 Uniform Parentage Act, in a proceeding pursuant to that act to
24 determine parentage, the court shall order the child and any
25 other individual to submit to genetic testing if a request for

.229101.7

1 testing is supported by the sworn statement of a party:

2 (1) alleging genetic parentage of the child
3 and stating facts establishing a reasonable possibility that
4 the individual is the child's genetic parent; or

5 (2) denying genetic parentage of the child and
6 stating facts establishing a reasonable possibility that the
7 individual is not a genetic parent.

8 B. The support-enforcement agency may order genetic
9 testing only if there is no presumed, acknowledged or
10 adjudicated parent of a child other than the woman who gave
11 birth to the child.

12 C. The court or support-enforcement agency shall
13 not order in utero genetic testing.

14 D. If two or more individuals are subject to court-
15 ordered genetic testing, the court may order that testing be
16 completed concurrently or sequentially.

17 E. Genetic testing of a woman who gave birth to a
18 child is not a condition precedent to testing of the child and
19 an individual whose genetic parentage of the child is being
20 determined. If the woman is unavailable or declines to submit
21 to genetic testing, the court may order genetic testing of the
22 child and each individual whose genetic parentage of the child
23 is being adjudicated.

24 F. In a proceeding to adjudicate the parentage of a
25 child having a presumed parent or an individual who claims to

1 be a parent pursuant to Section 40-11B-609 NMSA 1978, or to
2 challenge an acknowledgment of parentage, the court may deny a
3 motion for genetic testing of the child and any other
4 individual after considering the factors in Subsections A and B
5 of Section 40-11B-613 NMSA 1978.

6 G. If an individual requesting genetic testing is
7 barred pursuant to Article 6 of the Revised Uniform Parentage
8 Act from establishing the individual's parentage, the court
9 shall deny the request for genetic testing.

10 H. Subject to any rules established by the New
11 Mexico supreme court, an order pursuant to this section for
12 genetic testing is enforceable by contempt."

13 SECTION 30. A new Section 40-11B-504 NMSA 1978 is enacted
14 to read:

15 "40-11B-504. [NEW MATERIAL] REQUIREMENTS FOR GENETIC
16 TESTING.--

17 A. Genetic testing shall be of a type reasonably
18 relied on by experts in the field of genetic testing and
19 performed in a testing laboratory accredited by:

20 (1) the AABB, formerly known as the American
21 association of blood banks, or a successor to its functions; or

22 (2) an accrediting body designated by the
23 United States secretary of health and human services.

24 B. A specimen used in genetic testing may consist
25 of a sample or a combination of samples of blood, buccal cells,

1 bone, hair or other body tissue or fluid. The specimen used in
2 the testing need not be of the same kind for each individual
3 undergoing genetic testing.

4 C. Based on the ethnic or racial group of an
5 individual undergoing genetic testing, a testing laboratory
6 shall determine the databases from which to select frequencies
7 for use in calculating a relationship index. If an individual
8 or a support-enforcement agency objects to the laboratory's
9 choice, the following rules apply:

10 (1) not later than thirty days after receipt
11 of the report of the test, the objecting individual or support-
12 enforcement agency may request the court to require the
13 laboratory to recalculate the relationship index using an
14 ethnic or racial group different from that used by the
15 laboratory;

16 (2) the individual or the support-enforcement
17 agency objecting to the laboratory's choice pursuant to this
18 subsection shall:

19 (a) if the requested frequencies are not
20 available to the laboratory for the ethnic or racial group
21 requested, provide the requested frequencies compiled in a
22 manner recognized by accrediting bodies; or

23 (b) engage another laboratory to perform
24 the calculations; and

25 (3) the laboratory may use its own statistical

underscoring material = new
~~[bracketed material] = delete~~

1 estimate if there is a question as to which ethnic or racial
2 group is appropriate. The laboratory shall calculate the
3 frequencies using statistics, if available, for any other
4 ethnic or racial group requested.

5 D. If, after recalculation of the relationship
6 index pursuant to Subsection C of this section using a
7 different ethnic or racial group, genetic testing pursuant to
8 Section 40-11B-506 NMSA 1978 does not identify an individual as
9 a genetic parent of a child, the court may require an
10 individual who has been tested to submit to additional genetic
11 testing to identify a genetic parent.

12 E. The retention of materials used for genetic
13 testing shall be governed by the provisions of Sections 24-21-3
14 and 24-21-5 NMSA 1978."

15 SECTION 31. A new Section 40-11B-505 NMSA 1978 is enacted
16 to read:

17 "40-11B-505. [NEW MATERIAL] REPORT OF GENETIC TESTING.--

18 A. A report of genetic testing shall be in a record
19 and signed under penalty of perjury by a designee of the
20 testing laboratory. A report complying with the requirements
21 of this article of the Revised Uniform Parentage Act is self-
22 authenticating.

23 B. Documentation from a testing laboratory of the
24 following information is sufficient to establish a reliable
25 chain of custody and allow the results of genetic testing to be

.229101.7

underscored material = new
[bracketed material] = delete

1 admissible without testimony:

2 (1) the name and photograph of each individual
3 whose specimen has been taken;

4 (2) the name of the individual who collected
5 each specimen;

6 (3) the place and date each specimen was
7 collected;

8 (4) the name of the individual who received
9 each specimen in the testing laboratory;

10 (5) the date each specimen was received; and

11 (6) the accreditation of the testing facility
12 showing that it meets the requirements of Subsection A of
13 Section 40-11B-504 NMSA 1978."

14 SECTION 32. A new Section 40-11B-506 NMSA 1978 is enacted
15 to read:

16 "40-11B-506. [NEW MATERIAL] GENETIC TESTING RESULTS--
17 CHALLENGE TO RESULTS.--

18 A. Subject to a challenge pursuant to Subsection B
19 of this section, an individual is identified pursuant to the
20 Revised Uniform Parentage Act as a genetic parent of a child if
21 genetic testing complies with this article of the Revised
22 Uniform Parentage Act and the results of the testing disclose:

23 (1) that the individual has at least a ninety-
24 nine percent probability of parentage, using a prior
25 probability of zero point five zero, as calculated by using the
.229101.7

underscored material = new
[bracketed material] = delete

1 combined relationship index obtained in the testing; and

2 (2) a combined relationship index of at least
3 one hundred to one.

4 B. An individual identified pursuant to Subsection
5 A of this section as a genetic parent of the child may
6 challenge the genetic testing results only by other genetic
7 testing satisfying the requirements of this article of the
8 Revised Uniform Parentage Act that:

9 (1) excludes the individual as a genetic
10 parent of the child; or

11 (2) identifies another individual as a
12 possible genetic parent of the child other than:

13 (a) the woman who gave birth to the
14 child; or

15 (b) the individual identified pursuant
16 to Subsection A of this section.

17 C. Except as otherwise provided in Section
18 40-11B-511 NMSA 1978, if more than one individual other than
19 the woman who gave birth is identified by genetic testing as a
20 possible genetic parent of the child, the court shall order
21 each individual to submit to further genetic testing to
22 identify a genetic parent."

23 SECTION 33. A new Section 40-11B-507 NMSA 1978 is enacted
24 to read:

25 "40-11B-507. [NEW MATERIAL] COST OF GENETIC TESTING.--

.229101.7

underscored material = new
[bracketed material] = delete

1 A. Subject to assessment of fees pursuant to
2 Article 6 of the Revised Uniform Parentage Act, payment of the
3 cost of initial genetic testing shall be made in advance:

4 (1) by a support-enforcement agency in a
5 proceeding in which the support-enforcement agency is providing
6 services;

7 (2) by the individual who made the request for
8 genetic testing;

9 (3) as agreed by the parties; or

10 (4) as ordered by the court.

11 B. If the cost of genetic testing is paid by a
12 support-enforcement agency, the agency may seek reimbursement
13 from the genetic parent whose parent-child relationship is
14 established."

15 SECTION 34. A new Section 40-11B-508 NMSA 1978 is enacted
16 to read:

17 "40-11B-508. [NEW MATERIAL] ADDITIONAL GENETIC TESTING.--
18 The court or support-enforcement agency shall order additional
19 genetic testing on request of an individual who contests the
20 result of the initial testing pursuant to Section 40-11B-506
21 NMSA 1978. If initial genetic testing pursuant to that section
22 identified an individual as a genetic parent of the child, the
23 court or agency shall not order additional testing unless the
24 contesting individual pays for the testing in advance."

25 SECTION 35. A new Section 40-11B-509 NMSA 1978 is enacted
.229101.7

underscoring material = new
[bracketed material] = delete

1 to read:

2 "40-11B-509. [NEW MATERIAL] GENETIC TESTING WHEN SPECIMEN
3 NOT AVAILABLE.--

4 A. Subject to Subsection B of this section, if a
5 genetic-testing specimen is not available from an alleged
6 genetic parent of a child, an individual seeking genetic
7 testing demonstrates good cause and the court finds that the
8 circumstances are just, the court may order any of the
9 following individuals to submit specimens for genetic testing:

- 10 (1) a parent of the alleged genetic parent;
11 (2) a sibling of the alleged genetic parent;
12 (3) another child of the alleged genetic
13 parent and the woman who gave birth to the other child; and
14 (4) another relative of the alleged genetic
15 parent necessary to complete genetic testing.

16 B. To issue an order pursuant to this section, the
17 court shall find that a need for genetic testing outweighs the
18 legitimate interests of the individual sought to be tested."

19 SECTION 36. A new Section 40-11B-510 NMSA 1978 is enacted
20 to read:

21 "40-11B-510. [NEW MATERIAL] DECEASED INDIVIDUAL.--If an
22 individual seeking genetic testing demonstrates good cause, the
23 court may order genetic testing of a deceased individual."

24 SECTION 37. A new Section 40-11B-511 NMSA 1978 is enacted
25 to read:

.229101.7

1 "40-11B-511. [NEW MATERIAL] IDENTICAL SIBLINGS.--

2 A. If the court finds there is reason to believe
3 that an alleged genetic parent has an identical sibling and
4 evidence that the sibling may be a genetic parent of the child,
5 the court may order genetic testing of the sibling.

6 B. If more than one sibling is identified pursuant
7 to Section 40-11B-506 NMSA 1978 as a genetic parent of the
8 child, the court may rely on nongenetic evidence to adjudicate
9 which sibling is a genetic parent of the child."

10 SECTION 38. A new Section 40-11B-512 NMSA 1978 is enacted
11 to read:

12 "40-11B-512. [NEW MATERIAL] CONFIDENTIALITY OF GENETIC
13 TESTING.--

14 A. A report of genetic testing for parentage may be
15 released only to the parties tested or their representatives,
16 the support-enforcement agency and the court.

17 B. An individual who intentionally releases an
18 identifiable specimen of another individual collected for
19 genetic testing pursuant to this article of the Revised Uniform
20 Parentage Act for a purpose not relevant to a proceeding
21 regarding parentage, without a court order or written
22 permission of the individual who furnished the specimen, is
23 guilty of a fourth degree felony and shall be sentenced
24 pursuant to Section 31-18-15 NMSA 1978."

25 ARTICLE 6

.229101.7

1 PROCEEDING TO ADJUDICATE PARENTAGE

2 PART 1

3 NATURE OF PROCEEDING

4 SECTION 39. A new Section 40-11B-601 NMSA 1978 is enacted
5 to read:

6 "40-11B-601. [NEW MATERIAL] PROCEEDING AUTHORIZED.--

7 A. A proceeding may be commenced to adjudicate the
8 parentage of a child. The proceeding is governed by the Rules
9 of Civil Procedure for the District Courts.

10 B. A proceeding to adjudicate the parentage of a
11 child born pursuant to a surrogacy agreement is governed by
12 Article 8 of the Revised Uniform Parentage Act."

13 SECTION 40. A new Section 40-11B-602 NMSA 1978 is enacted
14 to read:

15 "40-11B-602. [NEW MATERIAL] STANDING TO MAINTAIN
16 PROCEEDING.--Except as otherwise provided in Article 3 of the
17 Revised Uniform Parentage Act and Sections 40-11B-608 through
18 40-11B-611 NMSA 1978, a proceeding to adjudicate parentage may
19 be maintained by:

20 A. the child;

21 B. the woman who gave birth to the child, unless a
22 court has adjudicated that she is not a parent;

23 C. an individual who is a parent pursuant to the
24 Revised Uniform Parentage Act;

25 D. an individual whose parentage of the child is to

.229101.7

underscored material = new
[bracketed material] = delete

1 be adjudicated;

2 E. the support-enforcement agency;

3 F. an adoption agency authorized by law of New
4 Mexico other than the Revised Uniform Parentage Act or licensed
5 child-placement agency; or

6 G. a representative authorized by law of New Mexico
7 other than the Revised Uniform Parentage Act to act for an
8 individual who otherwise would be entitled to maintain a
9 proceeding but is deceased, incapacitated or a minor."

10 SECTION 41. A new Section 40-11B-603 NMSA 1978 is enacted
11 to read:

12 "40-11B-603. [NEW MATERIAL] NOTICE OF PROCEEDING.--

13 A. The petitioner shall give notice of a proceeding
14 to adjudicate parentage to the following individuals:

15 (1) the woman who gave birth to the child,
16 unless a court has adjudicated that she is not a parent;

17 (2) an individual who is a parent of the child
18 pursuant to the Revised Uniform Parentage Act;

19 (3) a presumed, acknowledged or adjudicated
20 parent of the child; and

21 (4) an individual whose parentage of the child
22 is to be adjudicated.

23 B. An individual entitled to notice pursuant to
24 Subsection A of this section has a right to intervene in the
25 proceeding.

.229101.7

underscored material = new
[bracketed material] = delete

1 C. Lack of notice required by Subsection A of this
2 section does not render a judgment void. Lack of notice does
3 not preclude an individual entitled to notice pursuant to
4 Subsection A of this section from bringing a proceeding
5 pursuant to Subsection B of Section 40-11B-611 NMSA 1978."

6 SECTION 42. A new Section 40-11B-604 NMSA 1978 is enacted
7 to read:

8 "40-11B-604. [NEW MATERIAL] PERSONAL JURISDICTION.--

9 A. The court may adjudicate an individual's
10 parentage of a child only if the court has personal
11 jurisdiction over the individual.

12 B. A court of this state with jurisdiction to
13 adjudicate parentage may exercise personal jurisdiction over a
14 nonresident individual, or the guardian or conservator of the
15 individual, if the conditions prescribed in Section 40-6A-201
16 NMSA 1978 are satisfied.

17 C. Lack of jurisdiction over one individual does
18 not preclude the court from making an adjudication of parentage
19 binding on another individual over whom the court has personal
20 jurisdiction."

21 SECTION 43. A new Section 40-11B-605 NMSA 1978 is enacted
22 to read:

23 "40-11B-605. [NEW MATERIAL] VENUE.--Venue for a
24 proceeding to adjudicate parentage is in the county of New
25 Mexico in which:

.229101.7

underscored material = new
[bracketed material] = delete

1 expense for the expert testifying.

2 D. Admissibility of a report of genetic testing is
3 not affected by whether the testing was performed:

4 (1) voluntarily or pursuant to an order of the
5 court or a support-enforcement agency; or

6 (2) before, on or after commencement of the
7 proceeding."

8 SECTION 45. A new Section 40-11B-607 NMSA 1978 is enacted
9 to read:

10 "40-11B-607. [NEW MATERIAL] ADJUDICATING PARENTAGE OF
11 CHILD WITH ALLEGED GENETIC PARENT.--

12 A. A proceeding to determine whether an alleged
13 genetic parent who is not a presumed parent is a parent of a
14 child may be commenced:

15 (1) before the child becomes an adult; or

16 (2) after the child becomes an adult, but only
17 if the child initiates the proceeding.

18 B. Except as otherwise provided in Section
19 40-11B-614 NMSA 1978, this subsection applies in a proceeding
20 described in Subsection A of this section if the woman who gave
21 birth to the child is the only other individual with a claim to
22 parentage of the child. The court shall adjudicate an alleged
23 genetic parent to be a parent of the child if the alleged
24 genetic parent:

25 (1) is identified pursuant to Section

.229101.7

1 40-11B-506 NMSA 1978 as a genetic parent of the child and the
2 identification is not successfully challenged pursuant to that
3 section;

4 (2) admits parentage in a pleading, when
5 making an appearance or during a hearing, the court accepts the
6 admission and the court determines the alleged genetic parent
7 to be a parent of the child;

8 (3) declines to submit to genetic testing
9 ordered by the court or a support-enforcement agency, in which
10 case the court may adjudicate the alleged genetic parent to be
11 a parent of the child even if the alleged genetic parent denies
12 a genetic relationship with the child;

13 (4) is in default after service of process and
14 the court determines the alleged genetic parent to be a parent
15 of the child; or

16 (5) is neither identified nor excluded as a
17 genetic parent by genetic testing and, based on other evidence,
18 the court determines the alleged genetic parent to be a parent
19 of the child.

20 C. Except as otherwise provided in Section
21 40-11B-614 NMSA 1978, and subject to other limitations in
22 Sections 40-11B-606 through 40-11B-614 NMSA 1978, if in a
23 proceeding involving an alleged genetic parent, at least one
24 other individual in addition to the woman who gave birth to the
25 child has a claim to parentage of the child, the court shall

underscoring material = new
~~[bracketed material] = delete~~

1 adjudicate parentage pursuant to Section 40-11B-613 NMSA 1978."

2 SECTION 46. A new Section 40-11B-608 NMSA 1978 is enacted
3 to read:

4 "40-11B-608. [NEW MATERIAL] ADJUDICATING PARENTAGE OF
5 CHILD WITH PRESUMED PARENT.--

6 A. A proceeding to determine whether a presumed
7 parent is a parent of a child may be commenced:

- 8 (1) before the child becomes an adult; or
9 (2) after the child becomes an adult, but only
10 if the child initiates the proceeding.

11 B. A presumption of parentage pursuant to Section
12 40-11B-204 NMSA 1978 cannot be overcome after the child attains
13 two years of age unless the court determines:

14 (1) the presumed parent is not a genetic
15 parent, never resided with the child and never held out the
16 child as the presumed parent's child; or

17 (2) the child has more than one presumed
18 parent.

19 C. Except as otherwise provided in Section
20 40-11B-614 NMSA 1978, the following rules apply in a proceeding
21 to adjudicate a presumed parent's parentage of a child if the
22 woman who gave birth to the child is the only other individual
23 with a claim to parentage of the child:

24 (1) if no party to the proceeding challenges
25 the presumed parent's parentage of the child, the court shall

.229101.7

underscoring material = new
[bracketed material] = delete

1 adjudicate the presumed parent to be a parent of the child;

2 (2) if the presumed parent is identified
3 pursuant to Section 40-11B-506 NMSA 1978 as a genetic parent of
4 the child and that identification is not successfully
5 challenged that section, the court shall adjudicate the
6 presumed parent to be a parent of the child;

7 (3) if the presumed parent is not identified
8 pursuant to Section 40-11B-506 NMSA 1978 as a genetic parent of
9 the child and the presumed parent or the woman who gave birth
10 to the child challenges the presumed parent's parentage of the
11 child, the court shall adjudicate the parentage of the child in
12 the best interest of the child based on the factors set forth
13 in Subsections A and B of Section 40-11B-613 NMSA 1978; and

14 (4) except as otherwise provided in Section
15 40-11B-614 NMSA 1978, and subject to other limitations in
16 Sections 40-11B-606 through 40-11B-614 NMSA 1978, if in a
17 proceeding to adjudicate a presumed parent's parentage of a
18 child, another individual in addition to the woman who gave
19 birth to the child asserts a claim to parentage of the child,
20 the court shall adjudicate parentage pursuant to Section
21 40-11B-613 NMSA 1978."

22 SECTION 47. A new Section 40-11B-609 NMSA 1978 is enacted
23 to read:

24 "40-11B-609. [NEW MATERIAL] ADJUDICATING CLAIM OF DE
25 FACTO PARENTAGE OF CHILD.--

.229101.7

1 A. A proceeding to establish parentage of a child
2 pursuant to this section may be commenced only by an individual
3 who:

4 (1) is alive when the proceeding is commenced;
5 and

6 (2) claims to be a de facto parent of the
7 child.

8 B. An individual who claims to be a de facto parent
9 of a child shall commence a proceeding to establish parentage
10 of a child pursuant to this section:

11 (1) before the child attains eighteen years of
12 age; and

13 (2) while the child is alive.

14 C. The following rules govern standing of an
15 individual who claims to be a de facto parent of a child to
16 maintain a proceeding pursuant to this section:

17 (1) the individual shall file an initial
18 verified pleading alleging specific facts that support the
19 claim to parentage of the child asserted pursuant to this
20 section; the verified pleading shall be served on all parents
21 and legal guardians of the child and any other party to the
22 proceeding;

23 (2) an adverse party, parent or legal guardian
24 may file a pleading in response to the pleading filed pursuant
25 to Paragraph (1) of this subsection; a responsive pleading

1 shall be verified and shall be served on parties to the
2 proceeding; and

3 (3) unless the court finds a hearing is
4 necessary to determine disputed facts material to the issue of
5 standing, the court shall determine, based on the pleadings
6 pursuant to Paragraphs (1) and (2) of this subsection, whether
7 the individual has alleged facts sufficient to satisfy by a
8 preponderance of the evidence the requirements of Paragraphs
9 (1) through (7) of Subsection D of this section; if the court
10 holds a hearing pursuant to this subsection, the hearing shall
11 be held on an expedited basis.

12 D. In a proceeding to adjudicate parentage of an
13 individual who claims to be a de facto parent of the child, if
14 there is only one other individual who is a parent or has a
15 claim to parentage of the child, the court shall adjudicate the
16 individual who claims to be a de facto parent to be a parent of
17 the child if the individual demonstrates by clear and
18 convincing evidence that:

19 (1) the individual resided with the child as a
20 regular member of the child's household for a significant
21 period;

22 (2) the individual engaged in consistent
23 caretaking of the child;

24 (3) the individual undertook full and
25 permanent responsibilities of a parent of the child without

underscored material = new
[bracketed material] = delete

1 expectation of financial compensation;

2 (4) the individual held out the child as the
3 individual's child;

4 (5) the individual established a bonded and
5 dependent relationship with the child that is parental in
6 nature;

7 (6) another parent of the child fostered or
8 supported the bonded and dependent relationship required
9 pursuant to Paragraph (5) of this subsection; and

10 (7) continuing the relationship between the
11 individual and the child is in the best interest of the child.

12 E. Subject to other limitations in Sections
13 40-11B-606 through 40-11B-614 NMSA 1978, if, in a proceeding to
14 adjudicate parentage of an individual who claims to be a de
15 facto parent of the child, there is more than one other
16 individual who is a parent or has a claim to parentage of the
17 child and the court determines that the requirements of
18 Subsection D of this section are satisfied, the court shall
19 adjudicate parentage pursuant to Section 40-11B-613 NMSA 1978."

20 SECTION 48. A new Section 40-11B-610 NMSA 1978 is enacted
21 to read:

22 "40-11B-610. [NEW MATERIAL] ADJUDICATING PARENTAGE OF
23 CHILD WITH ACKNOWLEDGED PARENT.--

24 A. If a child has an acknowledged parent, a
25 proceeding to challenge the acknowledgment of parentage or a

.229101.7

underscored material = new
[bracketed material] = delete

1 denial of parentage, brought by a signatory to the
2 acknowledgment or denial, is governed by Sections 40-11B-309
3 and 40-11B-310 NMSA 1978.

4 B. If a child has an acknowledged parent, the
5 following rules apply in a proceeding to challenge the
6 acknowledgment of parentage or a denial of parentage brought by
7 an individual, other than the child, who has standing pursuant
8 to Section 40-11B-602 NMSA 1978 and was not a signatory to the
9 acknowledgment or denial:

10 (1) the individual shall commence the
11 proceeding not later than two years after the effective date of
12 the acknowledgment;

13 (2) the court may permit the proceeding only
14 if the court finds that permitting the proceeding is in the
15 best interest of the child; and

16 (3) if the court permits the proceeding, the
17 court shall adjudicate parentage pursuant to Section 40-11B-613
18 NMSA 1978."

19 SECTION 49. A new Section 40-11B-611 NMSA 1978 is enacted
20 to read:

21 "40-11B-611. [NEW MATERIAL] ADJUDICATING PARENTAGE OF
22 CHILD WITH ADJUDICATED PARENT.--

23 A. If a child has an adjudicated parent, a
24 proceeding to challenge the adjudication, brought by an
25 individual who was a party to the adjudication or received

.229101.7

underscored material = new
~~[bracketed material] = delete~~

1 notice pursuant to Section 40-11B-603 NMSA 1978, is governed by
2 the rules governing a collateral attack on a judgment.

3 B. If a child has an adjudicated parent, the
4 following rules apply to a proceeding to challenge the
5 adjudication of parentage brought by an individual, other than
6 the child, who has standing pursuant to Section 40-11B-602 NMSA
7 1978 and was not a party to the adjudication and did not
8 receive notice pursuant to Section 40-11B-603 NMSA 1978:

9 (1) the individual shall commence the
10 proceeding not later than two years after the effective date of
11 the adjudication;

12 (2) the court may permit the proceeding only
13 if the court finds that permitting the proceeding is in the
14 best interest of the child; and

15 (3) if the court permits the proceeding, the
16 court shall adjudicate parentage pursuant to Section 40-11B-613
17 NMSA 1978."

18 SECTION 50. A new Section 40-11B-612 NMSA 1978 is enacted
19 to read:

20 "40-11B-612. [NEW MATERIAL] ADJUDICATING PARENTAGE OF
21 CHILD OF ASSISTED REPRODUCTION.--

22 A. An individual who is a parent pursuant to
23 Article 7 of the Revised Uniform Parentage Act or the woman who
24 gave birth to the child may bring a proceeding to adjudicate
25 parentage. If the court determines the individual is a parent

.229101.7

underscoring material = new
[bracketed material] = delete

1 pursuant to Article 7, the court shall adjudicate the
2 individual to be a parent of the child.

3 B. In a proceeding to adjudicate an individual's
4 parentage of a child, if another individual other than the
5 woman who gave birth to the child is a parent pursuant to
6 Article 7 of the Revised Uniform Parentage Act, the court shall
7 adjudicate the individual's parentage of the child pursuant to
8 Section 40-11B-613 NMSA 1978."

9 SECTION 51. A new Section 40-11B-613 NMSA 1978 is enacted
10 to read:

11 "40-11B-613. [NEW MATERIAL] ADJUDICATING COMPETING CLAIMS
12 OF PARENTAGE.--

13 A. Except as otherwise provided in Section
14 40-11B-614 NMSA 1978, in a proceeding to adjudicate competing
15 claims of, or challenges pursuant to Subsection C of Section
16 40-11B-608, Section 40-11B-610 or Section 40-11B-611 NMSA 1978
17 to parentage of a child by two or more individuals, the court
18 shall adjudicate parentage in the best interest of the child,
19 based on:

- 20 (1) the age of the child;
21 (2) the length of time during which each
22 individual assumed the role of parent of the child;
23 (3) the nature of the relationship between the
24 child and each individual;
25 (4) the harm to the child if the relationship

.229101.7

1 between the child and each individual is not recognized;

2 (5) the basis for each individual's claim to
3 parentage of the child; and

4 (6) other equitable factors arising from the
5 disruption of the relationship between the child and each
6 individual or the likelihood of other harm to the child.

7 B. If an individual challenges parentage based on
8 the results of genetic testing, in addition to the factors
9 listed in Subsection A of this section, the court shall
10 consider:

11 (1) the facts surrounding the discovery that
12 the individual might not be a genetic parent of the child; and

13 (2) the length of time between the time that
14 the individual was placed on notice that the individual might
15 not be a genetic parent and the commencement of the proceeding.

16 C. The court may adjudicate a child to have more
17 than two parents pursuant to the Revised Uniform Parentage Act
18 if the court finds that failure to recognize more than two
19 parents would be detrimental to the child. A finding of
20 detriment to the child does not require a finding of unfitness
21 of any parent or individual seeking an adjudication of
22 parentage. In determining detriment to the child, the court
23 shall consider all relevant factors, including the harm if the
24 child is removed from a stable placement with an individual who
25 has fulfilled the child's physical needs and psychological

underscoring material = new
~~[bracketed material] = delete~~

1 needs for care and affection and has assumed the role for a
2 substantial period."

3 SECTION 52. A new Section 40-11B-614 NMSA 1978 is enacted
4 to read:

5 "40-11B-614. [NEW MATERIAL] PRECLUDING ESTABLISHMENT OF
6 PARENTAGE BY PERPETRATOR OF SEXUAL ASSAULT.--

7 A. As used in this section, "criminal sexual
8 penetration" has the same meaning as set forth in Subsection A
9 of Section 30-9-11 NMSA 1978.

10 B. In a proceeding in which a woman alleges that a
11 man committed criminal sexual penetration that resulted in the
12 woman giving birth to a child, the woman may seek to preclude
13 the man from establishing that he is a parent of the child.

14 C. This section does not apply if:

15 (1) the man described in Subsection B of this
16 section has previously been adjudicated to be a parent of the
17 child; or

18 (2) after the birth of the child, the man
19 established a bonded and dependent relationship with the child
20 that is parental in nature.

21 D. Unless Section 40-11B-309 or Section 40-11B-607
22 NMSA 1978 applies, a woman shall file a pleading making an
23 allegation pursuant to Subsection B of this section not later
24 than two years after the birth of the child. The woman shall
25 file the pleading in a proceeding to establish parentage

.229101.7

1 pursuant to the Revised Uniform Parentage Act.

2 E. An allegation pursuant to Subsection B of this
3 section may be proved by:

4 (1) evidence that the man was convicted of
5 criminal sexual penetration, or a comparable crime in another
6 jurisdiction, against the woman and the child was born not
7 later than three hundred days after the criminal sexual
8 penetration; or

9 (2) clear and convincing evidence that the man
10 committed criminal sexual penetration against the woman and the
11 child was born not later than three hundred days after the
12 criminal sexual penetration.

13 F. Subject to Subsections A through D of this
14 section, if the court determines that an allegation has been
15 proved pursuant to Subsection E of this section, the court
16 shall:

17 (1) adjudicate that the man described in
18 Subsection B of this section is not a parent of the child;

19 (2) require the bureau to amend the birth
20 certificate if requested by the woman and the court determines
21 that the amendment is in the best interest of the child; and

22 (3) require the man to pay child support,
23 birth-related costs, or both, unless the woman requests
24 otherwise and the court determines that granting the request is
25 in the best interest of the child."

.229101.7

underscoring material = new
[bracketed material] = delete

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

PART 3

HEARING AND ADJUDICATION

SECTION 53. A new Section 40-11B-615 NMSA 1978 is enacted to read:

"40-11B-615. [NEW MATERIAL] TEMPORARY ORDER.--

A. In a proceeding pursuant to this article of the Revised Uniform Parentage Act, the court may issue a temporary order for child support if the order is consistent with law of New Mexico other than the Revised Uniform Parentage Act and the individual ordered to pay support is:

- (1) a presumed parent of the child;
- (2) petitioning to be adjudicated a parent;
- (3) identified as a genetic parent through genetic testing pursuant to Section 40-11B-506 NMSA 1978;
- (4) an alleged genetic parent who has declined to submit to genetic testing;
- (5) shown by clear and convincing evidence to be a parent of the child; or
- (6) a parent pursuant to the Revised Uniform Parentage Act.

B. A temporary order may include provisions for custody and visitation pursuant to law of New Mexico other than the Revised Uniform Parentage Act."

SECTION 54. A new Section 40-11B-616 NMSA 1978 is enacted to read:

.229101.7

1 "40-11B-616. [NEW MATERIAL] COMBINING PROCEEDINGS.--

2 A. Except as otherwise provided in Subsection B of
3 this section, the court may combine a proceeding to adjudicate
4 parentage pursuant to the Revised Uniform Parentage Act with a
5 proceeding for adoption, termination of parental rights, child
6 custody or visitation, child support, dissolution of marriage,
7 separation, probate, administration of an estate or other
8 appropriate proceeding.

9 B. A respondent shall not combine a proceeding
10 described in Subsection A of this section with a proceeding to
11 adjudicate parentage brought pursuant to the Uniform Interstate
12 Family Support Act."

13 SECTION 55. A new Section 40-11B-617 NMSA 1978 is enacted
14 to read:

15 "40-11B-617. [NEW MATERIAL] PROCEEDING BEFORE BIRTH.--

16 Except as otherwise provided in Article 8 of the Revised
17 Uniform Parentage Act, a proceeding to adjudicate parentage may
18 be commenced before the birth of the child and an order or
19 judgment may be entered before birth, but enforcement of the
20 order or judgment shall be stayed until the birth of the
21 child."

22 SECTION 56. A new Section 40-11B-618 NMSA 1978 is enacted
23 to read:

24 "40-11B-618. [NEW MATERIAL] CHILD AS PARTY--
25 REPRESENTATION.--

.229101.7

underscoring material = new
~~[bracketed material] = delete~~

1 A. A minor child is a permissive party but not a
2 necessary party to a proceeding pursuant to this article of the
3 Revised Uniform Parentage Act.

4 B. The court shall appoint a guardian ad litem to
5 represent a child in a proceeding pursuant to this article of
6 the Revised Uniform Parentage Act if the court finds that the
7 interests of the child are not adequately represented."

8 SECTION 57. A new Section 40-11B-619 NMSA 1978 is enacted
9 to read:

10 "40-11B-619. [NEW MATERIAL] COURT TO ADJUDICATE
11 PARENTAGE.--The court without a jury shall adjudicate parentage
12 of a child."

13 SECTION 58. A new Section 40-11B-620 NMSA 1978 is enacted
14 to read:

15 "40-11B-620. [NEW MATERIAL] HEARING--INSPECTION OF
16 RECORDS.--

17 A. On request of a party and for good cause, the
18 court may close a proceeding pursuant to this article of the
19 Revised Uniform Parentage Act to the public.

20 B. A final order in a proceeding pursuant to this
21 article of the Revised Uniform Parentage Act is available for
22 public inspection. Other papers and records are available for
23 public inspection only with the consent of the parties or by
24 court order for good cause."

25 SECTION 59. A new Section 40-11B-621 NMSA 1978 is enacted

.229101.7

underscoring material = new
~~[bracketed material] = delete~~

1 to read:

2 "40-11B-621. [NEW MATERIAL] DISMISSAL FOR WANT OF
3 PROSECUTION.--The court may dismiss a proceeding pursuant to
4 the Revised Uniform Parentage Act for want of prosecution only
5 without prejudice. An order of dismissal for want of
6 prosecution purportedly with prejudice is void and has only the
7 effect of a dismissal without prejudice."

8 SECTION 60. A new Section 40-11B-622 NMSA 1978 is enacted
9 to read:

10 "40-11B-622. [NEW MATERIAL] ORDER ADJUDICATING
11 PARENTAGE.--

12 A. An order adjudicating parentage shall identify
13 the child by name and date of birth.

14 B. Except as otherwise provided in Subsection C of
15 this section, the court may assess filing fees, reasonable
16 attorney fees, fees for genetic testing, other costs and
17 necessary travel and other reasonable expenses incurred in a
18 proceeding pursuant to this article of the Revised Uniform
19 Parentage Act. Attorney fees, costs and expenses awarded
20 pursuant to this subsection may be paid directly to the
21 attorney, and the attorney may enforce the order in the
22 attorney's own name. The court may order these fees, costs and
23 expenses to be paid by any party in proportions and at times as
24 determined by the court, but not exceeding three years from the
25 date of the filing of the action unless there is a substantial

.229101.7

1 showing that parentage could not have been established and an
2 action for child support could not have been brought within
3 three years of the child's birth. The court may order the
4 proportion of any indigent party to be paid from court funds.

5 C. The court shall not assess fees, costs or
6 expenses in a proceeding pursuant to this article of the
7 Revised Uniform Parentage Act against a support-enforcement
8 agency of New Mexico or another state, except as otherwise
9 provided by law of New Mexico other than the Revised Uniform
10 Parentage Act.

11 D. In a proceeding pursuant to this article of the
12 Revised Uniform Parentage Act, a copy of a bill for genetic
13 testing or prenatal or postnatal health care for the woman who
14 gave birth to the child and the child, provided to the adverse
15 party not later than ten days before a hearing, is admissible
16 to establish:

- 17 (1) the amount of the charge billed; and
18 (2) that the charge is reasonable and
19 necessary.

20 E. On request of a party and for good cause, the
21 court in a proceeding pursuant to this article of the Revised
22 Uniform Parentage Act may order the name of the child changed.
23 If the court order changing the name varies from the name on
24 the birth certificate of the child, the court shall order the
25 bureau to issue an amended birth certificate.

underscoring material = new
~~[bracketed material] = delete~~

1 F. The judgment or order may contain any other
2 provision directed against or on behalf of the appropriate
3 party to the proceeding concerning the duty of past and future
4 support, the custody and guardianship of the child, visitation
5 with the child, the furnishing of bond or other security for
6 the payment of the judgment or any other matter within the
7 jurisdiction of the court. The judgment or order may direct
8 the appropriate party to pay the reasonable expenses of the
9 mother's pregnancy, birth and confinement. The court shall
10 order child support retroactive to the date of the child's
11 birth, but not to exceed three years unless there is a
12 substantial showing that parentage could not have been
13 established and an action for child support could not have been
14 brought within three years of the child's birth pursuant to the
15 provisions of Sections 40-4-11 through 40-4-11.3 NMSA 1978;
16 provided that, in deciding whether or how long to order
17 retroactive support, the court shall consider:

18 (1) whether the alleged or presumed parent has
19 absconded or could not be located; and

20 (2) whether equitable defenses are applicable.

21 G. Support judgments or orders ordinarily shall be
22 for periodic payments that may vary in amount. In the best
23 interest of the child, a lump-sum payment or the purchase of an
24 annuity may be ordered in lieu of periodic payments of support;
25 provided, however, that nothing in this section shall deprive a

.229101.7

underscored material = new
[bracketed material] = delete

1 state agency of its right to reimbursement from an appropriate
2 party should the child be a past or future recipient of public
3 assistance.

4 H. In determining the amount to be paid by a parent
5 for support of the child, a court, child support hearing
6 officer or master shall make such determination in accordance
7 with the provisions of the child support guidelines pursuant to
8 Section 40-4-11.1 NMSA 1978."

9 SECTION 61. A new Section 40-11B-623 NMSA 1978 is enacted
10 to read:

11 "40-11B-623. [NEW MATERIAL] BINDING EFFECT OF
12 DETERMINATION OF PARENTAGE.--

13 A. Except as otherwise provided in Subsection B of
14 this section:

15 (1) a signatory to an acknowledgment of
16 parentage or denial of parentage is bound by the acknowledgment
17 or denial as provided in Article 3 of the Revised Uniform
18 Parentage Act; and

19 (2) a party to an adjudication of parentage by
20 a court acting under circumstances that satisfy the
21 jurisdiction requirements of Section 40-6A-201 NMSA 1978 and
22 any individual who received notice of the proceeding are bound
23 by the adjudication.

24 B. A child is not bound by a determination of
25 parentage pursuant to the Revised Uniform Parentage Act unless:

.229101.7

1 (1) the determination was based on an
2 unrescinded acknowledgment of parentage and the acknowledgment
3 is consistent with the results of genetic testing;

4 (2) the determination was based on a finding
5 consistent with the results of genetic testing, and the
6 consistency is declared in the determination or otherwise
7 shown;

8 (3) the determination of parentage was made
9 pursuant to Article 7 or 8 of the Revised Uniform Parentage
10 Act; or

11 (4) the child was a party or was represented
12 by a guardian ad litem in the proceeding.

13 C. In a proceeding for dissolution of marriage or
14 separation, the court is deemed to have made an adjudication of
15 parentage of a child if the court acts under circumstances that
16 satisfy the jurisdiction requirements of Section 40-6A-201 NMSA
17 1978 and the final order:

18 (1) expressly identifies the child as a "child
19 of the marriage" or "issue of the marriage" or includes similar
20 words indicating that both spouses are parents of the child; or

21 (2) provides for support of the child by a
22 spouse unless that spouse's parentage is disclaimed
23 specifically in the order.

24 D. Except as otherwise provided in Subsection B of
25 this section or Section 40-11B-611 NMSA 1978, a determination

underscoring material = new
[bracketed material] = delete

1 of parentage may be asserted as a defense in a subsequent
2 proceeding seeking to adjudicate parentage of an individual who
3 was not a party to the earlier proceeding.

4 E. A party to an adjudication of parentage may
5 challenge the adjudication only pursuant to law of New Mexico
6 other than the Revised Uniform Parentage Act relating to
7 appeal, vacation of judgment or other judicial review."

8 ARTICLE 7

9 ASSISTED REPRODUCTION

10 SECTION 62. A new Section 40-11B-701 NMSA 1978 is enacted
11 to read:

12 "40-11B-701. [NEW MATERIAL] SCOPE OF ARTICLE.--This
13 article of the Revised Uniform Parentage Act does not apply to
14 the birth of a child conceived by sexual intercourse or
15 assisted reproduction pursuant to a surrogacy agreement
16 pursuant to Article 8 of the Revised Uniform Parentage Act."

17 SECTION 63. A new Section 40-11B-702 NMSA 1978 is enacted
18 to read:

19 "40-11B-702. [NEW MATERIAL] PARENTAL STATUS OF DONOR.--A
20 donor is not a parent of a child conceived by assisted
21 reproduction."

22 SECTION 64. A new Section 40-11B-703 NMSA 1978 is enacted
23 to read:

24 "40-11B-703. [NEW MATERIAL] PARENTAGE OF CHILD OF
25 ASSISTED REPRODUCTION.--An individual who consents pursuant to

underscoring material = new
~~[bracketed material]~~ = delete

1 Section 40-11B-704 NMSA 1978 to assisted reproduction by a
2 woman with the intent to be a parent of a child conceived by
3 the assisted reproduction is a parent of the child."

4 SECTION 65. A new Section 40-11B-704 NMSA 1978 is enacted
5 to read:

6 "40-11B-704. [NEW MATERIAL] CONSENT TO ASSISTED
7 REPRODUCTION.--

8 A. Except as otherwise provided in Subsection B of
9 this section, the consent described in Section 40-11B-703 NMSA
10 1978 shall be in a record signed by a woman giving birth to a
11 child conceived by assisted reproduction and an individual who
12 intends to be a parent of the child.

13 B. Failure to consent in a record as required by
14 Subsection A of this section, before, on or after birth of the
15 child, does not preclude the court from finding consent to
16 parentage if:

17 (1) the woman or the individual proves by
18 clear and convincing evidence the existence of an express
19 agreement entered into before conception that the individual
20 and the woman intended that they both would be parents of the
21 child; or

22 (2) the woman and the individual for the first
23 two years of the child's life, including any period of
24 temporary absence, resided together in the same household with
25 the child and both openly held out the child as the

.229101.7

underscored material = new
[bracketed material] = delete

1 individual's child, unless the individual dies or becomes
2 incapacitated before the child attains two years of age or the
3 child dies before the child attains two years of age, in that
4 case the court may find consent pursuant to this subsection to
5 parentage if a party proves by clear and convincing evidence
6 that the woman and the individual intended to reside together
7 in the same household with the child and both intended that the
8 individual would openly hold out the child as the individual's
9 child, but the individual was prevented from carrying out that
10 intent by death or incapacity."

11 SECTION 66. A new Section 40-11B-705 NMSA 1978 is enacted
12 to read:

13 "40-11B-705. [NEW MATERIAL] LIMITATION ON SPOUSE'S
14 DISPUTE OF PARENTAGE.--

15 A. Except as otherwise provided in Subsection B of
16 this section, an individual who, at the time of a child's
17 birth, is the spouse of the woman who gave birth to the child
18 by assisted reproduction may not challenge the individual's
19 parentage of the child unless:

20 (1) not later than two years after the birth
21 of the child, the individual commences a proceeding to
22 adjudicate the individual's parentage of the child; and

23 (2) the court finds that the individual did
24 not consent to the assisted reproduction, before, on or after
25 birth of the child, or withdrew consent pursuant to Section

.229101.7

1 40-11B-707 NMSA 1978.

2 B. A proceeding to adjudicate a spouse's parentage
3 of a child born by assisted reproduction may be commenced at
4 any time if the court determines that:

5 (1) the spouse neither provided a gamete for,
6 nor consented to, the assisted reproduction;

7 (2) the spouse and the woman who gave birth to
8 the child have not cohabited since the probable time of
9 assisted reproduction; and

10 (3) the spouse never openly held out the child
11 as the spouse's child.

12 C. This section applies to a spouse's dispute of
13 parentage even if the spouse's marriage is declared invalid
14 after assisted reproduction occurs."

15 SECTION 67. A new Section 40-11B-706 NMSA 1978 is enacted
16 to read:

17 "40-11B-706. [NEW MATERIAL] EFFECT OF CERTAIN LEGAL
18 PROCEEDINGS REGARDING MARRIAGE.--If a marriage of a woman who
19 gives birth to a child conceived by assisted reproduction is
20 terminated through dissolution of marriage or is subject to
21 separation before transfer of gametes or embryos to the woman,
22 a former spouse of the woman is not a parent of the child
23 unless the former spouse consented in a record that the former
24 spouse would be a parent of the child if assisted reproduction
25 were to occur after a dissolution of marriage or after

.229101.7

underscored material = new
[bracketed material] = delete

1 separation and the former spouse did not withdraw consent
2 pursuant to Section 40-11B-707 NMSA 1978."

3 SECTION 68. A new Section 40-11B-707 NMSA 1978 is enacted
4 to read:

5 "40-11B-707. [NEW MATERIAL] WITHDRAWAL OF CONSENT.--

6 A. An individual who consents, pursuant to Section
7 40-11B-704 NMSA 1978, to assisted reproduction may withdraw
8 consent any time before a transfer that results in a pregnancy
9 by giving notice in a record of the withdrawal of consent to
10 the woman who agreed to give birth to a child conceived by
11 assisted reproduction and to any clinic or health care provider
12 facilitating the assisted reproduction. Failure to give notice
13 to the clinic or health care provider does not affect a
14 determination of parentage pursuant to the Revised Uniform
15 Parentage Act.

16 B. An individual who withdraws consent pursuant to
17 Subsection A of this section is not a parent of the child
18 pursuant to this article of the Revised Uniform Parentage Act."

19 SECTION 69. A new Section 40-11B-708 NMSA 1978 is enacted
20 to read:

21 "40-11B-708. [NEW MATERIAL] PARENTAL STATUS OF DECEASED
22 INDIVIDUAL.--

23 A. If an individual who intends to be a parent of a
24 child conceived by assisted reproduction dies during the period
25 between the transfer of gametes or embryos and the birth of the

.229101.7

underscoring material = new
~~[bracketed material] = delete~~

1 child, the individual's death does not preclude the
2 establishment of the individual's parentage of the child if the
3 individual otherwise would be a parent of the child pursuant to
4 the Revised Uniform Parentage Act.

5 B. If an individual who consented in a record to
6 assisted reproduction by a woman who agreed to give birth to a
7 child dies before a transfer of gametes or embryos, the
8 deceased individual is a parent of a child conceived by the
9 assisted reproduction only if:

10 (1) either:

11 (a) the individual consented in a record
12 that if assisted reproduction were to occur after the death of
13 the individual, the individual would be a parent of the child;
14 or

15 (b) the individual's intent to be a
16 parent of a child conceived by assisted reproduction after the
17 individual's death is established by clear and convincing
18 evidence; and

19 (2) either:

20 (a) the embryo is in utero not later
21 than thirty-six months after the individual's death; or

22 (b) the child is born not later than
23 forty-five months after the individual's death."

24 ARTICLE 8

25 SURROGACY AGREEMENTS

.229101.7

underscored material = new
[bracketed material] = delete

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

PART 1

GENERAL REQUIREMENTS

SECTION 70. A new Section 40-11B-801 NMSA 1978 is enacted to read:

"40-11B-801. [NEW MATERIAL] DEFINITIONS.--As used in this article of the Revised Uniform Parentage Act:

A. "genetic surrogate" means a woman who is not an intended parent and who agrees to become pregnant through assisted reproduction using her own gamete, pursuant to a genetic surrogacy agreement;

B. "gestational surrogate" means a woman who is not an intended parent and who agrees to become pregnant through assisted reproduction using gametes that are not her own, pursuant to a gestational surrogacy agreement; and

C. "surrogacy agreement" means an agreement between one or more intended parents and a woman who is not an intended parent in which the woman agrees to become pregnant through assisted reproduction and that provides that each intended parent is a parent of a child conceived pursuant to the agreement. Unless otherwise specified, "surrogacy agreement" refers to both a gestational surrogacy agreement and a genetic surrogacy agreement."

SECTION 71. A new Section 40-11B-802 NMSA 1978 is enacted to read:

"40-11B-802. [NEW MATERIAL] ELIGIBILITY TO ENTER

.229101.7

underscoring material = new
~~[bracketed material] = delete~~

1 GESTAMPIONAL OR GENETIC SURROGACY AGREEMENT.--

2 A. To execute an agreement to act as a gestational
3 or genetic surrogate, a woman shall:

4 (1) have attained twenty-one years of age;

5 (2) have previously given birth to at least
6 one child;

7 (3) complete a medical evaluation related to
8 the surrogacy agreement by a licensed medical doctor;

9 (4) complete a mental health consultation by a
10 licensed mental health professional; and

11 (5) have independent legal representation of
12 the woman's choice throughout the surrogacy arrangement
13 regarding the terms of the surrogacy agreement and the
14 potential legal consequences of the agreement.

15 B. To execute a gestational or genetic surrogacy
16 agreement, each intended parent, whether or not genetically
17 related to the child, shall:

18 (1) have attained twenty-one years of age;

19 (2) complete a medical evaluation related to
20 the surrogacy agreement by a licensed medical doctor;

21 (3) complete a mental health consultation by a
22 licensed mental health professional; and

23 (4) have independent legal representation of
24 the intended parent's choice throughout the surrogacy
25 arrangement regarding the terms of the surrogacy agreement and

.229101.7

underscoring material = new
~~[bracketed material]~~ = delete

1 the potential legal consequences of the agreement."

2 SECTION 72. A new Section 40-11B-803 NMSA 1978 is enacted
3 to read:

4 "40-11B-803. [NEW MATERIAL] REQUIREMENTS OF GESTATIONAL
5 OR GENETIC SURROGACY AGREEMENT--PROCESS.--A gestational or
6 genetic surrogacy agreement shall be executed in compliance
7 with the following rules:

8 A. at least one party shall be a resident of this
9 state or, if no party is a resident of this state, at least one
10 medical evaluation or procedure or mental health consultation
11 pursuant to the agreement shall occur in this state;

12 B. a surrogate and each intended parent shall meet
13 the requirements of Section 40-11B-802 NMSA 1978;

14 C. each intended parent, the surrogate and the
15 surrogate's spouse, if any, shall be parties to the agreement;

16 D. the agreement shall be in a record signed by
17 each party listed in Subsection C of this section;

18 E. the surrogate and each intended parent shall
19 acknowledge in a record receipt of a copy of the agreement;

20 F. the signature of each party to the agreement
21 shall be attested by a notarial officer or witnessed;

22 G. the surrogate and the intended parent or parents
23 shall have independent legal representation throughout the
24 surrogacy arrangement regarding the terms of the surrogacy
25 agreement and the potential legal consequences of the

.229101.7

underscoring material = new
[bracketed material] = delete

1 agreement, and each counsel shall be identified in the
2 surrogacy agreement;

3 H. the intended parent or parents shall pay for
4 independent legal representation for the surrogate; and

5 I. the agreement shall be executed before a medical
6 procedure occurs related to the surrogacy agreement, other than
7 the medical evaluation and mental health consultation required
8 by Section 40-11B-802 NMSA 1978."

9 SECTION 73. A new Section 40-11B-804 NMSA 1978 is enacted
10 to read:

11 "40-11B-804. [NEW MATERIAL] REQUIREMENTS OF GESTATIONAL
12 OR GENETIC SURROGACY AGREEMENT--CONTENT.--

13 A. A gestational or genetic surrogacy agreement
14 shall comply with the following requirements:

15 (1) a surrogate agrees to attempt to become
16 pregnant by means of assisted reproduction;

17 (2) except as otherwise provided in Sections
18 40-11B-811, 40-11B-814 and 40-11B-815 NMSA 1978, the surrogate
19 and the surrogate's spouse or former spouse, if any, shall have
20 no claim to parentage of a child conceived by assisted
21 reproduction pursuant to the surrogacy agreement;

22 (3) the surrogate's spouse, if any, shall
23 acknowledge and agree to comply with the obligations imposed on
24 the surrogate by the surrogacy agreement;

25 (4) except as otherwise provided in Sections

.229101.7

underscoring material = new
~~[bracketed material] = delete~~

1 40-11B-811, 40-11B-814 and 40-11B-815 NMSA 1978, the intended
2 parent or, if there are two intended parents, each one jointly
3 and severally, immediately on birth shall be the exclusive
4 parent or parents of the child, regardless of number of
5 children born or gender or mental or physical condition of each
6 child;

7 (5) except as otherwise provided in Sections
8 40-11B-811, 40-11B-814 and 40-11B-815 NMSA 1978, the intended
9 parent or, if there are two intended parents, each parent
10 jointly and severally, immediately on birth shall assume
11 responsibility for the financial support of the child,
12 regardless of number of children born or gender or mental or
13 physical condition of each child;

14 (6) the surrogacy agreement shall include
15 information disclosing how each intended parent will cover the
16 surrogacy-related expenses of the surrogate and the medical
17 expenses of the child. If health care coverage is used to
18 cover the medical expenses, the disclosure shall include a
19 summary of the health care policy provisions related to
20 coverage for surrogate pregnancy, including any possible
21 liability of the surrogate, third-party-liability liens, other
22 insurance coverage and any notice requirement that could affect
23 coverage or liability of the surrogate. Unless the agreement
24 expressly provides otherwise, the review and disclosure do not
25 constitute legal advice. If the extent of coverage is

.229101.7

underscoring material = new
[bracketed material] = delete

1 uncertain, a statement of that fact is sufficient to comply
2 with this paragraph;

3 (7) the surrogacy agreement shall permit the
4 surrogate to make all health and welfare decisions regarding
5 herself and her pregnancy. The Revised Uniform Parentage Act
6 does not enlarge or diminish the surrogate's right to terminate
7 her pregnancy; and

8 (8) the surrogacy agreement shall include
9 information about each party's right pursuant to this article
10 of the Revised Uniform Parentage Act to terminate the surrogacy
11 agreement.

12 B. A gestational or genetic surrogacy agreement may
13 provide for:

14 (1) payment of consideration and reasonable
15 expenses; and

16 (2) reimbursement of specific expenses if the
17 agreement is terminated pursuant to this article of the Revised
18 Uniform Parentage Act.

19 C. A right created pursuant to a gestational or
20 genetic surrogacy agreement is not assignable, and there is no
21 third-party beneficiary of the agreement other than the child."

22 SECTION 74. A new Section 40-11B-805 NMSA 1978 is enacted
23 to read:

24 "40-11B-805. [NEW MATERIAL] GESTATIONAL OR GENETIC
25 SURROGACY AGREEMENT--EFFECT OF SUBSEQUENT CHANGE OF MARITAL

.229101.7

underscoring material = new
~~[bracketed material] = delete~~

1 STATUS.--

2 A. Unless a gestational or genetic surrogacy
3 agreement expressly provides otherwise:

4 (1) the marriage of a surrogate after the
5 agreement is signed by all parties does not affect the validity
6 of the agreement, her spouse's consent to the agreement is not
7 required and her spouse is not a presumed parent of a child
8 conceived by assisted reproduction pursuant to the agreement;
9 and

10 (2) the dissolution of marriage or separation
11 of the surrogate after the agreement is signed by all parties
12 shall not affect the validity of the agreement.

13 B. Unless a gestational or genetic surrogacy
14 agreement expressly provides otherwise:

15 (1) the marriage of an intended parent after
16 the agreement is signed by all parties shall not affect the
17 validity of a surrogacy agreement, the consent of the spouse of
18 the intended parent is not required and the spouse of the
19 intended parent is not, based on the agreement, a parent of a
20 child conceived by assisted reproduction pursuant to the
21 agreement; and

22 (2) the dissolution of marriage or separation
23 of an intended parent after the agreement is signed by all
24 parties shall not affect the validity of the agreement and,
25 except as otherwise provided in Section 40-11B-814 NMSA 1978,

.229101.7

underscoring material = new
~~[bracketed material]~~ = delete

1 the intended parents are the parents of the child."

2 SECTION 75. A new Section 40-11B-806 NMSA 1978 is enacted
3 to read:

4 "40-11B-806. [NEW MATERIAL] GESTATIONAL OR GENETIC
5 SURROGACY AGREEMENT--INSPECTION OF DOCUMENTS.--Unless the court
6 orders otherwise, a petition and any other document related to
7 a gestational or genetic surrogacy agreement filed with the
8 court pursuant to Sections 40-11B-801 through 40-11B-807 NMSA
9 1978 are not open to inspection by any person other than the
10 parties to the proceeding, a child conceived by assisted
11 reproduction pursuant to the agreement, their attorneys and the
12 support-enforcement agency. A court shall not authorize a
13 person to inspect a document related to the agreement, unless
14 required by exigent circumstances. The person seeking to
15 inspect the document may be required to pay the expense of
16 preparing a copy of the document to be inspected."

17 SECTION 76. A new Section 40-11B-807 NMSA 1978 is enacted
18 to read:

19 "40-11B-807. [NEW MATERIAL] GESTATIONAL OR GENETIC
20 SURROGACY AGREEMENT--EXCLUSIVE, CONTINUING JURISDICTION.--
21 During the period after the execution of a gestational or
22 genetic surrogacy agreement until ninety days after the birth
23 of a child conceived by assisted reproduction pursuant to the
24 agreement, a court of this state conducting a proceeding
25 pursuant to the Revised Uniform Parentage Act has exclusive,

.229101.7

1 continuing jurisdiction over all matters arising out of the
2 agreement. This section shall not give the court jurisdiction
3 over a child-custody or child-support proceeding if
4 jurisdiction is not otherwise authorized by law of this state
5 other than the Revised Uniform Parentage Act."

6 PART 2

7 SPECIAL RULES FOR GESTATIONAL SURROGACY AGREEMENTS

8 SECTION 77. A new Section 40-11B-808 NMSA 1978 is enacted
9 to read:

10 "40-11B-808. [NEW MATERIAL] TERMINATION OF GESTATIONAL
11 SURROGACY AGREEMENT.--

12 A. A party to a gestational surrogacy agreement may
13 terminate the agreement at any time before an embryo transfer
14 by giving notice of termination in a record to all other
15 parties. If an embryo transfer does not result in a pregnancy,
16 a party may terminate the agreement at any time before a
17 subsequent embryo transfer by giving notice of termination in a
18 record to all other parties.

19 B. Unless a gestational surrogacy agreement
20 provides otherwise, on termination of the agreement pursuant to
21 Subsection A of this section, the parties are released from the
22 agreement, except that each intended parent remains responsible
23 for expenses that are reimbursable pursuant to the agreement
24 and incurred by the gestational surrogate through the date of
25 termination.

.229101.7

underscoring material = new
~~[bracketed material] = delete~~

1 C. Except in a case involving fraud, neither a
2 gestational surrogate nor the surrogate's spouse or former
3 spouse, if any, is liable to the intended parent or parents for
4 expenses, other damages, a penalty or liquidated damages for
5 terminating a gestational surrogacy agreement pursuant to this
6 section."

7 **SECTION 78.** A new Section 40-11B-809 NMSA 1978 is enacted
8 to read:

9 "40-11B-809. [NEW MATERIAL] PARENTAGE UNDER GESTATIONAL
10 SURROGACY AGREEMENT.--

11 A. Except as otherwise provided in Subsection C of
12 this section, Subsection B of Section 40-11B-810 NMSA 1978 or
13 Section 40-11B-812 NMSA 1978, on the birth of a child conceived
14 by assisted reproduction pursuant to a gestational surrogacy
15 agreement, each intended parent is, by operation of law, a
16 parent of the child.

17 B. Except as otherwise provided in Subsection C of
18 this section or Section 40-11B-812 NMSA 1978, neither a
19 gestational surrogate nor the surrogate's spouse or former
20 spouse, if any, is a parent of the child.

21 C. If a child is alleged to be a genetic child of
22 the woman who agreed to be a gestational surrogate, the court
23 shall order genetic testing of the child. If the child is a
24 genetic child of the woman who agreed to be a gestational
25 surrogate, parentage shall be determined based on Articles 1

.229101.7

underscored material = new
[bracketed material] = delete

1 through 6 of the Revised Uniform Parentage Act.

2 D. Except as otherwise provided in Subsection C of
3 this section, Subsection B of Section 40-11B-810 NMSA 1978 or
4 Section 40-11B-812 NMSA 1978, if, due to a clinical or
5 laboratory error, a child conceived by assisted reproduction
6 pursuant to a gestational surrogacy agreement is not
7 genetically related to an intended parent or a donor who
8 donated to the intended parent or parents, each intended
9 parent, and not the gestational surrogate and the surrogate's
10 spouse or former spouse, if any, is a parent of the child,
11 subject to any other claim of parentage."

12 SECTION 79. A new Section 40-11B-810 NMSA 1978 is enacted
13 to read:

14 "40-11B-810. [NEW MATERIAL] GESTATIONAL SURROGACY
15 AGREEMENT--PARENTAGE OF DECEASED INTENDED PARENT.--

16 A. Section 40-11B-809 NMSA 1978 applies to an
17 intended parent even if the intended parent died during the
18 period between the transfer of a gamete or embryo and the birth
19 of the child.

20 B. Except as otherwise provided in Section
21 40-11B-812 NMSA 1978, an intended parent is not a parent of a
22 child conceived by assisted reproduction pursuant to a
23 gestational surrogacy agreement if the intended parent dies
24 before the transfer of a gamete or embryo unless:

25 (1) the agreement provides otherwise; and

.229101.7

underscoring material = new
~~[bracketed material] = delete~~

1 (2) the transfer of a gamete or embryo occurs
2 not later than thirty-six months after the death of the
3 intended parent or the birth of the child occurs not later than
4 forty-five months after the death of the intended parent."

5 SECTION 80. A new Section 40-11B-811 NMSA 1978 is enacted
6 to read:

7 "40-11B-811. [NEW MATERIAL] GESTATIONAL SURROGACY
8 AGREEMENT--ORDER OF PARENTAGE.--

9 A. Except as otherwise provided in Subsection C of
10 Section 40-11B-809 NMSA 1978 or Section 40-11B-812 NMSA 1978,
11 before, on or after the birth of a child conceived by assisted
12 reproduction pursuant to a gestational surrogacy agreement, a
13 party to the agreement may commence a proceeding in court for
14 an order or judgment:

15 (1) declaring that each intended parent is a
16 parent of the child and ordering that parental rights and
17 duties vest immediately on the birth of the child exclusively
18 in each intended parent;

19 (2) declaring that the gestational surrogate
20 and the surrogate's spouse or former spouse, if any, are not
21 the parents of the child;

22 (3) designating the content of the birth
23 record in accordance with Section 24-14-17 NMSA 1978 and
24 directing the bureau to designate each intended parent as a
25 parent of the child;

.229101.7

underscoring material = new
[bracketed material] = delete

1 (4) to protect the privacy of the child and
2 the parties, declaring that the court record is not open to
3 inspection except as authorized pursuant to Section 40-11B-806
4 NMSA 1978;

5 (5) requiring that the child be surrendered to
6 the intended parent or parents if necessary; and

7 (6) for other relief the court determines
8 necessary and proper.

9 B. The court may issue an order or judgment
10 pursuant to Subsection A of this section before the birth of
11 the child. The court shall stay enforcement of the order or
12 judgment until the birth of the child.

13 C. Neither this state nor the department of health
14 is a necessary party to a proceeding pursuant to Subsection A
15 this section."

16 SECTION 81. A new Section 40-11B-812 NMSA 1978 is enacted
17 to read:

18 "40-11B-812. [NEW MATERIAL] EFFECT OF GESTATIONAL
19 SURROGACY AGREEMENT.--

20 A. A gestational surrogacy agreement that complies
21 with Sections 40-11B-802 through 40-11B-804 NMSA 1978 is
22 enforceable.

23 B. If a child was conceived by assisted
24 reproduction pursuant to a gestational surrogacy agreement that
25 does not comply with Sections 40-11B-802 through 40-11B-804

.229101.7

underscoring material = new
~~[bracketed material]~~ = delete

1 NMSA 1978, the court shall determine the rights and duties of
2 the parties to the agreement consistent with the intent of the
3 parties at the time of execution of the agreement. Each party
4 to the agreement and any individual who at the time of the
5 execution of the agreement was a spouse of a party to the
6 agreement has standing to maintain a proceeding to adjudicate
7 an issue related to the enforcement of the agreement.

8 C. Except as expressly provided in a gestational
9 surrogacy agreement or Subsection D or E of this section, if
10 the agreement is breached by the gestational surrogate or one
11 or more intended parents, the non-breaching party is entitled
12 to the remedies available at law or in equity.

13 D. Specific performance is not a remedy available
14 for breach by a gestational surrogate of a provision in the
15 agreement that the gestational surrogate be impregnated,
16 terminate or not terminate a pregnancy or submit to medical
17 procedures.

18 E. Except as otherwise provided in Subsection D of
19 this section, if an intended parent is determined to be a
20 parent of the child, specific performance is a remedy available
21 for:

22 (1) breach of the agreement by a gestational
23 surrogate that prevents the intended parent from exercising
24 immediately on birth of the child the full rights of parentage;
25 or

.229101.7

1 (2) breach by the intended parent that
2 prevents the intended parent's acceptance, immediately on birth
3 of the child conceived by assisted reproduction pursuant to the
4 agreement, of the full duties of parentage or that results in
5 the intended parent's failure to accept those duties
6 immediately."

7 PART 3

8 SPECIAL RULES FOR GENETIC SURROGACY AGREEMENT

9 SECTION 82. A new Section 40-11B-813 NMSA 1978 is enacted
10 to read:

11 "40-11B-813. [NEW MATERIAL] REQUIREMENTS TO VALIDATE
12 GENETIC SURROGACY AGREEMENT.--

13 A. Except as otherwise provided in Section
14 40-11B-816 NMSA 1978, to be enforceable, a genetic surrogacy
15 agreement shall be validated by the court. A proceeding to
16 validate the agreement shall be commenced before assisted
17 reproduction related to the surrogacy agreement.

18 B. The court shall issue an order validating a
19 genetic surrogacy agreement if the court finds that:

20 (1) Sections 40-11B-802 through 40-11B-804
21 NMSA 1978 are satisfied; and

22 (2) all parties entered into the agreement
23 voluntarily and understand its terms.

24 C. An individual who terminates a genetic surrogacy
25 agreement pursuant to Section 40-11B-814 NMSA 1978 shall file

.229101.7

underscoring material = new
~~[bracketed material] = delete~~

1 notice of the termination with the court. On receipt of the
2 notice, the court shall vacate any order issued pursuant to
3 Subsection B of this section. An individual who does not
4 notify the court of the termination of the agreement is subject
5 to sanctions."

6 SECTION 83. A new Section 40-11B-814 NMSA 1978 is enacted
7 to read:

8 "40-11B-814. [NEW MATERIAL] TERMINATION OF GENETIC
9 SURROGACY AGREEMENT.--

10 A. A party to a genetic surrogacy agreement may
11 terminate the agreement as follows:

12 (1) an intended parent who is a party to the
13 agreement may terminate the agreement at any time before a
14 gamete or embryo transfer by giving notice of termination in a
15 record to all other parties. If a gamete or embryo transfer
16 does not result in a pregnancy, a party may terminate the
17 agreement at any time before a subsequent gamete or embryo
18 transfer. The notice of termination shall be attested by a
19 notarial officer or witnessed; or

20 (2) a genetic surrogate who is a party to the
21 agreement may withdraw consent to the agreement any time before
22 forty-eight hours after the birth of a child conceived by
23 assisted reproduction pursuant to the agreement. To withdraw
24 consent, the genetic surrogate shall execute a notice of
25 termination in a record stating the surrogate's intent to

.229101.7

underscoring material = new
[bracketed material] = delete

1 terminate the agreement. The notice of termination shall be
2 attested by a notarial officer or witnessed and be delivered to
3 each intended parent any time before forty-eight hours after
4 the birth of the child.

5 B. On termination of the genetic surrogacy
6 agreement pursuant to Subsection A of this section, the parties
7 are released from all obligations pursuant to the agreement
8 except that each intended parent remains responsible for all
9 expenses incurred by the surrogate through the date of
10 termination that are reimbursable pursuant to the agreement.
11 Unless the agreement provides otherwise, the surrogate is not
12 entitled to any non-expense-related compensation for serving as
13 a surrogate.

14 C. Except in a case involving fraud, neither a
15 genetic surrogate nor the surrogate's spouse or former spouse,
16 if any, is liable to the intended parent or parents for
17 expenses, compensation, other damages, a penalty or liquidated
18 damages for terminating a genetic surrogacy agreement pursuant
19 to this section."

20 SECTION 84. A new Section 40-11B-815 NMSA 1978 is enacted
21 to read:

22 "40-11B-815. [NEW MATERIAL] PARENTAGE UNDER VALIDATED
23 GENETIC SURROGACY AGREEMENT.--

24 A. Unless a genetic surrogate exercises the right
25 pursuant to Section 40-11B-814 NMSA 1978 to terminate a genetic

.229101.7

1 surrogacy agreement, each intended parent is a parent of a
2 child conceived by assisted reproduction pursuant to an
3 agreement validated pursuant to Section 40-11B-813 NMSA 1978.

4 B. Unless a genetic surrogate exercises the right
5 pursuant to Section 40-11B-814 NMSA 1978 to terminate the
6 genetic surrogacy agreement, on proof of a court order issued
7 pursuant to Section 40-11B-813 NMSA 1978 validating the
8 agreement, the court shall make an order:

9 (1) declaring that each intended parent is a
10 parent of a child conceived by assisted reproduction pursuant
11 to the agreement and ordering that parental rights and duties
12 vest exclusively in each intended parent;

13 (2) declaring that the genetic surrogate and
14 the surrogate's spouse or former spouse, if any, are not
15 parents of the child;

16 (3) designating the contents of the birth
17 certificate in accordance with Section 24-14-17 NMSA 1978 and
18 directing the bureau to designate each intended parent as a
19 parent of the child;

20 (4) to protect the privacy of the child and
21 the parties, declaring that the court record is not open to
22 inspection, except as authorized pursuant to Section 40-11B-806
23 NMSA 1978;

24 (5) requiring that the child be surrendered to
25 the intended parent or parents if necessary; and

.229101.7

underscoring material = new
~~[bracketed material]~~ = delete

1 (6) for other relief the court determines
2 necessary and proper.

3 C. If a genetic surrogate terminates a genetic
4 surrogacy agreement pursuant to Paragraph (2) of Subsection A
5 of Section 40-11B-814 NMSA 1978, parentage of the child
6 conceived by assisted reproduction pursuant to the agreement
7 shall be determined pursuant to Articles 1 through 6 of the
8 Revised Uniform Parentage Act.

9 D. If a child born to a genetic surrogate is
10 alleged not to have been conceived by assisted reproduction,
11 the court shall order genetic testing to determine the genetic
12 parentage of the child. If the child was not conceived by
13 assisted reproduction, parentage shall be determined pursuant
14 to Articles 1 through 6 of the Revised Uniform Parentage Act.
15 Unless the genetic surrogacy agreement provides otherwise, if
16 the child was not conceived by assisted reproduction, the
17 surrogate is not entitled to any non-expense-related
18 compensation for serving as a surrogate.

19 E. Unless a genetic surrogate exercises the right
20 pursuant to Section 40-11B-814 NMSA 1978 to terminate the
21 genetic surrogacy agreement, if an intended parent fails to
22 file notice required pursuant to Subsection A of Section
23 40-11B-814 NMSA 1978, the genetic surrogate or the support-
24 enforcement agency may file with the court, not later than
25 sixty days after the birth of a child conceived by assisted

.229101.7

underscoring material = new
~~[bracketed material] = delete~~

1 reproduction pursuant to the agreement, notice that the child
2 has been born to the genetic surrogate. Unless the genetic
3 surrogate has properly exercised the right pursuant to Section
4 40-11B-814 NMSA 1978 to withdraw consent to the agreement, on
5 proof of a court order issued pursuant to Section 40-11B-813
6 NMSA 1978 validating the agreement, the court shall order that
7 each intended parent is a parent of the child."

8 SECTION 85. A new Section 40-11B-816 NMSA 1978 is enacted
9 to read:

10 "40-11B-816. [NEW MATERIAL] EFFECT OF NON-VALIDATED
11 GENETIC SURROGACY AGREEMENT.--

12 A. A genetic surrogacy agreement, whether or not in
13 a record, that is not validated pursuant to Section 40-11B-813
14 NMSA 1978 is enforceable only to the extent provided in this
15 section and Section 40-11B-818 NMSA 1978.

16 B. If all parties agree, a court may validate a
17 genetic surrogacy agreement after assisted reproduction has
18 occurred but before the birth of a child conceived by assisted
19 reproduction pursuant to the agreement.

20 C. If a child conceived by assisted reproduction
21 pursuant to a genetic surrogacy agreement that is not validated
22 pursuant to Section 40-11B-813 NMSA 1978 is born and the
23 genetic surrogate, consistent with Paragraph (2) of Subsection
24 A of Section 40-11B-814 NMSA 1978, withdraws her consent to the
25 agreement before forty-eight hours after the birth of the

.229101.7

underscoring material = new
[bracketed material] = delete

1 child, the court shall adjudicate the parentage of the child
2 pursuant to Articles 1 through 6 of the Revised Uniform
3 Parentage Act.

4 D. If a child conceived by assisted reproduction
5 pursuant to a genetic surrogacy agreement that is not validated
6 pursuant to Section 40-11B-813 NMSA 1978 is born and a genetic
7 surrogate does not withdraw her consent to the agreement,
8 consistent with Paragraph (2) of Subsection A of Section
9 40-11B-814 NMSA 1978, before forty-eight hours after the birth
10 of the child, the genetic surrogate is not automatically a
11 parent and the court shall adjudicate parentage of the child
12 based on the best interest of the child, taking into account
13 the factors in Subsection A of Section 40-11B-813 NMSA 1978 and
14 the intent of the parties at the time of the execution of the
15 agreement.

16 E. Each party to a genetic surrogacy agreement has
17 standing to maintain a proceeding to adjudicate parentage
18 pursuant to this section."

19 SECTION 86. A new Section 40-11B-817 NMSA 1978 is enacted
20 to read:

21 "40-11B-817. [NEW MATERIAL] GENETIC SURROGACY AGREEMENT--
22 PARENTAGE OF DECEASED INTENDED PARENT.--

23 A. Except as otherwise provided in Section
24 40-11B-815 or 40-11B-816 NMSA 1978, on the birth of a child
25 conceived by assisted reproduction pursuant to a genetic

.229101.7

underscoring material = new
[bracketed material] = delete

1 surrogacy agreement, each intended parent is, by operation of
2 law, a parent of the child, notwithstanding the death of an
3 intended parent during the period between the transfer of a
4 gamete or embryo and the birth of the child.

5 B. Except as otherwise provided in Sections
6 40-11B-815 and 40-11B-816 NMSA 1978, an intended parent is not
7 a parent of a child conceived by assisted reproduction pursuant
8 to a genetic surrogacy agreement if the intended parent dies
9 before the transfer of a gamete or embryo unless:

10 (1) the agreement provides otherwise; and

11 (2) the transfer of the gamete or embryo
12 occurs not later than thirty-six months after the death of the
13 intended parent, or the birth of the child occurs not later
14 than forty-five months after the death of the intended parent."

15 SECTION 87. A new Section 40-11B-818 NMSA 1978 is enacted
16 to read:

17 "40-11B-818. [NEW MATERIAL] BREACH OF GENETIC SURROGACY
18 AGREEMENT.--

19 A. Subject to Subsection B of Section 40-11B-814
20 NMSA 1978, if a genetic surrogacy agreement is breached by a
21 genetic surrogate or one or more intended parents, the non-
22 breaching party is entitled to the remedies available at law or
23 in equity.

24 B. Specific performance is not a remedy available
25 for breach by a genetic surrogate of a requirement of a

.229101.7

underscoring material = new
[bracketed material] = delete

1 validated or non-validated genetic surrogacy agreement that the
2 surrogate be impregnated, terminate or not terminate a
3 pregnancy or submit to medical procedures.

4 C. Except as otherwise provided in Subsection B of
5 this section, specific performance is a remedy available for:

6 (1) breach of a validated genetic surrogacy
7 agreement by a genetic surrogate of a requirement that prevents
8 an intended parent from exercising the full rights of parentage
9 forty-eight hours after the birth of the child; or

10 (2) breach by an intended parent that prevents
11 the intended parent's acceptance of the full duties of
12 parentage forty-eight hours after the birth of the child or
13 that results in the intended parent's failure to accept those
14 duties forty-eight hours after the birth of the child."

15 ARTICLE 9

16 INFORMATION ABOUT DONOR

17 SECTION 88. A new Section 40-11B-901 NMSA 1978 is enacted
18 to read:

19 "40-11B-901. [NEW MATERIAL] DEFINITIONS.--As used in this
20 article of the Revised Uniform Parentage Act:

21 A. "identifying information" means:

- 22 (1) the full name of a donor;
- 23 (2) the date of birth of the donor; and
- 24 (3) the permanent and, if different, current
25 address, telephone number and electronic mail address of the

underscored material = new
[bracketed material] = delete

1 donor at the time of the donation; and

2 B. "medical history" means information regarding
3 any:

- 4 (1) present illness of a donor;
- 5 (2) past illness of the donor; and
- 6 (3) social, genetic and family history
7 pertaining to the health of the donor."

8 SECTION 89. A new Section 40-11B-902 NMSA 1978 is enacted
9 to read:

10 "40-11B-902. [NEW MATERIAL] APPLICABILITY.--This article
11 of the Revised Uniform Parentage Act applies only to gametes
12 collected on or after January 1, 2026."

13 SECTION 90. A new Section 40-11B-903 NMSA 1978 is enacted
14 to read:

15 "40-11B-903. [NEW MATERIAL] COLLECTION OF INFORMATION.--

16 A. A gamete bank or fertility clinic licensed in
17 New Mexico shall collect from a donor the donor's identifying
18 information and medical history at the time of the donation.

19 B. A gamete bank or fertility clinic licensed in
20 New Mexico that receives gametes of a donor collected by
21 another gamete bank or fertility clinic shall collect the name,
22 address, telephone number and electronic mail address of the
23 gamete bank or fertility clinic from which it received the
24 gametes.

25 C. A gamete bank or fertility clinic licensed in

.229101.7

underscored material = new
~~[bracketed material] = delete~~

1 New Mexico shall disclose the information collected pursuant to
2 Subsections A and B of this section as provided in Section
3 40-11B-905 NMSA 1978."

4 SECTION 91. A new Section 40-11B-904 NMSA 1978 is
5 enacted to read:

6 (RESERVED)

7 SECTION 92. A new Section 40-11B-905 NMSA 1978 is
8 enacted to read:

9 "40-11B-905. [NEW MATERIAL] DISCLOSURE OF IDENTIFYING
10 INFORMATION AND MEDICAL HISTORY.--

11 A. On request of a child conceived by assisted
12 reproduction who attains eighteen years of age, a gamete bank
13 or fertility clinic licensed in New Mexico that collected the
14 gametes used in the assisted reproduction shall provide to the
15 child identifying information of the donor who provided the
16 gametes.

17 B. Regardless of whether a child has made a request
18 pursuant to Subsection A of this section, on request of a child
19 conceived by assisted reproduction who attains eighteen years
20 of age, or, if the child is a minor, of a parent or guardian of
21 the child, a gamete bank or fertility clinic licensed in New
22 Mexico that collected the gametes used in the assisted
23 reproduction shall provide the child or, if the child is a
24 minor, the parent or guardian of the child, access to
25 nonidentifying medical history of the donor.

.229101.7

underscoring material = new
~~[bracketed material] = delete~~

1 C. On request of a child conceived by assisted
2 reproduction who attains eighteen years of age, or, if the
3 child is a minor, of a parent or guardian of the child, a
4 gamete bank or fertility clinic licensed in New Mexico that
5 received the gametes used in the assisted reproduction from
6 another gamete bank or fertility clinic shall disclose to the
7 child or, if the child is a minor, the parent or guardian of
8 the child, the name, address, telephone number and electronic
9 mail address of the gamete bank or fertility clinic from which
10 it received the gametes."

11 **SECTION 93.** A new Section 40-11B-906 NMSA 1978 is
12 enacted to read:

13 "40-11B-906. [NEW MATERIAL] RECORDKEEPING.--

14 A. A gamete bank or fertility clinic licensed in
15 New Mexico that collects gametes for use in assisted
16 reproduction shall maintain identifying information and medical
17 history about each gamete donor. The gamete bank or fertility
18 clinic shall maintain records of gamete screening and testing
19 and comply with reporting requirements, in accordance with
20 federal law and applicable law of New Mexico other than the
21 Revised Uniform Parentage Act.

22 B. A gamete bank or fertility clinic licensed in
23 New Mexico that receives gametes from another gamete bank or
24 fertility clinic shall maintain the name, address, telephone
25 number and electronic mail address of the gamete bank or

.229101.7

1 fertility clinic from which it received the gametes."

2 ARTICLE 10

3 MISCELLANEOUS PROVISIONS

4 SECTION 94. A new Section 40-11B-1001 NMSA 1978 is
5 enacted to read:

6 "40-11B-1001. [NEW MATERIAL] UNIFORMITY OF APPLICATION
7 AND CONSTRUCTION.--In applying and construing the Revised
8 Uniform Parentage Act, consideration shall be given to the need
9 to promote uniformity of the law with respect to its subject
10 matter among states that enact it."

11 SECTION 95. A new Section 40-11B-1002 NMSA 1978 is
12 enacted to read:

13 "40-11B-1002. [NEW MATERIAL] RELATION TO FEDERAL
14 ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT.--The
15 Revised Uniform Parentage Act modifies, limits or supersedes
16 the federal Electronic Signatures in Global and National
17 Commerce Act, 15 U.S.C. Section 7001 et seq., but does not
18 modify limit, or supersede Section 101(c) of that act, 15
19 U.S.C. Section 7001(c), or authorize electronic delivery of any
20 of the notices described in Section 103(b) of that act, 15
21 U.S.C. Section 7003(b)."

22 SECTION 96. Section 24-14-13 NMSA 1978 (being Laws 1961,
23 Chapter 44, Section 13, as amended) is amended to read:

24 "24-14-13. BIRTH REGISTRATION.--

25 A. A certificate of birth for each live birth that

.229101.7

1 occurs in this state shall be filed with the bureau or as
2 otherwise directed by the state registrar within ten days after
3 the birth and shall be registered if it has been completed and
4 filed in accordance with this section. When a birth, however,
5 occurs on a moving conveyance, a birth certificate shall be
6 registered in this state and the place where the child is first
7 removed shall be considered the place of birth.

8 B. When a birth occurs in an institution, the
9 person in charge of the institution or the person's designated
10 representative shall obtain the personal data, prepare the
11 certificate of birth, secure the signatures required and file
12 it as directed in this section. The physician or other person
13 in attendance shall certify the medical information required by
14 the certificate of birth within ten working days after the
15 birth in accordance with policies established by the
16 institution where the birth occurred. The person in charge of
17 the institution or the person's designee shall complete and
18 sign the certificate of birth.

19 C. When a birth occurs outside an institution, the
20 certificate of birth shall be prepared and filed by one of the
21 following in the indicated order of priority:

22 (1) the physician in attendance at or
23 immediately after the birth;

24 (2) any other person in attendance at or
25 immediately after the birth; or

underscoring material = new
[bracketed material] = delete

1 (3) the father, the mother or, in the absence
2 of the father and the inability of the mother, the person in
3 charge of the premises where the birth occurred.

4 D. If the mother was married at the time of either
5 conception or birth, the name of the husband shall be entered
6 on the certificate of birth as the father of the child, unless
7 paternity has been determined pursuant to Subsection F or G of
8 this section or by a court, in which case the name of the
9 father as determined pursuant to Subsection F or G of this
10 section or by the court shall be entered.

11 E. If the mother was not married at the time of
12 either conception or birth, but the mother and father have
13 signed under penalty of perjury an acknowledgment of paternity
14 on a form provided by the bureau pursuant to the [~~New Mexico~~]
15 Revised Uniform Parentage Act, the father's name, date of birth
16 and social security number shall be entered on the
17 acknowledgment of paternity. The name of the father shall not
18 be entered on the certificate of birth without such a written
19 acknowledgment of paternity signed under penalty of perjury by
20 the mother and the person to be named as the father, unless a
21 determination of paternity has been made by a court, in which
22 case the name of the father as determined by the court shall be
23 entered.

24 F. At or before the birth of a child to an
25 unmarried woman, the person in charge of the institution, a

.229101.7

underscoring material = new
[bracketed material] = delete

1 designated representative, the attending physician or midwife
2 shall:

3 (1) provide an opportunity for the child's
4 mother and father to sign under penalty of perjury an
5 acknowledgment of paternity on a form provided by the bureau
6 pursuant to the ~~[New Mexico]~~ Revised Uniform Parentage Act.
7 The completed acknowledgment of paternity shall be filed with
8 the bureau. The acknowledgment shall contain or have attached
9 to it:

10 (a) a statement by the mother consenting
11 to the assertion of paternity;

12 (b) a statement by the father that he is
13 the father of the child;

14 (c) written information, furnished by
15 the ~~[human services department]~~ health care authority,
16 explaining the implications of signing, including legal
17 parental rights and responsibilities; and

18 (d) the social security numbers of both
19 parents; and

20 (2) provide written information, furnished by
21 the ~~[human services department]~~ health care authority, to the
22 mother and father, regarding the benefits of having the child's
23 paternity established and of the availability of paternity
24 establishment services and child support enforcement services.

25 G. If a married mother claims that her husband is

.229101.7

underscored material = new
[bracketed material] = delete

1 not the father of the child, the husband signs under penalty of
2 perjury a denial of paternity on a form provided by the bureau
3 pursuant to the [~~New Mexico~~] Revised Uniform Parentage Act and
4 the non-husband agrees that he is the father, an acknowledgment
5 of paternity may be signed under penalty of perjury by the
6 mother and the non-husband. Upon filing the acknowledgment of
7 paternity and the denial of paternity with the bureau, the name
8 of the non-husband shall be entered on the certificate of birth
9 as the father.

10 H. Pursuant to an interagency agreement for proper
11 reimbursement, the bureau shall make available to the [~~human~~
12 ~~services department~~] health care authority the birth
13 certificate, the mother's and father's social security numbers
14 and paternity acknowledgments or denials. The [~~human services~~
15 ~~department~~] health care authority shall use these records only
16 in conjunction with its duties as the state IV-D agency
17 responsible for the child support program under Title IV-D of
18 the federal Social Security Act.

19 I. Each party shall be provided with copies of any
20 acknowledgment of paternity and any related denial of
21 paternity.

22 J. The forms of acknowledgment of paternity and
23 denial of paternity furnished by the bureau shall comply with
24 the requirements of the [~~New Mexico~~] Revised Uniform Parentage
25 Act and shall be provided in English and in Spanish."

.229101.7

underscoring material = new
~~[bracketed material] = delete~~

1 SECTION 97. Section 24-14-16 NMSA 1978 (being Laws 1961,
2 Chapter 44, Section 16, as amended) is amended to read:

3 "24-14-16. JUDICIAL PROCEDURE TO ESTABLISH FACTS OF
4 BIRTH.--

5 A. If a delayed certificate of birth is rejected
6 under the provisions of Section 24-14-15 NMSA 1978, a petition
7 may be filed with a court for an order establishing a record of
8 the date and place of the birth and the parentage of the person
9 whose birth is to be registered.

10 B. The petition shall allege that:

11 (1) the person for whom a delayed certificate
12 of birth is sought was born in this state;

13 (2) no record of birth of the person can be
14 found in the bureau;

15 (3) diligent efforts by the petitioner have
16 failed to obtain the evidence required in accordance with
17 Section 24-14-15 NMSA 1978;

18 (4) the state registrar has refused to
19 register a delayed certificate of birth; and

20 (5) any other allegations as may be required.

21 C. The petition shall be accompanied by a statement
22 of the registration official made in accordance with Section
23 24-14-15 NMSA 1978 and all documentary evidence that was
24 submitted to the registration official in support of the
25 registration. The petition shall be sworn to by the

.229101.7

underscored material = new
[bracketed material] = delete

1 petitioner.

2 D. The court shall fix a time and place for hearing
3 the petition and shall give the registration official who
4 refused to register the petitioner's delayed certificate of
5 birth ten days' notice of the hearing. The official or the
6 official's authorized representative may appear and testify in
7 the proceeding.

8 E. If the court finds from the evidence presented
9 that the person for whom a delayed certificate of birth is
10 sought was born in this state, it shall make findings as to the
11 place and date of birth, parentage and other findings as the
12 case may require and shall issue an order to establish a record
13 of birth. This order shall include the birth data to be
14 registered, a description of the evidence presented in the
15 manner prescribed by Section 24-14-15 NMSA 1978 and the date of
16 the court's action.

17 F. The court shall determine the parent-child
18 relationship of the mother and father pursuant to the [~~New~~
19 ~~Mexico~~] Revised Uniform Parentage Act.

20 G. The clerk of the court shall forward each order
21 to the state registrar not later than the tenth day of the
22 calendar month following the month in which it was entered.
23 The order shall be registered by the state registrar and shall
24 constitute the record of birth from which copies may be issued
25 in accordance with Sections 24-14-28 and 24-14-29 NMSA 1978."

.229101.7

underscoring material = new
~~[bracketed material]~~ = delete

1 **SECTION 98.** Section 32A-5-20 NMSA 1978 (being Laws 1993,
2 Chapter 77, Section 147, as amended) is amended to read:

3 "32A-5-20. PUTATIVE FATHER REGISTRY--NOTICE--PENALTY.--

4 A. The purpose of the putative father registry is
5 to protect the parental rights of fathers who affirmatively
6 assume responsibility for children they may have fathered and
7 to expedite adoptions of children whose biological fathers are
8 unwilling to assume responsibility for their children by
9 registering with the putative father registry or otherwise
10 acknowledging their children. The registry does not relieve
11 the obligation of mothers to identify known fathers.

12 B. A putative father registry shall be established
13 by the department of health to record the names and addresses
14 of:

15 (1) any person adjudicated by a court of this
16 state to be the father of a child;

17 (2) any person who has filed with the
18 registry, before or after birth of a child out of wedlock, a
19 notice of intent to claim paternity of the child;

20 (3) any person who has filed with the registry
21 an instrument acknowledging paternity; or

22 (4) any person adjudicated by a court of
23 another state or territory of the United States to be the
24 father of an out-of-wedlock child, when a certified copy of the
25 court order has been filed with the registry.

.229101.7

underscored material = new
[bracketed material] = delete

1 C. A person filing a notice of intent to claim
2 paternity of a child or an acknowledgment of paternity shall
3 include in the notice the following:

4 (1) his name;
5 (2) his current address;
6 (3) the mother's name and any other
7 identifying information requested by the department of health;
8 and

9 (4) the child's name, if known, and any other
10 identifying information requested by the department of health.

11 D. If the person filing the notice of intent to
12 claim paternity of a child or acknowledgment changes his
13 address, the person shall notify the department of health of
14 his new address in the manner prescribed by the department of
15 health.

16 E. A person who has filed a notice of intent to
17 claim paternity may at any time revoke a notice of intent to
18 claim paternity previously filed. Upon receipt by the registry
19 of the notice of revocation, the revoked notice of intent to
20 claim paternity shall be deemed a nullity nunc pro tunc.

21 F. No registration fee shall be charged for
22 registering the intent to claim paternity of a child or
23 acknowledgment of paternity. The department of health may
24 charge a reasonable fee as prescribed by [~~regulation~~] rule for
25 processing searches of the putative father registry.

.229101.7

underscoring material = new
~~[bracketed material] = delete~~

1 G. An unrevoked notice of intent to claim paternity
2 of a child may be introduced in evidence by any party in any
3 proceeding in which that fact may be relevant.

4 H. If a father-child relationship has not been
5 established pursuant to the ~~[New Mexico]~~ Revised Uniform
6 Parentage Act, a petitioner for adoption of or termination of
7 parental rights regarding a child shall obtain a certificate of
8 search of the putative father registry.

9 I. If a petitioner for adoption of or termination
10 of parental rights regarding a child has reason to believe that
11 the conception or birth of the child may have occurred in
12 another state, the petitioner shall also obtain a certificate
13 of search from the putative father registry, if any, in that
14 state.

15 J. The department of health shall furnish to the
16 requester a certificate of search of the registry on request of
17 any court, a state agency, the department, the petitioner's
18 attorney or the mother of the child. The information shall not
19 be disclosed to any other person, except upon order of the
20 court for good cause shown. The requester shall furnish the
21 department with a stamped, self-addressed reply envelope.

22 K. A certificate provided by the department of
23 health shall be signed on behalf of the department of health
24 and state that:

- 25 (1) a search has been made of the registry;

underscored material = new
[bracketed material] = delete

1 and

2 (2) a registration containing the information
3 required to identify the registrant:

4 (a) has been found and is attached to
5 the certificate of search; or

6 (b) has not been found.

7 L. A petitioner shall file the certificate of
8 search with the district court before a proceeding for adoption
9 of or termination of parental rights regarding a child may be
10 concluded.

11 M. Subject to any rules established by the New
12 Mexico supreme court, a certificate of search of the registry
13 of paternity in this or another state is admissible in a
14 proceeding for adoption of or termination of parental rights
15 regarding a child and, if relevant, in other legal proceedings.

16 N. The department of health may promulgate any
17 [~~regulations~~] rules or forms necessary to implement the
18 provisions of this section.

19 O. Any person who intentionally and unlawfully
20 releases information from the putative father registry to the
21 public or makes any other unlawful use of the information in
22 violation of the provisions of this section is guilty of a
23 petty misdemeanor and shall be sentenced pursuant to the
24 provisions of Section 31-19-1 NMSA 1978."

25 SECTION 99. Section 40-4-9.1 NMSA 1978 (being Laws 1986,
.229101.7

underscored material = new
~~[bracketed material]~~ = delete

1 Chapter 41, Section 1, as amended) is amended to read:

2 "40-4-9.1. JOINT CUSTODY--STANDARDS FOR DETERMINATION--
3 PARENTING PLAN.--

4 A. There shall be a presumption that joint custody
5 is in the best interests of a child in an initial custody
6 determination. An award of joint custody does not imply an
7 equal division of financial responsibility for the child.
8 Joint custody shall not be awarded as a substitute for an
9 existing custody arrangement unless there has been a
10 substantial and material change in circumstances since the
11 entry of the prior custody order or decree, which change
12 affects the welfare of the child such that joint custody is
13 presently in the best interests of the child. With respect to
14 any proceeding in which it is proposed that joint custody be
15 terminated, the court shall not terminate joint custody unless
16 there has been a substantial and material change in
17 circumstances affecting the welfare of the child, since entry
18 of the joint custody order, such that joint custody is no
19 longer in the best interests of the child.

20 B. In determining whether a joint custody order is
21 in the best interests of the child, in addition to the factors
22 provided in Section 40-4-9 NMSA 1978, the court shall consider
23 the following factors:

24 (1) whether the child has established a close
25 relationship with each parent;

.229101.7

1 (2) whether each parent is capable of
2 providing adequate care for the child throughout each period of
3 responsibility, including arranging for the child's care by
4 others as needed;

5 (3) whether each parent is willing to accept
6 all responsibilities of parenting, including a willingness to
7 accept care of the child at specified times and to relinquish
8 care to [~~the other~~] another parent at specified times;

9 (4) whether the child can best maintain and
10 strengthen a relationship with [~~both parents~~] each parent
11 through predictable, frequent contact and whether the child's
12 development will profit from such involvement and influence
13 from [~~both parents~~] each parent;

14 (5) whether each parent is able to allow the
15 other to provide care without intrusion, that is, to respect
16 the other's parental rights and responsibilities and right to
17 privacy;

18 (6) the suitability of a parenting plan for
19 the implementation of joint custody, preferably, although not
20 necessarily, one arrived at through parental agreement;

21 (7) geographic distance between the parents'
22 residences;

23 (8) willingness or ability of the parents to
24 communicate, cooperate or agree on issues regarding the child's
25 needs; and

underscoring material = new
[bracketed material] = delete

1 (9) whether a judicial adjudication has been
2 made in a prior or the present proceeding that [~~either~~] a
3 parent or other person seeking custody has engaged in one or
4 more acts of domestic abuse against the child, a parent of the
5 child or other household member. If a determination is made
6 that domestic abuse has occurred, the court shall set forth
7 findings that the custody or visitation ordered by the court
8 adequately protects the child, the abused parent or other
9 household member.

10 C. In any proceeding in which the custody of a
11 child is at issue, the court shall not prefer one parent as a
12 custodian solely because of gender.

13 D. In any case in which the parents agree to a form
14 of custody, the court should award custody consistent with the
15 agreement unless the court determines that such agreement is
16 not in the best interests of the child.

17 E. In making an order of joint custody, the court
18 may specify the circumstances, if any, under which the consent
19 of [~~both legal custodians~~] each legal custodian is required to
20 be obtained in order to exercise legal control of the child and
21 the consequences of the failure to obtain mutual consent.

22 F. When joint custody is awarded, the court shall
23 approve a parenting plan for the implementation of the
24 prospective custody arrangement prior to the award of joint
25 custody. The parenting plan shall include a division of a

.229101.7

underscoring material = new
~~[bracketed material] = delete~~

1 child's time and care into periods of responsibility for each
2 parent. It may also include:

3 (1) statements regarding the child's religion,
4 education, child care, recreational activities and medical and
5 dental care;

6 (2) designation of specific decision-making
7 responsibilities;

8 (3) methods of communicating information about
9 the child, transporting the child, exchanging care for the
10 child and maintaining telephone and mail contact between parent
11 and child;

12 (4) procedures for future decision-making,
13 including procedures for dispute resolution; and

14 (5) other statements regarding the welfare of
15 the child or designed to clarify and facilitate parenting under
16 joint custody arrangements.

17 In a case where joint custody is not agreed to or
18 necessary aspects of the parenting plan are contested, the
19 parties shall each submit parenting plans. The court may
20 accept the plan proposed by ~~[either]~~ a party or it may combine
21 or revise these plans as it deems necessary in the child's best
22 interests. The time of filing of parenting plans shall be set
23 by local rule. A plan adopted by the court shall be entered as
24 an order of the court.

25 G. Where custody is contested, the court shall

.229101.7

underscoring material = new
~~[bracketed material] = delete~~

1 refer that issue to mediation if feasible. The court may also
2 use auxiliary services such as professional evaluation by
3 application of Rule ~~[706]~~ 11-706 of the New Mexico Rules of
4 Evidence or Rule ~~[53]~~ 1-053 of the Rules of Civil Procedure for
5 the District Courts.

6 H. Notwithstanding any other provisions of law,
7 access to records and information pertaining to a minor child,
8 including medical, dental and school records, shall not be
9 denied to a parent because that parent is not the child's
10 physical custodial parent or because that parent is not a joint
11 custodial parent.

12 I. Whenever a request for joint custody is granted
13 or denied, the court shall state in its decision its basis for
14 granting or denying the request for joint custody. A statement
15 that joint custody is or is not in the best interests of the
16 child is not sufficient to meet the requirements of this
17 subsection.

18 J. An award of joint custody means that:

19 (1) each parent shall have significant, well-
20 defined periods of responsibility for the child;

21 (2) each parent shall have, and be allowed and
22 expected to carry out, responsibility for the child's
23 financial, physical, emotional and developmental needs during
24 that parent's periods of responsibility;

25 (3) the parents shall consult ~~[with each~~

underscored material = new
[bracketed material] = delete

1 ~~other~~ together on major decisions involving the child before
2 implementing those decisions; that is, [~~neither~~] no parent
3 shall make a decision or take an action [~~which~~] that results in
4 a major change in a child's life until the matter has been
5 discussed [~~with the other parent~~] among the parents and the
6 parents agree. If the parents, after discussion, cannot agree
7 and if one parent wishes to effect a major change while [~~the~~
8 ~~other~~] another does not wish the major change to occur, then no
9 change shall occur until the issue has been resolved as
10 provided in this subsection;

11 (4) the following guidelines apply to major
12 changes in a child's life:

13 (a) if [~~either~~] a parent plans to change
14 [~~his~~] the parent's home city or state of residence, [~~he~~] that
15 parent shall provide to [~~the~~] each other parent thirty days'
16 notice in writing stating the date and destination of move;

17 (b) the religious denomination and
18 religious activities, or lack thereof, [~~which~~] that were being
19 practiced during the marriage should not be changed unless the
20 parties agree or it has been otherwise resolved as provided in
21 this subsection;

22 (c) [~~both parents~~] each parent shall
23 have access to school records, teachers and activities. The
24 type of education, public or private, [~~which~~] that was in place
25 during the marriage should continue, whenever possible, and

.229101.7

underscored material = new
[bracketed material] = delete

1 school districts should not be changed unless the parties agree
2 or it has been otherwise resolved as provided in this
3 subsection;

4 (d) [~~both parents~~] each parent shall
5 have access to medical and dental treatment providers and
6 records. Each parent has authority to make emergency medical
7 decisions. [~~Neither~~] No parent may contract for major elective
8 medical or dental treatment unless [~~both parents agree~~] each
9 parent agrees or it has been otherwise resolved as provided in
10 this subsection; and

11 (e) [~~both parents~~] each parent may
12 attend the child's public activities and [~~both parents~~] each
13 parent should know the necessary schedules. Whatever
14 recreational activities the child participated in during the
15 marriage should continue with the child's agreement, regardless
16 of which of the parents has physical custody. Also, [~~neither~~]
17 no parent may enroll the child in a new recreational activity
18 unless the parties agree or it has been otherwise resolved as
19 provided in this subsection; and

20 (5) decisions regarding major changes in a
21 child's life may be decided by:

22 (a) agreement between the joint
23 custodial parents;

24 (b) requiring that the parents seek
25 family counseling, conciliation or mediation service to assist

underscored material = new
[bracketed material] = delete

1 in resolving their differences;

2 (c) agreement by the parents to submit
3 the dispute to binding arbitration;

4 (d) allocating ultimate responsibility
5 for a particular major decision area to one legal custodian;

6 (e) terminating joint custody and
7 awarding sole custody to one person;

8 (f) reference to a master pursuant to
9 Rule 53 of the Rules of Civil Procedure for the District
10 Courts; or

11 (g) the district court.

12 K. When ~~[any]~~ a person other than a ~~[natural or~~
13 ~~adoptive]~~ parent as determined pursuant to the provisions of
14 the Revised Uniform Parentage Act or the Adoption Act seeks
15 custody of a child, no such person shall be awarded custody
16 absent a showing of unfitness of the ~~[natural or adoptive]~~
17 parent as determined pursuant to the provisions of the Revised
18 Uniform Parentage Act or the Adoption Act.

19 L. As used in this section:

20 (1) "child" means a person under the age of
21 eighteen;

22 (2) "custody" means the authority and
23 responsibility to make major decisions in a child's best
24 interests in the areas of residence, medical and dental
25 treatment, education or child care, religion and recreation;

.229101.7

underscored material = new
[bracketed material] = delete

1 (3) "domestic abuse" means any incident by a
2 household member against another household member resulting in:

- 3 (a) physical harm;
4 (b) severe emotional distress;
5 (c) a threat causing imminent fear of
6 physical harm by any household member;
7 (d) criminal trespass;
8 (e) criminal damage to property;
9 (f) stalking or aggravated stalking, as
10 provided in Sections 30-3A-3 and 30-3A-3.1 NMSA 1978; or
11 (g) harassment, as provided in Section
12 30-3A-2 NMSA 1978;

13 (4) "joint custody" means an order of the
14 court awarding custody of a child to [~~two parents~~] more than
15 one parent. Joint custody does not imply an equal division of
16 the child's time between the parents or an equal division of
17 financial responsibility for the child;

18 (5) "parent" means a [~~natural parent,~~
19 ~~adoptive~~] parent as determined pursuant to the provisions of
20 the Revised Uniform Parentage Act or the Adoption Act or person
21 who is acting as a parent who has or shares legal custody of a
22 child or who claims a right to have or share legal custody;

23 (6) "parenting plan" means a document
24 submitted for approval of the court setting forth the
25 responsibilities of each parent individually and the parents

.229101.7

underscored material = new
[bracketed material] = delete

1 jointly in a joint custody arrangement;

2 (7) "period of responsibility" means a
3 specified period of time during which a parent is responsible
4 for providing for a child's physical, developmental and
5 emotional needs, including the decision-making required in
6 daily living. Specified periods of responsibility shall not be
7 changed in an instance or more permanently except by the
8 methods of decision-making described under Subsection [E] J of
9 this section;

10 (8) "sole custody" means an order of the court
11 awarding custody of a child to one parent; and

12 (9) "visitation" means a period of time
13 available to a noncustodial parent, under a sole custody
14 arrangement, during which a child resides with or is under the
15 care and control of the noncustodial parent."

16 SECTION 100. Section 40-4-20 NMSA 1978 (being Laws 1901,
17 Chapter 62, Section 31, as amended) is amended to read:

18 "40-4-20. FAILURE TO DIVIDE OR DISTRIBUTE PROPERTY ON
19 THE ENTRY OF A DECREE OF DISSOLUTION OF MARRIAGE OR
20 SEPARATION--DISTRIBUTION OF SPOUSAL OR CHILD SUPPORT AND
21 DETERMINATION OF PATERNITY WHEN DEATH OCCURS DURING PROCEEDINGS
22 FOR DISSOLUTION OF MARRIAGE, SEPARATION, [~~ANNULMENT OF MARRIAGE~~
23 ~~OR~~] PATERNITY OR TO VOID A MARRIAGE.--

24 A. The failure to divide or distribute property on
25 the entry of a decree of dissolution of marriage or of

.229101.7

underscored material = new
[bracketed material] = delete

1 separation shall not affect the property rights of either the
2 husband or wife, and either may subsequently institute and
3 prosecute a suit for division and distribution or with
4 reference to any other matter pertaining thereto that could
5 have been litigated in the original proceeding for dissolution
6 of marriage or separation.

7 B. Upon the filing and service of a petition for
8 dissolution of marriage, separation, [~~annulment~~] division of
9 property or debts, spousal support, child support, [~~or~~]
10 determination of paternity or a declaration that the marriage
11 is void pursuant to the provisions of Chapter 40, Article 4 or
12 [~~++~~] 11B NMSA 1978, if a party to the action dies during the
13 pendency of the action, but prior to the entry of a decree
14 granting dissolution of marriage, separation, [~~annulment or~~]
15 determination of paternity or a declaration that the marriage
16 is void, the proceedings for the determination, division and
17 distribution of marital property rights and debts, distribution
18 of spousal or child support or determination of paternity shall
19 not abate. The court shall conclude the proceedings as if both
20 parties had survived. The court may allow the spouse or any
21 children of the marriage support as if the decedent had
22 survived, pursuant to the provisions of Chapter 40, Article 4
23 or [~~++~~] 11B NMSA 1978. In determining the support, the court
24 shall, in addition to the factors listed in Chapter 40, Article
25 4 NMSA 1978, consider the amount and nature of the property

.229101.7

underscoring material = new
~~[bracketed material] = delete~~

1 passing from the [~~decendent~~] decendent to the person for whom
2 the support would be paid, whether by will or otherwise."

3 SECTION 101. Section 40-9-2 NMSA 1978 (being Laws 1993,
4 Chapter 93, Section 3, as amended) is amended to read:

5 "40-9-2. CHILDREN--VISITATION BY GRANDPARENT--PETITION--
6 MEDIATION.--

7 A. In rendering a judgment of dissolution of
8 marriage, legal separation or the existence of the parent and
9 child relationship pursuant to the provisions of the
10 Revised Uniform Parentage Act, or at any time after the entry
11 of the judgment, the district court may grant reasonable
12 visitation privileges to a grandparent of a minor child, not in
13 conflict with the child's education or prior established
14 visitation or time-sharing privileges.

15 B. If one or both parents of a minor child are
16 deceased, any grandparent of the minor child may petition the
17 district court for visitation privileges with respect to the
18 minor. The district court may order temporary visitation
19 privileges until a final order regarding visitation privileges
20 is issued by the court.

21 C. If a minor child resided with a grandparent for
22 a period of at least three months and the child was less than
23 six years of age at the beginning of the three-month period and
24 the child was subsequently removed from the grandparent's home
25 by the child's parent or any other person, the grandparent may

.229101.7

underscoring material = new
~~[bracketed material] = delete~~

1 petition the district court for visitation privileges with
2 respect to the child, if the child's home state is New Mexico,
3 as provided in the [~~Child Custody Jurisdiction~~] Uniform Child-
4 Custody Jurisdiction and Enforcement Act.

5 D. If a minor child resided with a grandparent for
6 a period of at least six months and the child was six years of
7 age or older at the beginning of the six-month period and the
8 child was subsequently removed from the grandparent's home by
9 the child's parent or any other person, the grandparent may
10 petition the district court for visitation privileges with
11 respect to the child, if the child's home state is New Mexico,
12 as provided in the [~~Child Custody Jurisdiction~~] Uniform Child-
13 Custody Jurisdiction and Enforcement Act.

14 E. A biological grandparent may petition the
15 district court for visitation privileges with respect to a
16 grandchild when the grandchild has been adopted or adoption is
17 sought, pursuant to the provisions of the Adoption Act, by:
18 (1) a stepparent;
19 (2) a relative of the grandchild;
20 (3) a person designated to care for the
21 grandchild in the provisions of a deceased parent's will; or
22 (4) a person who sponsored the grandchild at a
23 baptism or confirmation conducted by a recognized religious
24 organization.

25 F. When a minor child is adopted by a stepparent

1 and the parental rights of the natural parent terminate or are
2 relinquished, the biological grandparents are not precluded
3 from attempting to establish visitation privileges. When a
4 petition filed pursuant to the provisions of the Grandparent's
5 Visitation Privileges Act is filed during the pendency of an
6 adoption proceeding, the petition shall be filed as part of the
7 adoption proceedings. The provisions of the Grandparent's
8 Visitation Privileges Act shall have no application in the
9 event of a relinquishment or termination of parental rights in
10 cases of other statutory adoption proceedings.

11 G. When considering a grandparent's petition for
12 visitation privileges with a child, the district court shall
13 assess:

14 (1) any factors relevant to the best interests
15 of the child;

16 (2) the prior interaction between the
17 grandparent and the child;

18 (3) the prior interaction between the
19 grandparent and each parent of the child;

20 (4) the present relationship between the
21 grandparent and each parent of the child;

22 (5) time-sharing or visitation arrangements
23 that were in place prior to filing of the petition;

24 (6) the effect the visitation with the
25 grandparent will have on the child;

underscored material = new
[bracketed material] = delete

1 (7) if the grandparent has any prior
2 convictions for physical, emotional or sexual abuse or neglect;
3 and

4 (8) if the grandparent has previously been a
5 full-time caretaker for the child for a significant period.

6 H. The district court may order mediation and
7 evaluation in any matter when a grandparent's visitation
8 privileges with respect to a minor child are at issue. When a
9 judicial district has established a domestic relations
10 mediation program pursuant to the provisions of the Domestic
11 Relations Mediation Act, the mediation shall conform with the
12 provisions of that act. Upon motion and hearing, the district
13 court shall act promptly on the recommendations set forth in a
14 mediation report and consider assessment of mediation and
15 evaluation to the parties. The district court may order
16 temporary visitation privileges until a final order regarding
17 visitation privileges is issued by the court.

18 I. When the district court decides that visitation
19 is not in the best interest of the child, the court may issue
20 an order requiring other reasonable contact between the
21 grandparent and the child, including regular communication by
22 telephone, mail or any other reasonable means.

23 J. The provisions of the [~~Child-Custody~~
24 ~~Jurisdiction~~] Uniform Child-Custody Jurisdiction and
25 Enforcement Act and Section 30-4-4 NMSA 1978, regarding

.229101.7

1 custodial interference, are applicable to the provisions of the
2 Grandparent's Visitation Privileges Act."

3 **SECTION 102.** Section 40-10B-3 NMSA 1978 (being Laws
4 2001, Chapter 167, Section 3, as amended) is amended to read:

5 "40-10B-3. DEFINITIONS.--As used in the Kinship
6 Guardianship Act:

7 A. "caregiver" means an adult, who is not a parent
8 of a child, with whom a child resides and who provides that
9 child with the care, maintenance and supervision consistent
10 with the duties and responsibilities of a parent of the child;

11 B. "child" means an individual who is a minor;

12 C. "department" means the children, youth and
13 families department;

14 D. "guardian" means a person appointed as a
15 guardian by a court or Indian tribal authority;

16 E. "Indian" means, whether an adult or child, a
17 person who is:

18 (1) a member of an Indian tribe; or

19 (2) eligible for membership in an Indian
20 tribe;

21 F. "Indian child" means an Indian person, or a
22 person whom there is reason to know is an Indian person, under
23 eighteen years of age, who is neither:

24 (1) married; or

25 (2) emancipated;

.229101.7

1 G. "Indian child's tribe" means:

2 (1) the Indian tribe in which an Indian child
3 is a member or eligible for membership; or

4 (2) in the case of an Indian child who is a
5 member or eligible for membership in more than one tribe, the
6 Indian tribe with which the Indian child has more significant
7 contacts;

8 H. "Indian custodian" means an Indian who, pursuant
9 to tribal law or custom or pursuant to state law:

10 (1) is an adult with legal custody of an
11 Indian child; or

12 (2) has been transferred temporary physical
13 care, custody and control by the parent of the Indian child;

14 I. "Indian tribe" means an Indian nation, tribe,
15 pueblo or other band, organized group or community of Indians
16 recognized as eligible for the services provided to Indians by
17 the secretary of the interior because of their status as
18 Indians, including an Alaska native village as defined in 43
19 U.S.C. Section 1602(c) or a regional corporation as defined in
20 43 U.S.C. Section 1606. For the purposes of notification to
21 and communication with a tribe as required in the Indian Family
22 Protection Act, "Indian tribe" also includes those tribal
23 officials and staff who are responsible for child welfare and
24 social services matters;

25 J. "kinship" means the relationship that exists

underscored material = new
[bracketed material] = delete

1 between a child and a relative of the child, a godparent, a
2 member of the child's tribe or clan or an adult with whom the
3 child has a significant bond;

4 K. "parent" means a biological or adoptive parent
5 of a child whose parental rights have not been terminated and
6 includes an individual identified as a parent under the [~~New~~
7 ~~Mexico~~] Revised Uniform Parentage Act; and

8 L. "relative" means an individual related to a
9 child as a spouse, parent, stepparent, brother, sister,
10 stepbrother, stepsister, half-brother, half-sister, uncle,
11 aunt, niece, nephew, first cousin or any person denoted by the
12 prefix "grand" or "great", or the spouse or former spouse of
13 the persons specified."

14 SECTION 103. Section 45-1-301 NMSA 1978 (being Laws
15 1975, Chapter 257, Section 1-301, as amended) is amended to
16 read:

17 "45-1-301. APPLICATION.--

18 A. Except as otherwise provided in the Uniform
19 Probate Code, the code applies to:

20 (1) the affairs and estates of decedents,
21 missing persons and protected persons domiciled in New Mexico;

22 (2) the property of nonresidents located in
23 New Mexico or property coming into the control of a fiduciary
24 who is subject to the laws of New Mexico;

25 (3) incapacitated persons, minors and

.229101.7

underscoring material = new
[bracketed material] = delete

1 protected persons in New Mexico;

2 (4) survivorship and related accounts and
3 similar property interests in New Mexico;

4 (5) the disclaimer of property interests by
5 persons in New Mexico;

6 (6) certain kinds of governing instruments
7 that are governed by the laws of New Mexico; and

8 (7) the apportionment of taxes on estates
9 subject to tax by New Mexico.

10 B. The Uniform Probate Code does not create,
11 enlarge, modify or diminish parental rights or duties pursuant
12 to the [~~New Mexico~~] Revised Uniform Parentage Act, the Adoption
13 Act, the Children's Code or other law of New Mexico. The
14 definition or use of terms in the Uniform Probate Code shall
15 not be used to interpret, by analogy or otherwise, the same or
16 other terms in the [~~New Mexico~~] Revised Uniform Parentage Act,
17 the Adoption Act, the Children's Code or other law of New
18 Mexico."

19 SECTION 104. REPEAL.--Sections 40-11A-101 through
20 40-11A-903 NMSA 1978 (being Laws 2009, Chapter 215, Sections
21 1-101 through 1-106, 2-201 through 2-204, 3-301 through 3-314,
22 4-401, 5-501 through 5-511, 6-601 through 6-643, 7-701 through
23 7-707, 8-801 and 9-901 through 9-903, as amended) are repealed.

24 SECTION 105. APPLICABILITY.--The provisions of the
25 Revised Uniform Parentage Act apply to actions commenced on or
.229101.7

underscoring material = new
~~[bracketed material] = delete~~

1 after January 1, 2026.

2 SECTION 106. EFFECTIVE DATE.--The effective date of the
3 provisions of this act is January 1, 2026.

4 - 119 -

5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25