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SENATE BILL 463

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

Cisco McSorley

FOR THE COURTS, CORRECTIONS AND JUSTICE COMMITTEE

AN ACT

RELATING TO FAMILY LAW; ENACTING THE NEW MEXICO UNIFORM PARENTAGE ACT; PROVIDING FOR ESTABLISHMENT OF THE PARENT-CHILD RELATIONSHIP, DETERMINATION OF PATERNITY AND GENETIC TESTING; PROVIDING PENALTIES; AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA 1978.

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

ARTICLE 1

GENERAL PROVISIONS AND DEFINITIONS

Section 1-101. [NEW MATERIAL] SHORT TITLE.--Sections 1-101 through 9-903 of this act may be cited as the "New Mexico Uniform Parentage Act".

Section 1-102. [NEW MATERIAL] DEFINITIONS.--As used in the New Mexico Uniform Parentage Act:

A. "acknowledged father" means a man who has

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1 established a father-child relationship pursuant to Article 3
2 of the New Mexico Uniform Parentage Act;

3 B. "adjudicated father" means a man who has been
4 adjudicated by a court of competent jurisdiction to be the
5 father of a child;

6 C. "alleged father" means a man who alleges himself
7 to be, or is alleged to be, the genetic father or a possible
8 genetic father of a child, but whose paternity has not been
9 determined. "Alleged father" does not include:

10 (1) a presumed father;

11 (2) a man whose parental rights have been
12 terminated or declared not to exist; or

13 (3) a male donor;

14 D. "assisted reproduction" means a method of
15 causing pregnancy other than sexual intercourse. "Assisted
16 reproduction" includes:

17 (1) intrauterine insemination;

18 (2) donation of eggs;

19 (3) donation of embryos;

20 (4) in-vitro fertilization and transfer of
21 embryos; and

22 (5) intracytoplasmic sperm injection;

23 E. "bureau" means the vital records and health
24 statistics bureau of the epidemiology and response division of
25 the department of health;

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1 F. "child" means a person of any age whose
2 parentage may be determined pursuant to the New Mexico Uniform
3 Parentage Act;

4 G. "commence" means to file the initial pleading
5 seeking an adjudication of parentage in district court;

6 H. "determination of parentage" means the
7 establishment of the parent-child relationship by the signing
8 of a valid acknowledgment of paternity pursuant to Article 3 of
9 the New Mexico Uniform Parentage Act or adjudication by the
10 court;

11 I. "donor" means a person who produces eggs or
12 sperm used for assisted reproduction, whether or not for
13 consideration. "Donor" does not include:

14 (1) a husband who provides sperm, or a wife
15 who provides eggs, to be used for assisted reproduction by the
16 wife;

17 (2) a woman who gives birth to a child by
18 means of assisted reproduction; or

19 (3) a parent pursuant to Article 7 of the New
20 Mexico Uniform Parentage Act;

21 J. "ethnic or racial group" means, for purposes of
22 genetic testing, a recognized group that a person identifies as
23 all or part of the person's ancestry or that is so identified
24 by other information;

25 K. "genetic testing" means an analysis of genetic

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1 markers to exclude or identify a man as the father or a woman
2 as the mother of a child. "Genetic testing" includes an
3 analysis of one or a combination of the following:

4 (1) deoxyribonucleic acid; and
5 (2) blood-group antigens, red-cell antigens,
6 human-leukocyte antigens, serum enzymes, serum proteins or red-
7 cell enzymes;

8 L. "man" means a male person of any age;

9 M. "parent" means a person who has established a
10 parent-child relationship pursuant to Section 2-201 of the New
11 Mexico Uniform Parentage Act;

12 N. "parent-child relationship" means the legal
13 relationship between a child and a parent of the child,
14 including the mother-child relationship and the father-child
15 relationship;

16 O. "paternity index" means the likelihood of
17 paternity calculated by computing the ratio between:

18 (1) the likelihood that the tested man is the
19 father, based on the genetic markers of the tested man, mother
20 and child, conditioned on the hypothesis that the tested man is
21 the father of the child; and

22 (2) the likelihood that the tested man is not
23 the father, based on the genetic markers of the tested man,
24 mother and child, conditioned on the hypothesis that the tested
25 man is not the father of the child and that the father is of

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1 the same ethnic or racial group as the tested man;

2 P. "presumed father" means a man who, by operation
3 of law pursuant to Section 2-204 of the New Mexico Uniform
4 Parentage Act, is recognized as the father of a child until
5 that status is rebutted or confirmed in a judicial proceeding;

6 Q. "probability of paternity" means the measure,
7 for the ethnic or racial group to which the alleged father
8 belongs, of the probability that the man in question is the
9 father of the child, compared with a random, unrelated man of
10 the same ethnic or racial group, expressed as a percentage
11 incorporating the paternity index and a prior probability;

12 R. "record" means information that is inscribed on
13 a tangible medium or that is stored in an electronic or other
14 medium and is retrievable in perceivable form;

15 S. "signatory" means a person who signs or
16 otherwise authenticates a record and is bound by its terms;

17 T. "state" means a state of the United States, the
18 District of Columbia, Puerto Rico, the United States Virgin
19 Islands or any territory or insular possession subject to the
20 jurisdiction of the United States; and

21 U. "support-enforcement agency" means a public
22 official or agency authorized to seek:

23 (1) enforcement of support orders or laws
24 relating to the duty of support;

25 (2) establishment or modification of child

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1 support;

2 (3) determination of parentage; or

3 (4) location of child-support obligors and
4 their income and assets.

5 Section 1-103. [NEW MATERIAL] SCOPE OF ACT--CHOICE OF
6 LAW.--

7 A. The New Mexico Uniform Parentage Act applies to
8 determination of parentage in New Mexico.

9 B. The district court shall apply the law of New
10 Mexico to adjudicate the parent-child relationship. The
11 applicable law does not depend on:

12 (1) the place of birth of the child; or

13 (2) the past or present residence of the
14 child.

15 C. The New Mexico Uniform Parentage Act does not
16 create, enlarge, modify or diminish parental rights or duties
17 pursuant to the Children's Code or other law of New Mexico.
18 The definition or use of terms in the New Mexico Uniform
19 Parentage Act shall not be used to interpret, by analogy or
20 otherwise, the same or other terms in the Adoption Act or other
21 law of New Mexico.

22 Section 1-104. [NEW MATERIAL] JURISDICTION.--The district
23 court has jurisdiction to adjudicate parentage pursuant to the
24 New Mexico Uniform Parentage Act.

25 Section 1-105. [NEW MATERIAL] PROTECTION OF

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1 PARTICIPANTS.--Proceedings pursuant to the New Mexico Uniform
2 Parentage Act are subject to other laws of New Mexico governing
3 the health, safety, privacy and liberty of a child or other
4 person who could be jeopardized by disclosure of identifying
5 information, including address, telephone number, place of
6 employment, social security number and the child's daycare
7 facility and school.

8 Section 1-106. [NEW MATERIAL] DETERMINATION OF
9 MATERNITY.--Provisions of the New Mexico Uniform Parentage Act
10 relating to determination of paternity apply to determinations
11 of maternity.

12 ARTICLE 2

13 PARENT-CHILD RELATIONSHIP

14 Section 2-201. [NEW MATERIAL] ESTABLISHMENT OF PARENT-
15 CHILD RELATIONSHIP.--

16 A. The mother-child relationship is established
17 between a woman and a child by:

- 18 (1) the woman's having given birth to the
- 19 child;
- 20 (2) an adjudication of the woman's maternity;
- 21 or
- 22 (3) adoption of the child by the woman.

23 B. The father-child relationship is established
24 between a man and a child by:

- 25 (1) an un rebutted presumption of the man's

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1 paternity of the child pursuant to Section 2-204 of the New
2 Mexico Uniform Parentage Act;

3 (2) an effective acknowledgment of paternity
4 by the man pursuant to Article 3 of the New Mexico Uniform
5 Parentage Act, unless the acknowledgment has been rescinded or
6 successfully challenged;

7 (3) an adjudication of the man's paternity;

8 (4) adoption of the child by the man; or

9 (5) the man's having consented to assisted
10 reproduction by a woman pursuant to Article 7 of the New Mexico
11 Uniform Parentage Act that resulted in the birth of the child.

12 Section 2-202. [NEW MATERIAL] NO DISCRIMINATION BASED ON
13 MARITAL STATUS.--A child born to parents who are not married to
14 each other has the same rights pursuant to the law as a child
15 born to parents who are married to each other.

16 Section 2-203. [NEW MATERIAL] CONSEQUENCES OF
17 ESTABLISHMENT OF PARENTAGE.--Unless parental rights are
18 terminated or relinquished, a parent-child relationship
19 established pursuant to the New Mexico Uniform Parentage Act
20 applies for all purposes, except determinations of parental
21 rights pursuant to the Children's Code or as otherwise provided
22 by other law of New Mexico.

23 Section 2-204. [NEW MATERIAL] PRESUMPTION OF PATERNITY.--

24 A. A man is presumed to be the father of a child
25 if:

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1 (1) he and the mother of the child are married
2 to each other and the child is born during the marriage;

3 (2) he and the mother of the child were
4 married to each other and the child is born within three
5 hundred days after the marriage is terminated by death,
6 annulment, declaration of invalidity or divorce or after a
7 decree of separation;

8 (3) before the birth of the child, he and the
9 mother of the child married each other in apparent compliance
10 with law, even if the attempted marriage is or could be
11 declared invalid, and the child is born during the invalid
12 marriage or within three hundred days after its termination by
13 death, annulment, declaration of invalidity or divorce or after
14 a decree of separation;

15 (4) after the birth of the child, he and the
16 mother of the child married each other in apparent compliance
17 with law, whether or not the marriage is or could be declared
18 invalid, and he voluntarily asserted his paternity of the
19 child, and:

20 (a) the assertion is in an
21 acknowledgement of paternity on a form provided by the bureau
22 that is filed with the bureau;

23 (b) he agreed to be and is named as the
24 child's father on the child's birth certificate; or

25 (c) he promised in a record to support

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1 the child as his own; or

2 (5) for the first two years of the child's
3 life, he resided in the same household with the child and
4 openly held out the child as his own.

5 B. A presumption of paternity established pursuant
6 to this section may be rebutted only by an adjudication
7 pursuant to Article 6 of the New Mexico Uniform Parentage Act.
8 Rebuttal of a presumption of paternity pursuant to the New
9 Mexico Uniform Parentage Act does not apply to a presumption of
10 paternity established pursuant to the Adoption Act.

11 ARTICLE 3

12 VOLUNTARY ACKNOWLEDGMENT OF PATERNITY

13 Section 3-301. [NEW MATERIAL] ACKNOWLEDGMENT OF
14 PATERNITY.--The mother of a child and a man claiming to be the
15 genetic father of the child may sign an acknowledgment of
16 paternity with intent to establish the man's paternity.

17 Section 3-302. [NEW MATERIAL] EXECUTION OF ACKNOWLEDGMENT
18 OF PATERNITY.--

- 19 A. An acknowledgment of paternity shall:
- 20 (1) be on a form provided by the bureau;
 - 21 (2) be signed or otherwise authenticated under
22 penalty of perjury by the mother and by the man seeking to
23 establish his paternity;
 - 24 (3) state that the child whose paternity is
25 being acknowledged:

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1 (a) does not have a presumed father or
2 has a presumed father whose full name is stated; and

3 (b) does not have another acknowledged
4 or adjudicated father;

5 (4) state whether there has been genetic
6 testing and, if so, that the acknowledging man's claim of
7 paternity is consistent with the results of the testing; and

8 (5) state that the signatories understand that
9 the acknowledgment is the equivalent of a judicial adjudication
10 of paternity of the child and that a challenge to the
11 acknowledgment is permitted only under limited circumstances
12 and is barred after two years.

13 B. An acknowledgment of paternity is void if it:

14 (1) states that another man is a presumed
15 father, unless a denial of paternity signed or otherwise
16 authenticated by the presumed father is filed with the bureau;

17 (2) states that another man is an acknowledged
18 or adjudicated father; or

19 (3) falsely denies the existence of a
20 presumed, acknowledged or adjudicated father of the child.

21 C. A presumed father may sign or otherwise
22 authenticate an acknowledgment of paternity.

23 Section 3-303. [NEW MATERIAL] DENIAL OF PATERNITY.--A
24 presumed father may sign a denial of his paternity. The denial
25 is valid only if:

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1 A. an acknowledgment of paternity signed or
2 otherwise authenticated by another man is filed pursuant to
3 Section 3-305 of the New Mexico Uniform Parentage Act;

4 B. the denial is on a form provided by the bureau
5 and is signed or otherwise authenticated under penalty of
6 perjury; and

7 C. the presumed father has not previously:

8 (1) acknowledged his paternity, unless the
9 previous acknowledgment has been rescinded pursuant to Section
10 3-307 of the New Mexico Uniform Parentage Act or successfully
11 challenged pursuant to Section 3-308 of the New Mexico Uniform
12 Parentage Act; or

13 (2) been adjudicated to be the father of the
14 child.

15 Section 3-304. [NEW MATERIAL] RULES FOR ACKNOWLEDGMENT
16 AND DENIAL OF PATERNITY.--

17 A. An acknowledgment of paternity and a denial of
18 paternity may be contained in a single document or may be
19 signed in counterparts, and may be filed separately or
20 simultaneously. If the acknowledgment and denial are both
21 necessary, neither is valid until both are filed.

22 B. An acknowledgment of paternity or a denial of
23 paternity may be signed before or after the birth of the child.

24 C. Subject to Subsection A of this section, an
25 acknowledgment of paternity or denial of paternity takes effect

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1 on the birth of the child or the filing of the document with
2 the bureau, whichever occurs later.

3 D. An acknowledgment of paternity or denial of
4 paternity signed by a minor is valid if it is otherwise in
5 compliance with the New Mexico Uniform Parentage Act.

6 Section 3-305. [NEW MATERIAL] EFFECT OF ACKNOWLEDGMENT OR
7 DENIAL OF PATERNITY.--

8 A. Except as otherwise provided in Sections 3-307
9 and 3-308 of the New Mexico Uniform Parentage Act, a valid
10 acknowledgment of paternity filed with the bureau is equivalent
11 to an adjudication of paternity of a child.

12 B. Except as otherwise provided in Sections 3-307
13 and 3-308 of the New Mexico Uniform Parentage Act, a valid
14 denial of paternity by a presumed father filed with the bureau
15 in conjunction with a valid acknowledgment of paternity is
16 equivalent to an adjudication of the nonpaternity of the
17 presumed father.

18 Section 3-306. [NEW MATERIAL] NO FILING FEE.--The bureau
19 shall not charge for filing an acknowledgment of paternity or
20 denial of paternity.

21 Section 3-307. [NEW MATERIAL] PROCEEDING FOR
22 RESCISSION.--A signatory may rescind an acknowledgment of
23 paternity or denial of paternity only by means of a judicial
24 proceeding to rescind the acknowledgment or denial of
25 paternity. A proceeding to rescind an acknowledgment of

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1 paternity or a denial of paternity shall be brought no later
2 than the earlier of:

3 A. sixty days after the effective date of the
4 acknowledgment or denial, as provided in Section 3-304 of the
5 New Mexico Uniform Parentage Act; or

6 B. the date of the first hearing, in a proceeding
7 to which the signatory is a party, before a court to adjudicate
8 an issue relating to the child, including a proceeding that
9 establishes support.

10 Section 3-308. [NEW MATERIAL] CHALLENGE AFTER EXPIRATION
11 OF PERIOD FOR RESCISSION.--

12 A. After the period for rescission pursuant to
13 Section 3-307 of the New Mexico Uniform Parentage Act has
14 expired, a signatory to an acknowledgment of paternity or
15 denial of paternity may commence a proceeding to challenge the
16 acknowledgment or denial only:

17 (1) on the basis of fraud, duress or material
18 mistake of fact; and

19 (2) within two years after the acknowledgment
20 or denial is filed with the bureau.

21 B. A party challenging an acknowledgment of
22 paternity or denial of paternity has the burden of proof.

23 Section 3-309. [NEW MATERIAL] PROCEDURE FOR RESCISSION OR
24 CHALLENGE.--

25 A. Every signatory to an acknowledgment of

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1 paternity and any related denial of paternity shall be made a
2 party to a proceeding to rescind or challenge the
3 acknowledgment or denial.

4 B. For the purpose of rescission of or challenge to
5 an acknowledgment of paternity or denial of paternity, a
6 signatory submits to the personal jurisdiction of the district
7 courts of this state by signing the acknowledgment or denial,
8 effective upon the filing of the document with the bureau.

9 C. Except for good cause shown, during the pendency
10 of a proceeding to rescind or challenge an acknowledgment of
11 paternity or denial of paternity, the district court shall not
12 suspend the legal responsibilities of a signatory arising from
13 the acknowledgment, including the duty to pay child support.

14 D. A proceeding to rescind or to challenge an
15 acknowledgment of paternity or denial of paternity shall be
16 conducted in the same manner as a proceeding to adjudicate
17 parentage pursuant to Article 6 of the New Mexico Uniform
18 Parentage Act.

19 E. At the conclusion of a proceeding to rescind or
20 challenge an acknowledgment of paternity or denial of
21 paternity, the court shall order the bureau to amend the birth
22 record of the child, if appropriate.

23 Section 3-310. [NEW MATERIAL] RATIFICATION BARRED.--A
24 court or administrative agency conducting a judicial or
25 administrative proceeding shall not ratify an unchallenged

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1 acknowledgment of paternity.

2 Section 3-311. [NEW MATERIAL] FULL FAITH AND CREDIT--
3 ACKNOWLEDGEMENT OR DENIAL OF PATERNITY.--A court of this state
4 shall give full faith and credit to an acknowledgment of
5 paternity or denial of paternity effective in another state if
6 the acknowledgment or denial has been signed and is otherwise
7 in compliance with the law of the other state.

8 Section 3-312. [NEW MATERIAL] FORMS FOR ACKNOWLEDGMENT
9 AND DENIAL OF PATERNITY.--

10 A. The bureau shall prescribe forms for the
11 acknowledgment of paternity and the denial of paternity.

12 B. A valid acknowledgment of paternity or denial of
13 paternity is not affected by a later modification of the
14 prescribed form.

15 Section 3-313. [NEW MATERIAL] RELEASE OF INFORMATION.--
16 The bureau may release information relating to the
17 acknowledgment of paternity or denial of paternity to a
18 signatory of the acknowledgment or denial and to courts and to
19 other agencies as permitted pursuant to the provisions of
20 Chapter 24, Article 14 NMSA 1978.

21 Section 3-314. [NEW MATERIAL] ADOPTION OF RULES.--The
22 bureau may adopt and promulgate rules and forms to implement
23 the provisions of this article.

24 ARTICLE 4

25 REGISTRY OF PATERNITY

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1 B. A support-enforcement agency may order genetic
2 testing only if there is no presumed, acknowledged or
3 adjudicated father.

4 C. If a request for genetic testing of a child is
5 made before birth, the district court or support-enforcement
6 agency shall not order in-utero testing.

7 D. If two or more men are subject to court-ordered
8 genetic testing, the testing may be ordered concurrently or
9 sequentially.

10 Section 5-503. [NEW MATERIAL] REQUIREMENTS FOR GENETIC
11 TESTING.--

12 A. Genetic testing shall be of a type reasonably
13 relied upon by experts in the field of genetic testing and
14 performed in a testing laboratory accredited by:

15 (1) the American association of blood banks or
16 a successor to its functions;

17 (2) the American society for
18 histocompatibility and immunogenetics or a successor to its
19 functions; or

20 (3) an accrediting body designated by the
21 federal secretary of health and human services.

22 B. A specimen used in genetic testing may consist
23 of one or more samples, or a combination of samples, of blood,
24 buccal cells, bone, hair or other body tissue or fluid. The
25 specimen used in the testing need not be of the same kind for

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1 each person undergoing genetic testing.

2 C. Based on the ethnic or racial group of a person,
3 the testing laboratory shall determine the databases from which
4 to select frequencies for use in calculation of the probability
5 of paternity. If there is disagreement as to the testing
6 laboratory's choice, the following rules apply:

7 (1) the person objecting may require the
8 testing laboratory, within thirty days after receipt of the
9 report of the test, to recalculate the probability of paternity
10 using an ethnic or racial group different from that used by the
11 laboratory;

12 (2) the person objecting to the testing
13 laboratory's initial choice shall:

14 (a) if the frequencies are not available
15 to the testing laboratory for the ethnic or racial group
16 requested, provide the requested frequencies compiled in a
17 manner recognized by accrediting bodies; or

18 (b) engage another testing laboratory to
19 perform the calculations; and

20 (3) the testing laboratory may use its own
21 statistical estimate if there is a question regarding which
22 ethnic or racial group is appropriate. If available, the
23 testing laboratory shall calculate the frequencies using
24 statistics for any other ethnic or racial group requested.

25 D. If, after recalculation using a different ethnic

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1 or racial group, genetic testing does not rebuttably identify a
2 man as the father of a child pursuant to Section 5-505 of the
3 New Mexico Uniform Parentage Act, a person who has been tested
4 may be required to submit to additional genetic testing.

5 Section 5-504. [NEW MATERIAL] REPORT OF GENETIC
6 TESTING.--

7 A. A report of genetic testing shall be in a record
8 and signed under penalty of perjury by a designee of the
9 testing laboratory. A report made pursuant to the requirements
10 of this article is self-authenticating.

11 B. Documentation from the testing laboratory of the
12 following information is sufficient to establish a reliable
13 chain of custody that allows the results of genetic testing to
14 be admissible without testimony:

15 (1) the names and photographs of the persons
16 whose specimens have been taken;

17 (2) the names of the persons who collected the
18 specimens;

19 (3) the places and dates the specimens were
20 collected;

21 (4) the names of the persons who received the
22 specimens in the testing laboratory;

23 (5) the dates the specimens were received; and

24 (6) the accreditation of the testing facility
25 showing that it meets the requirements of Section 5-503 of the

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1 New Mexico Uniform Parentage Act.

2 Section 5-505. [NEW MATERIAL] GENETIC TESTING RESULTS--
3 REBUTTAL.--

4 A. Pursuant to the New Mexico Uniform Parentage
5 Act, a man is rebuttably identified as the father of a child if
6 the genetic testing complies with this article and the results
7 disclose that:

8 (1) the man has at least a ninety-nine percent
9 probability of paternity, using a prior probability of zero
10 point five zero, as calculated by using the combined paternity
11 index obtained in the testing; and

12 (2) a combined paternity index of at least one
13 hundred to one.

14 B. A man identified pursuant to Subsection A of
15 this section as the father of the child may rebut the genetic
16 testing results only by other genetic testing satisfying the
17 requirements of this article that:

18 (1) excludes the man as a genetic father of
19 the child; or

20 (2) identifies another man as the possible
21 father of the child.

22 C. Except as otherwise provided in Section 5-510 of
23 the New Mexico Uniform Parentage Act, if more than one man is
24 identified by genetic testing as the possible father of the
25 child, the court shall order them to submit to further genetic

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1 testing to identify the genetic father.

2 Section 5-506. [NEW MATERIAL] COSTS OF GENETIC TESTING.--

3 A. Subject to assessment of costs pursuant to
4 Article 6 of the New Mexico Uniform Parentage Act, the cost of
5 initial genetic testing shall be advanced:

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

9 (2) by the person who made the request;

10 (3) as agreed by the parties; or

11 (4) as ordered by the district court.

12 B. In cases in which the cost is advanced by the
13 support-enforcement agency, the agency may seek reimbursement
14 from a man who is rebuttably identified as the father.

15 Section 5-507. [NEW MATERIAL] ADDITIONAL GENETIC
16 TESTING.--Prior to a final adjudication, the district court or
17 the support-enforcement agency shall order additional genetic
18 testing upon the request of a party who contests the result of
19 the original testing. If the previous genetic testing
20 identified a man as the father of the child pursuant to Section
21 5-505 of the New Mexico Uniform Parentage Act, the court or
22 agency shall not order additional testing unless the party
23 provides advance payment for the testing.

24 Section 5-508. [NEW MATERIAL] GENETIC TESTING WHEN
25 SPECIMENS NOT AVAILABLE.--

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1 A. Subject to Subsection B of this section, if a
2 genetic-testing specimen is not available from a man who may be
3 the father of a child, for good cause and under circumstances
4 the court considers to be just, the court may order the
5 following persons to submit specimens for genetic testing:

- 6 (1) the parents of the man;
7 (2) brothers and sisters of the man;
8 (3) other children of the man and their
9 mothers; and
10 (4) other relatives of the man necessary to
11 complete genetic testing.

12 B. Issuance of an order pursuant to this section
13 requires a finding that a need for genetic testing outweighs
14 the legitimate interests of the person sought to be tested.

15 Section 5-509. [NEW MATERIAL] DECEASED PERSON.--For good
16 cause shown, the district court may order genetic testing of a
17 deceased person.

18 Section 5-510. [NEW MATERIAL] IDENTICAL BROTHERS.--

19 A. The district court may order genetic testing of
20 a brother of a man identified as the father of a child if the
21 man is commonly believed to have an identical brother and
22 evidence suggests that the brother may be the genetic father of
23 the child.

24 B. If each brother satisfies the requirements as
25 the identified father of the child pursuant to Section 5-505 of

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1 the New Mexico Uniform Parentage Act without consideration of
2 another identical brother being identified as the father of the
3 child, the district court may rely on nongenetic evidence to
4 adjudicate which brother is the father of the child.

5 Section 5-511. [NEW MATERIAL] CONFIDENTIALITY OF GENETIC
6 TESTING.--

7 A. Release of the report of genetic testing for
8 parentage is controlled by Section 24-14-27 NMSA 1978.

9 B. A person who intentionally releases an
10 identifiable specimen of another person for any purpose other
11 than that relevant to the proceeding regarding parentage
12 without a court order or the written permission of the person
13 who furnished the specimen is guilty of a fourth degree felony
14 and shall be sentenced pursuant to the provisions of Section
15 31-18-15 NMSA 1978.

16 ARTICLE 6

17 PROCEEDING TO ADJUDICATE PARENTAGE

18 PART 1 - NATURE OF PROCEEDING

19 Section 6-601. [NEW MATERIAL] PROCEEDING AUTHORIZED.--A
20 civil proceeding may be maintained in the district court to
21 adjudicate the parentage of a child. The proceeding is
22 governed by the Rules of Civil Procedure for the District
23 Courts. The mother of the child and an alleged father or
24 presumed father are competent to testify. Any witness may be
25 compelled to testify.

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1 Section 6-602. [NEW MATERIAL] STANDING TO MAINTAIN
2 PROCEEDING.--Subject to Article 3 and Sections 6-607 and 6-609
3 of the New Mexico Uniform Parentage Act, a proceeding to
4 adjudicate parentage may be maintained by:

5 A. the child;

6 B. the mother of the child;

7 C. a man whose paternity of the child is to be
8 adjudicated;

9 D. the support-enforcement agency;

10 E. an authorized adoption agency or licensed child-
11 placing agency; or

12 F. a representative authorized by law to act for a
13 person who would otherwise be entitled to maintain a proceeding
14 but who is deceased, incapacitated or a minor.

15 Section 6-603. [NEW MATERIAL] PARTIES TO PROCEEDING.--The
16 following persons shall be joined as parties in a proceeding to
17 adjudicate parentage:

18 A. the mother of the child; and

19 B. a man whose paternity of the child is to be
20 adjudicated.

21 Section 6-604. [NEW MATERIAL] PERSONAL JURISDICTION.--

22 A. A person shall not be adjudicated to be a parent
23 unless the district court has personal jurisdiction over the
24 person.

25 B. A district court of this state having

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1 jurisdiction to adjudicate parentage may exercise personal
2 jurisdiction over a nonresident person, or the guardian or
3 conservator of the person, if the conditions prescribed in
4 Section 40-6A-201 NMSA 1978 are fulfilled.

5 C. Lack of jurisdiction over one person does not
6 preclude the district court from making an adjudication of
7 parentage binding on another person over whom the district
8 court has personal jurisdiction.

9 Section 6-605. [NEW MATERIAL] VENUE.--Venue for a
10 proceeding to adjudicate parentage is in the county of this
11 state in which:

12 A. the child resides or is found;

13 B. the respondent resides or is found if the child
14 does not reside in this state; or

15 C. a proceeding for probate or administration of
16 the presumed, acknowledged or alleged father's estate is
17 pending.

18 Section 6-606. [NEW MATERIAL] NO LIMITATION--CHILD HAVING
19 NO PRESUMED, ACKNOWLEDGED OR ADJUDICATED FATHER.--

20 A. A proceeding to adjudicate the parentage of a
21 child having no presumed, acknowledged or adjudicated father
22 may be commenced by the child at any time, even after:

23 (1) the child becomes an adult; or

24 (2) an earlier proceeding to adjudicate

25 paternity has been dismissed based on the application of a

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1 statute of limitation then in effect.

2 B. A proceeding to adjudicate child support
3 pursuant to Subsection A of this section is limited by Sections
4 6-607 and 6-636 of the New Mexico Uniform Parentage Act.

5 Section 6-607. [NEW MATERIAL] LIMITATION--GENERAL.--

6 A. Any proceeding to adjudicate child support shall
7 be brought not later than three years after the child has
8 reached the age of majority.

9 B. Except as otherwise specifically provided in
10 another provision of the New Mexico Uniform Parentage Act, any
11 proceeding to adjudicate the parentage of a child shall be
12 commenced not later than three years after the child has
13 reached the age of majority.

14 Section 6-608. [NEW MATERIAL] AUTHORITY TO DENY MOTION
15 FOR GENETIC TESTING.--

16 A. In a proceeding to adjudicate the parentage of a
17 child having a presumed father or to challenge the paternity of
18 a child having an acknowledged father, the district court may
19 deny a motion seeking an order for genetic testing of the
20 mother, the child and the presumed or acknowledged father if
21 the district court determines that:

22 (1) the conduct of the mother or the presumed
23 or acknowledged father estops that party from denying
24 parentage; and

25 (2) it would be inequitable to disprove the

1 father-child relationship between the child and the presumed or
2 acknowledged father.

3 B. In determining whether to deny a motion seeking
4 an order for genetic testing pursuant to this section, the
5 district court shall consider the best interest of the child,
6 including the following factors:

7 (1) the length of time between the proceeding
8 to adjudicate parentage and the time that the presumed or
9 acknowledged father was placed on notice that he might not be
10 the genetic father;

11 (2) the length of time during which the
12 presumed or acknowledged father has assumed the role of father
13 of the child;

14 (3) the facts surrounding the presumed or
15 acknowledged father's discovery of his possible nonpaternity;

16 (4) the nature of the relationship between the
17 child and the presumed or acknowledged father;

18 (5) the age of the child;

19 (6) the harm that may result to the child if
20 presumed or acknowledged paternity is successfully disproved;

21 (7) the nature of the relationship between the
22 child and any alleged father;

23 (8) the extent to which the passage of time
24 reduces the chances of establishing the paternity of another
25 man and a child-support obligation in favor of the child; and

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1 (9) other factors that may affect the equities
2 arising from the disruption of the father-child relationship
3 between the child and the presumed or acknowledged father or
4 the chance of other harm to the child.

5 C. In a proceeding involving the application of
6 this section, a minor or incapacitated child shall be
7 represented by a guardian ad litem.

8 D. Denial of a motion seeking an order for genetic
9 testing shall be based on clear and convincing evidence.

10 E. If the district court denies a motion seeking an
11 order for genetic testing, it shall issue an order adjudicating
12 the presumed or acknowledged father to be the father of the
13 child.

14 Section 6-609. [NEW MATERIAL] LIMITATION--CHILD HAVING
15 ACKNOWLEDGED OR ADJUDICATED FATHER.--

16 A. If a child has an acknowledged father, a
17 signatory to the acknowledgment of paternity or denial of
18 paternity may commence a proceeding seeking to rescind the
19 acknowledgment or denial or challenge the paternity of the
20 child only within the time allowed pursuant to Section 3-307 or
21 3-308 of the New Mexico Uniform Parentage Act.

22 B. If a child has an acknowledged father or an
23 adjudicated father, a person, other than the child, who is
24 neither a signatory to the acknowledgment of paternity nor a
25 party to the adjudication and who seeks an adjudication of

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1 paternity of the child shall commence a proceeding not later
2 than two years after the effective date of the acknowledgment
3 or adjudication.

4 C. A proceeding pursuant to this section is subject
5 to the application of the principles of estoppel established in
6 Section 6-608 of the New Mexico Uniform Parentage Act.

7 Section 6-610. [NEW MATERIAL] JOINDER OF PROCEEDINGS.--

8 A. Except as otherwise provided in Subsection B of
9 this section, a proceeding to adjudicate parentage may be
10 joined with a proceeding in the district court for adoption,
11 termination of parental rights, child custody or visitation,
12 child support, divorce, annulment, legal separation or separate
13 maintenance, probate or administration of an estate or other
14 appropriate proceeding.

15 B. A respondent shall not join a proceeding
16 described in Subsection A of this section with a proceeding to
17 adjudicate parentage brought pursuant to the Uniform Interstate
18 Family Support Act.

19 Section 6-611. [NEW MATERIAL] PROCEEDING BEFORE BIRTH.--A
20 proceeding to determine parentage may be commenced before the
21 birth of the child, but shall not be concluded until after the
22 birth of the child. The following actions may be taken before
23 the birth of the child:

24 A. service of process;

25 B. discovery; and

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1 C. except as prohibited by Section 5-502 of the New
2 Mexico Uniform Parentage Act, collection of specimens for
3 genetic testing.

4 Section 6-612. [NEW MATERIAL] CHILD AS PARTY--
5 REPRESENTATION.--

6 A. A minor child is a permissible party, but is not
7 a necessary party to a proceeding pursuant to this article.

8 B. The district court shall appoint a guardian ad
9 litem to represent a minor or incapacitated child if the child
10 is a party or the district court finds that the interests of
11 the child are not adequately represented.

12 PART 2 - SPECIAL RULES FOR PROCEEDING TO ADJUDICATE PARENTAGE

13 Section 6-621. [NEW MATERIAL] ADMISSIBILITY OF RESULTS OF
14 GENETIC TESTING--EXPENSES.--

15 A. Except as otherwise provided in Subsection C of
16 this section, a record of a genetic-testing expert is
17 admissible as evidence of the truth of the facts asserted in
18 the report unless a party objects, in a writing delivered to
19 the adverse party, to the record's admission within fourteen
20 days after its receipt by the objecting party. The objecting
21 party shall cite specific grounds for exclusion. The
22 admissibility of the report is not affected by whether the
23 testing was performed:

24 (1) voluntarily or pursuant to an order of the
25 district court or a support-enforcement agency; or

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1 (2) before or after the commencement of the
2 proceeding.

3 B. A party objecting to the results of genetic
4 testing may call one or more genetic-testing experts to testify
5 in person or by telephone, videoconference, deposition or
6 another method approved by the district court. Unless
7 otherwise ordered by the district court, the party offering the
8 testimony bears the expense for the expert testifying.

9 C. If a child has a presumed, acknowledged or
10 adjudicated father, the results of genetic testing are
11 inadmissible to adjudicate parentage unless performed:

12 (1) with the consent of both the mother and
13 the presumed, acknowledged or adjudicated father; or

14 (2) pursuant to an order of the district court
15 pursuant to Section 5-502 of the New Mexico Uniform Parentage
16 Act.

17 D. Copies of bills for genetic testing, for child
18 birth and for prenatal and postnatal health care for the mother
19 and child that are furnished to the adverse party not less than
20 ten days before the date of a hearing are admissible to
21 establish:

22 (1) the amount of the charges billed; and
23 (2) that the charges were reasonable,
24 necessary and customary.

25 Section 6-622. [NEW MATERIAL] CONSEQUENCES OF DECLINING

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1 GENETIC TESTING.--

2 A. An order for genetic testing is enforceable by
3 contempt.

4 B. If a person whose paternity is being determined
5 declines to submit to genetic testing ordered by the district
6 court, the district court for that reason may adjudicate
7 parentage contrary to the position of the person who declines.

8 C. Genetic testing of the mother of a child is not
9 a condition precedent to testing the child and a man whose
10 paternity is being determined. If the mother is unavailable or
11 declines to submit to genetic testing, the district court may
12 order the testing of the child and every man whose paternity is
13 being adjudicated.

14 Section 6-623. [NEW MATERIAL] ADMISSION OF PATERNITY
15 AUTHORIZED.--

16 A. A respondent in a proceeding to adjudicate
17 parentage may admit to the paternity of a child by filing a
18 pleading to that effect or by admitting paternity under penalty
19 of perjury when making an appearance or during a hearing.

20 B. If the district court finds that the admission
21 of paternity satisfies the requirements of this section and
22 finds that there is no reason to question the admission, the
23 district court shall issue an order adjudicating the child to
24 be the child of the man admitting paternity.

25 Section 6-624. [NEW MATERIAL] TEMPORARY ORDER.--

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1 A. In a proceeding pursuant to this article, the
2 district court shall issue a temporary order for support of a
3 child if the order is appropriate and the person ordered to pay
4 support is:

5 (1) a presumed father of the child;

6 (2) petitioning to have his paternity
7 adjudicated;

8 (3) identified as the father through genetic
9 testing pursuant to Section 5-505 of the New Mexico Uniform
10 Parentage Act;

11 (4) an alleged father who has declined to
12 submit to genetic testing;

13 (5) shown by clear and convincing evidence to
14 be the father of the child; or

15 (6) the mother of the child.

16 B. A temporary order may include provisions for
17 custody and visitation as provided by other law of this state.
18 A temporary order of support is subject to Section 6-636 of the
19 New Mexico Uniform Parentage Act.

20 Section 6-625. [NEW MATERIAL] PRETRIAL PROCEEDINGS.--As
21 soon as practicable after an action to declare the existence or
22 nonexistence of a father-child relationship has been brought,
23 and unless judgment by default has been entered, an informal
24 hearing shall be held. The court may order that the hearing be
25 held before a master. The public shall be barred from the

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1 hearing. A record of the proceeding or any portion of the
2 proceeding shall be kept if any party requests or the court so
3 orders. The rules of evidence shall not apply.

4 Section 6-626. [NEW MATERIAL] PRETRIAL RECOMMENDATIONS.--

5 A. On the basis of the information produced at the
6 pretrial hearing, the judge, hearing officer or master
7 conducting the hearing shall evaluate the probability of
8 determining the existence or nonexistence of a father-child
9 relationship in a trial. On the basis of the evaluation, an
10 appropriate recommendation for settlement shall be made to the
11 parties. Based upon the evaluation, the judge, hearing officer
12 or master may enter an order for temporary support consistent
13 with the child-support guidelines as provided in Section
14 40-4-11.1 NMSA 1978.

15 B. If the parties accept a recommendation made in
16 accordance with Subsection A of this section, judgment shall be
17 entered accordingly.

18 C. If a party refuses to accept a recommendation
19 made in accordance with Subsection A of this section and
20 genetic testing has not been taken, the court shall require the
21 parties to submit to genetic testing, if practicable.

22 Thereafter, the judge, hearing officer or master shall make an
23 appropriate final recommendation. If a party refuses to accept
24 the final recommendation, the action shall be set for trial and
25 a party's acceptance or rejection of the recommendation shall

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1 be treated as any other offer of settlement with respect to its
2 admissibility as evidence in subsequent proceedings.

3 D. The child's guardian may accept or refuse to
4 accept a recommendation under this section.

5 E. The informal hearing may be terminated and the
6 action set for trial if the judge, hearing officer or master
7 conducting the hearing finds it unlikely that all parties would
8 accept a recommendation that the judge, hearing officer or
9 master might make under Subsection A or C of this section.

10 PART 3 - HEARINGS AND ADJUDICATION

11 Section 6-631. [NEW MATERIAL] RULES FOR ADJUDICATION OF
12 PATERNITY.--The district court shall apply the following rules
13 to adjudicate the paternity of a child:

14 A. the paternity of a child having a presumed,
15 acknowledged or adjudicated father may be disproved only by
16 admissible results of genetic testing excluding that man as the
17 father of the child or identifying another man as the father of
18 the child;

19 B. unless the results of genetic testing are
20 admitted to rebut other results of genetic testing, a man
21 identified as the father of a child pursuant to Section 5-505
22 of the New Mexico Uniform Parentage Act shall be adjudicated
23 the father of the child;

24 C. if the district court finds that genetic testing
25 pursuant to Section 5-505 of the New Mexico Uniform Parentage

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1 Act neither identifies nor excludes a man as the father of a
2 child, the district court shall not dismiss the proceeding. In
3 that event, the results of genetic testing and other evidence
4 are admissible to adjudicate the issue of paternity; and

5 D. unless the results of genetic testing are
6 admitted to rebut other results of genetic testing, a man
7 excluded as the father of a child by genetic testing shall be
8 adjudicated not to be the father of the child.

9 Section 6-632. [NEW MATERIAL] JURY PROHIBITED.--The
10 district court, without a jury, shall adjudicate paternity of a
11 child.

12 Section 6-633. [NEW MATERIAL] HEARINGS--INSPECTION OF
13 RECORDS.--

14 A. On request of a party and for good cause shown,
15 the district court may close a proceeding to the public and
16 except for a final order, may declare the proceeding to be
17 confidential and seal the file.

18 B. A final order in a proceeding pursuant to this
19 article is available for public inspection. Other papers and
20 records are available only with the consent of the parties or
21 on order of the district court for good cause.

22 C. The provisions of this section are subject to
23 any rules established by the supreme court of New Mexico.

24 Section 6-634. [NEW MATERIAL] ORDER ON DEFAULT.--The
25 district court shall issue an order adjudicating the paternity

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1 of a man who:

2 A. after service of process, is in default; and

3 B. is found by the district court to be the father
4 of a child.

5 Section 6-635. [NEW MATERIAL] DISMISSAL FOR WANT OF
6 PROSECUTION.--The district court may issue an order dismissing
7 a proceeding commenced pursuant to the New Mexico Uniform
8 Parentage Act for want of prosecution only without prejudice.
9 An order of dismissal for want of prosecution purportedly with
10 prejudice is void and has only the effect of a dismissal
11 without prejudice.

12 Section 6-636. [NEW MATERIAL] ORDER ADJUDICATING
13 PARENTAGE.--

14 A. The district court shall issue an order
15 adjudicating whether a man alleged or claiming to be the father
16 is the parent of the child.

17 B. An order adjudicating parentage shall identify
18 the child by name and date of birth.

19 C. Except as otherwise provided in Subsection D of
20 this section, the district court may assess filing fees,
21 reasonable fees of counsel, experts and the child's guardian ad
22 litem, fees for genetic testing, other costs, necessary travel
23 and other reasonable expenses incurred in a proceeding pursuant
24 to this article. The district court may award attorney fees,
25 which may be paid directly to the attorney, who may enforce the

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1 order in the attorney's own name. The district court may order
2 these fees, costs and expenses to be paid by any party in
3 proportions and at times as determined by the court, but not
4 exceeding twelve years unless there is a substantial showing
5 that paternity could not have been established and an action
6 for child support could not have been brought within twelve
7 years of the child's birth. The court may order the proportion
8 of any indigent party to be paid from court funds.

9 D. The district court shall not assess fees, costs
10 or expenses against the support-enforcement agency of this
11 state or another state, except as provided by other law.

12 E. On request of a party and for good cause shown,
13 the district court may order that the name of the child be
14 changed.

15 F. If the order of the district court is at
16 variance with the child's birth certificate, the district court
17 shall order the bureau to issue an amended birth registration.

18 G. The judgment or order may contain any other
19 provision directed against or on behalf of the appropriate
20 party to the proceeding concerning the duty of past and future
21 support, the custody and guardianship of the child, visitation
22 with the child, the furnishing of bond or other security for
23 the payment of the judgment or any other matter within the
24 jurisdiction of the court. The judgment or order may direct
25 the father to pay the reasonable expenses of the mother's

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1 pregnancy, birth and confinement. The court shall order child
2 support retroactive to the date of the child's birth, but not
3 to exceed twelve years unless there is a substantial showing
4 that paternity could not have been established and an action
5 for child support could not have been brought within twelve
6 years of the child's birth pursuant to the provisions of
7 Sections 40-4-11 through 40-4-11.3 NMSA 1978; provided that, in
8 deciding whether or how long to order retroactive support, the
9 court shall consider:

10 (1) whether the alleged or presumed father
11 has absconded or could not be located; and

12 (2) whether equitable defenses are
13 applicable.

14 H. Support judgments or orders ordinarily shall be
15 for periodic payments, which may vary in amount. In the best
16 interest of the child, a lump-sum payment or the purchase of an
17 annuity may be ordered in lieu of periodic payments of support;
18 provided, however, nothing in this section shall deprive a
19 state agency of its right to reimbursement from an appropriate
20 party should the child be a past or future recipient of public
21 assistance.

22 I. In determining the amount to be paid by a parent
23 for support of the child, a court, child support hearing
24 officer or master shall make such determination in accordance
25 with the provisions of the child support guidelines pursuant to

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1 Section 40-4-11.1 NMSA 1978.

2 Section 6-637. [NEW MATERIAL] BINDING EFFECT OF
3 DETERMINATION OF PARENTAGE.--

4 A. Except as otherwise provided in Subsection B of
5 this section, a determination of parentage is binding on:

6 (1) all signatories to an acknowledgment or
7 denial of paternity as provided in Article 3 of the New Mexico
8 Uniform Parentage Act; and

9 (2) all parties to an adjudication by a
10 district court acting under circumstances that satisfy the
11 jurisdictional requirements of Section 40-6A-201 NMSA 1978.

12 B. A child is not bound by a determination of
13 parentage pursuant to the New Mexico Uniform Parentage Act
14 unless:

15 (1) the determination was based on an
16 unrescinded acknowledgment of paternity and the acknowledgment
17 is consistent with the results of genetic testing;

18 (2) the adjudication of parentage was based on
19 a finding consistent with the results of genetic testing and
20 the consistency is declared in the determination or is
21 otherwise shown;

22 (3) the child was a party or was represented
23 in the proceeding determining parentage by a guardian ad litem;
24 or

25 (4) there was a final order in the proceeding

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1 that satisfies the requirements of Paragraph (1), (2) or (3) of
2 Subsection C of this section.

3 C. In a proceeding to dissolve a marriage, the
4 district court is deemed to have made an adjudication of the
5 parentage of a child if the district court acts under
6 circumstances that satisfy the jurisdictional requirements of
7 Section 40-6A-201 NMSA 1978, and the final order:

8 (1) expressly identifies a child as a "child
9 of the marriage", "issue of the marriage", "child of the
10 parties" or similar words indicating that the husband is the
11 father of the child;

12 (2) provides for support of the child by the
13 husband unless paternity is specifically disclaimed in the
14 order; or

15 (3) contains a stipulation or admission that
16 the parties are the parents of the child.

17 D. Except as otherwise provided in Subsection B of
18 this section, a determination of parentage may be a defense in
19 a subsequent proceeding seeking to adjudicate parentage by a
20 person who was not a party to the earlier proceeding.

21 E. A party to an adjudication of paternity may
22 challenge the adjudication only pursuant to the laws of New
23 Mexico relating to appeal, vacation of judgments or other
24 judicial review.

25 Section 6-638. [NEW MATERIAL] FULL FAITH AND CREDIT--

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1 DETERMINATION OF PARENTAGE.--A court of this state shall give
2 full faith and credit to a determination of parentage made by a
3 court of another state.

4 Section 6-639. [NEW MATERIAL] ENFORCEMENT OF JUDGMENT OR
5 ORDER.--

6 A. If existence of the father-child relationship is
7 declared, or paternity or a duty of support has been
8 acknowledged or adjudicated under the New Mexico Uniform
9 Parentage Act or under prior law, the obligation of the father
10 may be enforced in the same or other proceedings by any
11 interested party.

12 B. The court may order support payments to be made
13 to the mother, the clerk of the court or a person, corporation
14 or agency designated to collect or administer such funds for
15 the benefit of the child, upon such terms as the court deems
16 appropriate.

17 C. Willful failure to obey the judgment or order of
18 the court is a civil contempt of the court. All remedies for
19 the enforcement of judgments apply.

20 Section 6-640. [NEW MATERIAL] MODIFICATION OF JUDGMENT OR
21 ORDER.--The court has continuing jurisdiction to modify or
22 revoke a judgment or order for future support.

23 Section 6-641. [NEW MATERIAL] RIGHT TO COUNSEL--FREE
24 TRANSCRIPT ON APPEAL.--

25 A. At the pretrial hearing and in further

1 proceedings, any party may be represented by counsel. The
2 court shall appoint counsel for any party who is unable to
3 obtain counsel for financial reasons if, in the court's
4 discretion, appointment of counsel is required in the interest
5 of justice.

6 B. If a party is financially unable to pay the cost
7 of a transcript, the court shall furnish on request a
8 transcript for purposes of appeal.

9 Section 6-642. [NEW MATERIAL] HEARINGS AND RECORDS--
10 CONFIDENTIALITY.--Notwithstanding any other laws concerning
11 public hearings and records, any hearing or trial held under
12 the provisions of the New Mexico Uniform Parentage Act may be
13 held in closed court without admittance of any person other
14 than those necessary to the action or proceeding. The court
15 may order that certain papers and records pertaining to the
16 action or proceeding, whether part of the permanent record of
17 the court or any other file maintained by the state or
18 elsewhere, are subject to inspection only upon consent of the
19 court; provided, however, that nothing in this section shall
20 infringe upon the right of the parties to an action or
21 proceeding to inspect the court record. The provisions of this
22 section are subject to any rules established by the New Mexico
23 supreme court.

24 Section 6-643. [NEW MATERIAL] BIRTH RECORDS.--

25 A. Upon order of a court of this state or upon

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1 request of a court of another state, the bureau shall prepare a
2 new certificate of birth consistent with the findings of the
3 court and shall substitute the new certificate for the original
4 certificate of birth.

5 B. The fact that the father-child relationship was
6 declared after the child's birth shall not be ascertainable
7 from the new certificate, but the actual place and date of
8 birth shall be shown.

9 C. The evidence upon which the new certificate was
10 made and the original birth certificate shall be kept in a
11 sealed and confidential file and be subject to inspection only
12 upon order of the court and consent of all interested parties,
13 or in exceptional cases only upon an order of the court for
14 good cause shown.

15 ARTICLE 7

16 CHILD OF ASSISTED REPRODUCTION

17 Section 7-701. [NEW MATERIAL] SCOPE OF ARTICLE.--This
18 article does not apply to the birth of a child conceived by
19 means of sexual intercourse.

20 Section 7-702. [NEW MATERIAL] PARENTAL STATUS OF DONOR.--
21 A donor, whether of sperm or egg, is not a parent of a child
22 conceived by means of assisted reproduction.

23 Section 7-703. [NEW MATERIAL] PATERNITY OF CHILD OF
24 ASSISTED REPRODUCTION.--A man who provides sperm for or
25 consents to assisted reproduction by a woman as provided in

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1 Section 7-704 of the New Mexico Uniform Parentage Act with the
2 intent to be the parent of her child is a parent of the
3 resulting child.

4 Section 7-704. [NEW MATERIAL] CONSENT TO ASSISTED
5 REPRODUCTION.--

6 A. Consent by a woman and a man who intends to be a
7 parent of a child born to the woman by assisted reproduction
8 shall be in a record signed by the woman and the man. This
9 requirement does not apply to a donor.

10 B. Failure of a man to sign a consent required by
11 Subsection A of this section, before or after birth of the
12 child, does not preclude a finding of paternity if the woman
13 and the man, during the first two years of the child's life,
14 resided together in the same household with the child and
15 openly held out the child as their own.

16 C. All papers relating to the assisted
17 reproduction, whether part of a court, medical or any other
18 file, are subject to inspection only upon an order of the
19 district court for good cause shown.

20 Section 7-705. [NEW MATERIAL] LIMITATION ON HUSBAND'S
21 DISPUTE OF PATERNITY.--

22 A. Except as otherwise provided in Subsection B of
23 this section, the husband of a wife who gives birth to a child
24 by means of assisted reproduction shall not challenge his
25 paternity of the child unless:

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1 (1) within two years after learning of the
2 birth of the child, he commences a proceeding to adjudicate his
3 paternity; and

4 (2) the district court finds that he did not
5 consent to the assisted reproduction, before or after birth of
6 the child.

7 B. A proceeding to adjudicate paternity may be
8 maintained at any time if the district court determines that:

9 (1) the husband did not provide sperm for or,
10 before or after the birth of the child, consent to assisted
11 reproduction by his wife;

12 (2) the husband and the mother of the child
13 have not cohabited since the probable time of assisted
14 reproduction; and

15 (3) the husband never openly held out the
16 child as his own.

17 C. The limitation provided in this section applies
18 to a marriage dissolved or declared invalid after assisted
19 reproduction.

20 Section 7-706. [NEW MATERIAL] EFFECT OF DISSOLUTION OF
21 MARRIAGE OR WITHDRAWAL OF CONSENT.--

22 A. If a marriage is dissolved before placement of
23 eggs, sperm or embryos, the former spouse is not a parent of
24 the resulting child unless the former spouse consented in a
25 record that if assisted reproduction were to occur after a

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1 divorce the former spouse would be a parent of the child.

2 B. The consent of a woman or a man to assisted
3 reproduction may be withdrawn by that person in a record at any
4 time before placement of eggs, sperm or embryos. A person who
5 withdraws consent pursuant to this section is not a parent of
6 the resulting child.

7 Section 7-707. [NEW MATERIAL] PARENTAL STATUS OF DECEASED
8 PERSON.--If a person who consented in a record to be a parent
9 by assisted reproduction dies before placement of eggs, sperm
10 or embryos, the deceased person is not a parent of the
11 resulting child unless the deceased spouse consented in a
12 record that if assisted reproduction were to occur after death,
13 the deceased person would be a parent of the child.

14 ARTICLE 8

15 GESTATIONAL AGREEMENTS

16 Section 8-801. [NEW MATERIAL] GESTATIONAL AGREEMENTS NOT
17 AUTHORIZED OR PROHIBITED.--

18 A. The New Mexico Uniform Parentage Act does not
19 authorize or prohibit an agreement between a woman and the
20 intended parents:

21 (1) in which the woman relinquishes all rights
22 as the parent of a child to be conceived by means of assisted
23 reproduction; and

24 (2) that provides that the intended parents
25 become the parents of the child.

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1 B. If a birth results pursuant to a gestational
2 agreement pursuant to Subsection A of this section and the
3 agreement is unenforceable under other law of New Mexico, the
4 parent-child relationship shall be determined pursuant to
5 Article 2 of the New Mexico Uniform Parentage Act.

6 ARTICLE 9

7 MISCELLANEOUS PROVISIONS

8 Section 9-901. [NEW MATERIAL] UNIFORMITY OF APPLICATION
9 AND CONSTRUCTION.--In applying and construing the Uniform
10 Parentage Act, consideration shall be given to the need to
11 promote uniformity of the law with respect to its subject
12 matter among states that enact it.

13 Section 9-902. [NEW MATERIAL] SEVERABILITY.--If any
14 provision of the New Mexico Uniform Parentage Act or its
15 application to a person or circumstance is held invalid, the
16 invalidity does not affect other provisions or applications of
17 the New Mexico Uniform Parentage Act that can be given effect
18 without the invalid provision or application, and to this end,
19 the provisions of the New Mexico Uniform Parentage Act are
20 severable.

21 Section 9-903. [NEW MATERIAL] TRANSITIONAL PROVISION.--A
22 proceeding to adjudicate parentage that was commenced before
23 the effective date of the New Mexico Uniform Parentage Act is
24 governed by the law in effect at the time the proceeding was
25 commenced.

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1 Section 10. Section 24-14-2 NMSA 1978 (being Laws 1961,
2 Chapter 44, Section 2, as amended) is amended to read:

3 "24-14-2. DEFINITIONS.--As used in the Vital Statistics
4 Act:

5 A. "vital statistics" means the data derived from
6 certificates and reports of birth, death, spontaneous fetal
7 death and induced abortion and related reports;

8 B. "system of vital statistics" includes the
9 registration, collection, preservation, amendment and
10 certification of vital records and related activities,
11 including the tabulation, analysis and publication of
12 statistical data derived from these records;

13 C. "filing" means the presentation of a
14 certificate, report or other record of a birth, death,
15 spontaneous fetal death or adoption for registration by the
16 [~~vital statistics~~] bureau;

17 D. "registration" means the acceptance by the
18 [~~vital statistics~~] bureau and the incorporation in its official
19 records of certificates, reports or other records provided for
20 in the Vital Statistics Act of births, deaths, spontaneous
21 fetal deaths, adoptions and legitimations;

22 E. "live birth" means the complete expulsion or
23 extraction from its mother of a product of human conception,
24 irrespective of the duration of pregnancy, which after the
25 expulsion or extraction breathes or shows any other evidence of

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1 life such as beating of the heart, pulsation of the umbilical
2 cord or definite movement of voluntary muscles, whether or not
3 the umbilical cord has been cut or the placenta is attached;

4 F. "spontaneous fetal death" means death prior to
5 the complete expulsion or extraction from its mother of a
6 product of human conception, irrespective of the duration of
7 pregnancy, ~~[resulting]~~ results in other than a live birth and
8 ~~[which]~~ that is not an induced abortion; and death is indicated
9 by the fact that, after the expulsion or extraction, the fetus
10 does not breathe or show any other evidence of life, such as
11 beating of the heart, pulsation of the umbilical cord or
12 definite movement of voluntary muscles;

13 G. "dead body" means a human body, or parts of such
14 body or bones thereof other than skeletal remains ~~[which]~~ that
15 can be classified as artifacts, dead within the meaning of
16 Section 12-2-4 NMSA 1978;

17 H. "final disposition" means the burial, interment,
18 cremation, entombment, pulverization or other authorized
19 disposition of a dead body or fetus;

20 I. "department" means the department of health ~~[and~~
21 ~~environment department]~~;

22 J. "court" means a court of competent jurisdiction;

23 K. "state registrar" means the designated employee
24 of the public health ~~[services]~~ division of the ~~[health and~~
25 ~~environment]~~ department;

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1 L. "vital records" means certificates of birth and
2 death;

3 M. "induced abortion" means the purposeful
4 interruption of pregnancy with the intention other than to
5 produce a live-born infant;

6 N. "physician" means a person authorized or
7 licensed to practice medicine or osteopathy pursuant to the
8 laws of this state; [~~and~~]

9 O. "institution" means any establishment, public or
10 private:

11 (1) [~~which~~] that provides in-patient medical,
12 surgical or diagnostic care or treatment;

13 (2) [~~which~~] that provides nursing, custodial
14 or domiciliary care; or

15 (3) to which persons are committed by law; and

16 P. "bureau" means the vital records and health
17 statistics bureau of the public health division of the
18 department."

19 Section 11. Section 24-14-3 NMSA 1978 (being Laws 1961,
20 Chapter 44, Section 3, as amended) is amended to read:

21 "24-14-3. VITAL RECORDS AND HEALTH STATISTICS [~~UNIT~~]
22 BUREAU--STATE SYSTEM.--There is established in the public
23 health [~~services~~] division of the department a "vital records
24 and health statistics bureau" for the purpose of installing,
25 maintaining and operating a system of vital statistics

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1 throughout this state and carrying out all regulations relating
2 to vital records and health statistics established by the
3 department."

4 Section 12. Section 24-14-4 NMSA 1978 (being Laws 1961,
5 Chapter 44, Section 4, as amended) is amended to read:

6 "24-14-4. STATE REGISTRAR--APPOINTMENT.--The [~~director~~]
7 secretary of the department shall appoint the state registrar
8 in accordance with the provisions of the [~~state~~] Personnel
9 Act."

10 Section 13. Section 24-14-5 NMSA 1978 (being Laws 1961,
11 Chapter 44, Section 5, as amended) is amended to read:

12 "24-14-5. DUTIES OF STATE REGISTRAR.--

13 A. The state registrar shall:

14 (1) administer and enforce the Vital
15 Statistics Act and regulations issued pursuant to it and issue
16 instructions for the efficient administration of the [~~state~~]
17 system of vital records and health statistics;

18 (2) direct and supervise the [~~state~~] system of
19 vital records and health statistics and be custodian of its
20 records;

21 (3) direct, supervise and control the
22 activities of all public employees, other than hospital
23 employees, when they are engaged in activities pertaining to
24 the operation of the system of vital records and health
25 statistics [~~system~~];

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1 (4) prescribe, with the approval of the
2 department and after consultation with medical records
3 professionals in the state, furnish and distribute such forms
4 as are required by the Vital Statistics Act;

5 (5) prepare and publish reports of vital
6 records and health statistics of this state and such other
7 reports as may be required by the department;

8 (6) conduct training programs to promote
9 uniformity of policy and procedures throughout the state; and

10 (7) provide to local health agencies copies of
11 or data derived from certificates and reports required under
12 the Vital Statistics Act as determined necessary for local
13 health planning and program activities. The copies or data
14 shall remain the property of the [~~vital statistics~~] bureau, and
15 the uses [~~which~~] that may be made of them shall be prescribed
16 by the state registrar.

17 B. The state registrar may establish or designate
18 offices in the state to aid in the efficient administration of
19 the system of vital records and health statistics and may
20 delegate such functions and duties vested in [~~him~~] the state
21 registrar to employees of the [~~vital statistics~~] bureau and to
22 employees of any office of the state or political subdivision
23 designated to aid in administering the Vital Statistics Act."

24 Section 14. Section 24-14-12 NMSA 1978 (being Laws 1961,
25 Chapter 44, Section 12, as amended) is amended to read:

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1 "24-14-12. FORM AND CONTENTS OF CERTIFICATES AND
2 REPORTS.--

3 A. In order to promote and maintain uniformity in
4 the system of vital records and health statistics, the forms of
5 certificates, reports and other returns required by the Vital
6 Statistics Act or by regulations adopted pursuant to that act
7 shall include as a minimum the items recommended by the federal
8 agency responsible for national vital records and health
9 statistics, subject to the approval of modifications by the
10 department.

11 B. Each certificate, report and other document
12 required to be registered under the Vital Statistics Act shall
13 be on a form or in a format prescribed by the state registrar.

14 C. All vital records shall contain the date
15 received for registration.

16 D. Information required in certificates or reports
17 required or authorized by the Vital Statistics Act may be filed
18 and registered by photographic, electronic or other means as
19 prescribed by the state registrar; provided that certificates
20 shall be filed and registered by either physical or
21 photographic means."

22 Section 15. 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

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

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

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

24 (1) the physician in attendance at or
25 immediately after the birth;

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1 (2) any other person in attendance at or
2 immediately after the birth [~~or in the absence of this person~~];
3 or

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

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

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

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1 the father as determined by the court shall be entered.

2 F. At or before the birth of a child to an
3 unmarried woman, the person in charge of the institution, a
4 designated representative, the attending physician or midwife
5 shall:

6 (1) provide an opportunity for the child's
7 mother and [~~natural~~] father to [~~complete~~] sign under penalty of
8 perjury an [~~acknowledgement~~] acknowledgment of paternity on a
9 form provided by the bureau pursuant to the New Mexico Uniform
10 Parentage Act. The completed [~~affidavit~~] acknowledgment of
11 paternity shall be filed with the [~~vital statistics~~] bureau [~~of~~
12 ~~the public health division of the department~~]. The
13 [~~acknowledgement~~] acknowledgment shall contain or have attached
14 to it:

15 (a) a [~~sworn~~] statement by the mother
16 consenting to the assertion of paternity;

17 (b) a [~~sworn~~] statement by the father
18 that he is the [~~natural~~] father of the child;

19 (c) written information, furnished by
20 the human services department, explaining the implications of
21 signing, including legal parental rights and responsibilities;
22 and

23 (d) the social security numbers of both
24 parents; and

25 (2) provide written information, furnished by

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1 the human services department, to the mother and father [~~or~~
2 ~~putative father~~], regarding the benefits of having the child's
3 paternity established and of the availability of paternity
4 establishment services and child support enforcement services.

5 G. If a married mother claims that her husband is
6 not the father of the child, the husband [~~agrees that he is not~~
7 ~~the father~~] signs under penalty of perjury a denial of
8 paternity on a form provided by the bureau pursuant to the New
9 Mexico Uniform Parentage Act and the [~~putative father~~] non-
10 husband agrees that he is the father, an [~~acknowledgement~~]
11 acknowledgment of paternity may be signed under penalty of
12 perjury by the [~~respective parties and duly notarized~~] mother
13 and the non-husband. Upon filing [~~this affidavit~~] the
14 acknowledgment of paternity and the denial of paternity with
15 the [~~state registrar~~] bureau, the name of the non-husband shall
16 be entered on the certificate of birth as the father.

17 H. Pursuant to an interagency agreement for proper
18 reimbursement, the [~~vital statistics~~] bureau [~~of the public~~
19 ~~health division of the department~~] shall make available to the
20 human services department the birth certificate, the mother's
21 and father's social security numbers and paternity
22 [~~acknowledgements~~] acknowledgments. The human services
23 department shall use these records only in conjunction with its
24 duties as the state IV-D agency responsible for the child
25 support program under Title IV-D of the federal Social Security

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1 Act.

2 I. Each party shall be provided with copies of any
3 acknowledgment of paternity and any related denial of
4 paternity.

5 J. The forms of acknowledgment of paternity and
6 denial of paternity furnished by the bureau shall comply with
7 the requirements of the New Mexico Uniform Parentage Act."

8 Section 16. Section 24-14-16 NMSA 1978 (being Laws 1961,
9 Chapter 44, Section 16, as amended) is amended to read:

10 "24-14-16. JUDICIAL PROCEDURE TO ESTABLISH FACTS OF
11 BIRTH.--

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

17 B. The petition shall allege that:

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

20 (2) no record of birth of the person can be
21 found in the [~~vital statistics~~] bureau;

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

25 (4) the state registrar has refused to

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1 register a delayed certificate of birth; and

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

3 C. The petition shall be accompanied by a statement
4 of the registration official made in accordance with Section
5 24-14-15 NMSA 1978 and all documentary evidence [~~which~~] that
6 was submitted to the registration official in support of the
7 registration. The petition shall be sworn to by the
8 petitioner.

9 D. The court shall fix a time and place for hearing
10 the petition and shall give the registration official who
11 refused to register the petitioner's delayed certificate of
12 birth ten days' notice of the hearing. The official or [~~his~~]
13 the official's authorized representative may appear and testify
14 in the proceeding.

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

24 F. The court shall determine the parent-child
25 relationship of the mother and father pursuant to the New

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1 Mexico Uniform Parentage Act.

2 [F-] G. The clerk of the court shall forward each
3 order to the state registrar not later than the tenth day of
4 the calendar month following the month in which it was entered.
5 The order shall be registered by the state registrar and shall
6 constitute the record of birth from which copies may be issued
7 in accordance with Sections 24-14-28 and 24-14-29 NMSA 1978."

8 Section 17. Section 24-14-25 NMSA 1978 (being Laws 1961,
9 Chapter 44, Section 23, as amended) is amended to read:

10 "24-14-25. CORRECTION AND AMENDMENT OF VITAL RECORDS.--

11 A. A certificate or report registered under the
12 Vital Statistics Act may be amended only in accordance with
13 that act and regulations [~~thereunder~~] adopted by the department
14 pursuant to that act to protect the integrity and accuracy of
15 vital records and health statistics [~~records~~].

16 B. Upon receipt of a certified copy of a court
17 order changing the name of a person born in this state and upon
18 request of the person or [~~his~~] the person's parent, guardian or
19 legal representative, the state registrar shall amend the
20 original certificate of birth to reflect the new name.

21 C. Upon request and receipt of [~~a sworn~~] an
22 acknowledgement of paternity signed under penalty of perjury by
23 both parents of a child born [~~out of wedlock signed by both~~
24 ~~parents~~] to an unmarried mother or, in the case of a married
25 mother, [~~as provided for in Subsection F of Section 24-14-13~~

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1 ~~NMSA-1978~~ upon receipt of an acknowledgment of paternity
2 signed under penalty of perjury by the mother and the non-
3 husband and of a denial of paternity signed under penalty of
4 perjury by the husband, the state registrar shall amend a
5 certificate of birth to show the paternity if paternity is not
6 shown on the birth certificate. The certificate of birth shall
7 not be marked "amended".

8 D. Upon receipt of a [~~duly notarized~~] statement
9 [~~from~~] signed under penalty of perjury by the person in charge
10 of an institution or from the attending physician indicating
11 that the sex of an individual born in this state has been
12 changed by surgical procedure, together with a certified copy
13 of an order changing the name of the person, the certificate of
14 birth of the individual shall be amended as prescribed by
15 regulation.

16 E. When an applicant does not submit the minimum
17 documentation required in the regulations for amending a vital
18 record or when the state registrar has reasonable cause to
19 question the validity or adequacy of the applicant's [~~sworn~~]
20 statements or statements made under penalty of perjury or the
21 documentary evidence and if the deficiencies are not corrected,
22 the state registrar shall not amend the vital records and shall
23 advise the applicant of the reason for this action.

24 F. A certificate or report that is amended under
25 this section shall be marked "amended", except as otherwise

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1 provided in Subsection C of this section. The date of the
2 amendment and a summary description of the evidence submitted
3 in support of the amendment shall be endorsed on or made a part
4 of the record. The department shall prescribe by regulation
5 the conditions under which additions or minor corrections may
6 be made to certificates or records within one year after the
7 date of the event without the certificate or record being
8 marked "amended".

9 Section 18. Section 32A-5-20 NMSA 1978 (being Laws 1993,
10 Chapter 77, Section 147) is amended to read:

11 "32A-5-20. PUTATIVE FATHER REGISTRY--NOTICE--PENALTY.--

12 A. The purpose of the putative father registry is
13 to protect the parental rights of fathers who affirmatively
14 assume responsibility for children they may have fathered and
15 to expedite adoptions of children whose biological fathers are
16 unwilling to assume responsibility for their children by
17 registering with the putative father registry or otherwise
18 acknowledging their children. The registry does not relieve
19 the obligation of mothers to identify known fathers.

20 B. A putative father registry shall be established
21 by the department of health to record the names and addresses
22 of:

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

25 (2) any person who has filed with the

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1 registry, before or after birth of a child out of wedlock, a
2 notice of intent to claim paternity of the child;

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

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

9 C. A person filing a notice of intent to claim
10 paternity of a child or an acknowledgment of paternity shall
11 include in the notice the following:

12 (1) his name;

13 (2) his current address;

14 (3) the mother's name and any other
15 identifying information requested by the department of health;
16 and

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

19 D. If the person filing the notice of intent to
20 claim paternity of a child or acknowledgment changes his
21 address, the person shall notify the department of health of
22 his new address in the manner prescribed by the department of
23 health.

24 E. A person who has filed a notice of intent to
25 claim paternity may at any time revoke a notice of intent to

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1 claim paternity previously filed. Upon receipt by the registry
2 of the notice of revocation, the revoked notice of intent to
3 claim paternity shall be deemed a nullity nunc pro tunc.

4 F. No registration fee shall be charged for
5 registering the intent to claim paternity of a child or
6 acknowledgment of paternity. The department of health may
7 charge a reasonable fee as prescribed by regulation for
8 processing searches of the putative father registry.

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

12 ~~[H. The department of health shall, upon request,
13 provide the names and addresses of persons listed with the
14 registry to any court, the department, an agency, the
15 petitioner's attorney or the mother of the child. The
16 information shall not be divulged to any other person, except
17 upon order of the court for good cause shown. If the registry
18 has not received a notice of intent to claim paternity or an
19 acknowledgment of paternity, the department of health shall
20 provide a written statement to that effect to the person making
21 the inquiry. The person making inquiry shall provide a self-
22 addressed, stamped envelope to the department of health for the
23 department's response to the inquiry.]~~

24 H. If a father-child relationship has not been
25 established pursuant to the New Mexico Uniform Parentage Act, a

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1 petitioner for adoption of or termination of parental rights
2 regarding a child shall obtain a certificate of search of the
3 putative father registry.

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

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

17 K. A certificate provided by the department of
18 health shall be signed on behalf of the department of health
19 and state that:

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

21 and

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

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

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(b) has not been found.

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

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

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

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

Section 19. REPEAL.--Sections 40-11-1 through 40-11-23 NMSA 1978 (being Laws 1986, Chapter 47, Sections 1 through 23, as amended) are repealed.

Section 20. EFFECTIVE DATE.--The effective date of the provisions of this act is January 1, 2010.