

HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR  
HOUSE BILL 373

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

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

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" does not  
14 include:

15 (1) a presumed parent;

16 (2) an individual whose parental rights have  
17 been terminated or declared not to exist; or

18 (3) a donor;

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

22 (1) intrauterine or intracervical  
23 insemination;

24 (2) donation of gametes;

25 (3) donation of embryos;

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

3 (5) intracytoplasmic sperm injection;

4 E. "birth" includes stillbirth;

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

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

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

12 I. "day" means a calendar day;

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

17 K. "dissolution of marriage" means:

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

19 (2) a decree of dissolution of marriage;

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

23 (1) an individual who gives birth to a child  
24 conceived by assisted reproduction, except as otherwise  
25 provided in Article 8 of the Revised Uniform Parentage Act; or

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

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

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

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

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

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

15 R. "notarial officer" means a notarial officer as  
16 defined in Section 14-14A-2 NMSA 1978;

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

20 T. "parentage" or "parent-child relationship" means  
21 the legal relationship between a child and a parent of the  
22 child;

23 U. "presumed parent" means an individual who,  
24 pursuant to Section 40-11B-204 NMSA 1978, is presumed to be a  
25 parent of a child, unless the presumption is overcome in a

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1 judicial proceeding, a valid denial of parentage is made  
2 pursuant to Article 3 of the Revised Uniform Parentage Act or a  
3 court adjudicates the individual to be a parent;

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

7 W. "separation" means a decree of separation or of  
8 separate maintenance;

9 X. "sign" means, with present intent to  
10 authenticate or adopt a record:

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

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

14 Y. "signatory" means an individual who signs a  
15 record;

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

21 AA. "support-enforcement agency" means the health  
22 care authority designated pursuant to Section 27-2-27 NMSA 1978  
23 as the single state agency for the enforcement of child and  
24 spousal support obligations pursuant to Title IV D of the  
25 federal Social Security Act and any other public official or

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1 agency authorized to seek:

- 2 (1) enforcement of support orders or laws  
3 relating to the duty of support;  
4 (2) establishment or modification of child  
5 support;  
6 (3) determination of parentage; or  
7 (4) location of child-support obligors and  
8 their income and assets;

9 BB. "transfer" means a procedure for assisted  
10 reproduction by which an embryo or sperm is placed in the body  
11 of the individual who will give birth to the child; and

12 CC. "witnessed" means that at least one individual  
13 who is authorized to sign has signed a record to verify that  
14 the individual personally observed a signatory sign the  
15 record."

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

18 "40-11B-103. [NEW MATERIAL] SCOPE.--

19 A. The Revised Uniform Parentage Act applies to an  
20 adjudication or determination of parentage.

21 B. The Revised Uniform Parentage Act does not  
22 create, affect, enlarge or diminish parental rights or duties  
23 pursuant to the Children's Code or other law of New Mexico  
24 other than the Revised Uniform Parentage Act. The definition  
25 or use of terms in the Revised Uniform Parentage Act shall not

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1 be used to interpret, by analogy or otherwise, the same or  
2 other terms in the Adoption Act or other law of New Mexico  
3 other than the Revised Uniform Parentage Act."

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

6 "40-11B-104. [NEW MATERIAL] AUTHORIZED COURT.--The court  
7 may adjudicate parentage pursuant to the Revised Uniform  
8 Parentage Act and has jurisdiction over all actions pursuant to  
9 that act."

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

12 "40-11B-105. [NEW MATERIAL] APPLICABLE LAW.--The court  
13 shall apply the law of New Mexico to adjudicate parentage. The  
14 applicable law does not depend on:

- 15 A. the place of birth of the child; or
- 16 B. the past or present residence of the child."

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

19 "40-11B-106. [NEW MATERIAL] DATA PRIVACY.--A proceeding  
20 pursuant to the Revised Uniform Parentage Act is subject to law  
21 of New Mexico other than that act that governs the health,  
22 safety, privacy and liberty of a child or other individual who  
23 could be affected by disclosure of information that could  
24 identify the child or other individual, including address,  
25 telephone number, digital contact information, place of

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1 employment, social security number and the child's daycare  
2 facility or school."

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

5 "40-11B-107. [NEW MATERIAL] ESTABLISHMENT OF MATERNITY  
6 AND PATERNITY.--To the extent practicable, a provision of the  
7 Revised Uniform Parentage Act applicable to a father-child  
8 relationship applies to a mother-child relationship, and a  
9 provision of that act applicable to a mother-child relationship  
10 applies to a father-child relationship."

11 ARTICLE 2

12 PARENT-CHILD RELATIONSHIP

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

15 "40-11B-201. [NEW MATERIAL] ESTABLISHMENT OF PARENT-CHILD  
16 RELATIONSHIP.--A parent-child relationship is established  
17 between an individual and a child if:

18 A. the individual gives birth to the child, except  
19 as otherwise provided in Article 8 of the Revised Uniform  
20 Parentage Act;

21 B. there is a presumption pursuant to Section  
22 40-11B-204 NMSA 1978 of the individual's parentage of the  
23 child, unless the presumption is overcome in a judicial  
24 proceeding or a valid denial of parentage is made pursuant to  
25 Article 3 of the Revised Uniform Parentage Act;

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1 C. the individual is adjudicated a parent of the  
2 child pursuant to Article 6 of the Revised Uniform Parentage  
3 Act;

4 D. the individual adopts the child;

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

10 F. the individual's parentage of the child is  
11 established pursuant to Article 7 of the Revised Uniform  
12 Parentage Act; or

13 G. the individual's parentage of the child is  
14 established pursuant to Article 8 of the Revised Uniform  
15 Parentage Act."

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

18 "40-11B-202. [NEW MATERIAL] NO DISCRIMINATION BASED ON  
19 MARITAL STATUS OF PARENT.--A parent-child relationship extends  
20 equally to every child and parent, regardless of the marital  
21 status of the parent."

22 SECTION 10. A new Section 40-11B-203 NMSA 1978 is enacted  
23 to read:

24 "40-11B-203. [NEW MATERIAL] CONSEQUENCES OF ESTABLISHING  
25 PARENTAGE.--Unless parental rights are terminated or

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1 extinguished by relinquishment and decree of adoption pursuant  
2 to the Children's Code, a parent-child relationship established  
3 pursuant to the Revised Uniform Parentage Act applies for all  
4 purposes, except determinations of parental rights pursuant to  
5 the Children's Code or as otherwise provided by law of New  
6 Mexico other than the Revised Uniform Parentage Act."

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

9 "40-11B-204. [NEW MATERIAL] PRESUMPTION OF PARENTAGE.--

10 A. An individual is presumed to be a parent of a  
11 child if:

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

15 (a) that individual and the individual  
16 who gave birth to the child are married to each other and the  
17 child is born during the marriage, regardless of whether the  
18 marriage is or could be declared invalid;

19 (b) that individual and the individual  
20 who gave birth to the child were married to each other and the  
21 child is born not later than three hundred days after the  
22 marriage is terminated by death or dissolution of marriage or  
23 after separation, regardless of whether the marriage is or  
24 could be declared invalid; or

25 (c) that individual and the individual

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1 who gave birth to the child married each other after the birth  
 2 of the child, regardless of whether the marriage is or could be  
 3 declared invalid, the individual at any time asserted parentage  
 4 of the child and: 1) the assertion is in a record filed with  
 5 the bureau; or 2) the individual agreed to be and is named as a  
 6 parent of the child on the birth certificate of the child; or  
 7 (2) the individual resided in the same  
 8 household with the child for the first two years of the life of  
 9 the child, including any period of temporary absence, and  
 10 openly held out the child as the individual's child.

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

### 19 ARTICLE 3

#### 20 VOLUNTARY ACKNOWLEDGMENT OF PARENTAGE

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

23 "40-11B-301. [NEW MATERIAL] ACKNOWLEDGMENT OF  
 24 PARENTAGE.--An individual who gave birth to a child and an  
 25 alleged genetic parent of the child, intended parent pursuant

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1 to Article 7 of the Revised Uniform Parentage Act or presumed  
2 parent may sign an acknowledgment of parentage to establish the  
3 parentage of the child."

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

6 "40-11B-302. [NEW MATERIAL] EXECUTION OF ACKNOWLEDGMENT  
7 OF PARENTAGE.--

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

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

14 (2) state that the child whose parentage is  
15 being acknowledged:

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

20 (b) does not have another acknowledged  
21 parent, adjudicated parent or individual who is a parent of the  
22 child pursuant to Article 7 or 8 of the Revised Uniform  
23 Parentage Act other than the individual who gave birth to the  
24 child; and

25 (3) state that the signatories understand that

1 the acknowledgment is the equivalent of an adjudication of  
 2 parentage of the child and that a challenge to the  
 3 acknowledgment is permitted only under limited circumstances  
 4 and is barred two years after the effective date of the  
 5 acknowledgment.

6 B. An acknowledgment of parentage is void if, at  
 7 the time of signing:

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

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

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

19 "40-11B-303. [NEW MATERIAL] DENIAL OF PARENTAGE.--A  
 20 presumed parent or alleged genetic parent may sign a denial of  
 21 parentage in a record. The denial of parentage is valid only  
 22 if:

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

25 B. the signature of the presumed parent or alleged

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1 genetic parent is attested by a notarial officer or witnessed;  
2 and

3 C. the presumed parent or alleged genetic parent  
4 has not previously:

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

9 (2) been adjudicated to be a parent of the  
10 child."

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

13 "40-11B-304. [NEW MATERIAL] RULES FOR ACKNOWLEDGMENT OR  
14 DENIAL OF PARENTAGE.--

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

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

23 C. Subject to Subsection A of this section, an  
24 acknowledgment of parentage or denial of parentage takes effect  
25 on the birth of the child or filing of the document with the

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1 bureau, whichever occurs later.

2 D. An acknowledgment of parentage or denial of  
3 parentage signed by a minor is valid if the acknowledgment  
4 complies with the Revised Uniform Parentage Act."

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

7 "40-11B-305. [NEW MATERIAL] EFFECT OF ACKNOWLEDGMENT OR  
8 DENIAL OF PARENTAGE.--

9 A. Except as otherwise provided in Sections  
10 40-11B-308 and 40-11B-309 NMSA 1978, an acknowledgment of  
11 parentage that complies with this article of the Revised  
12 Uniform Parentage Act and is filed with the bureau is  
13 equivalent to an adjudication of parentage of the child and  
14 confers on the acknowledged parent all rights and duties of a  
15 parent.

16 B. Except as otherwise provided in Sections  
17 40-11B-308 and 40-11B-309 NMSA 1978, a denial of parentage by a  
18 presumed parent or alleged genetic parent that complies with  
19 this article of the Revised Uniform Parentage Act and is filed  
20 with the bureau with an acknowledgment of parentage that  
21 complies with this article of the Revised Uniform Parentage Act  
22 is equivalent to an adjudication of the nonparentage of the  
23 presumed parent or alleged genetic parent and discharges the  
24 presumed parent or alleged genetic parent from all rights and  
25 duties of a parent."

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

3           "40-11B-306. [NEW MATERIAL] NO FILING FEE.--The bureau  
4 shall not charge a fee for filing an acknowledgment of  
5 parentage or denial of parentage."

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

8           "40-11B-307. [NEW MATERIAL] RATIFICATION BARRED.--A court  
9 conducting a judicial proceeding or an administrative agency  
10 conducting an administrative proceeding is not required or  
11 permitted to ratify an unchallenged acknowledgment of  
12 parentage."

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

15           "40-11B-308. [NEW MATERIAL] PROCEEDING FOR RESCISSION.--A  
16 signatory may rescind an acknowledgment of parentage or denial  
17 of parentage only by means of a judicial proceeding to rescind  
18 the acknowledgment or denial of parentage. A proceeding to  
19 rescind an acknowledgment of parentage or a denial of parentage  
20 shall be brought no later than the earlier of:

21           A. sixty days after the effective date of the  
22 acknowledgment or denial, as provided in Section 40-11B-304  
23 NMSA 1978;

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

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

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

6 C. 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 20. A new Section 40-11B-309 NMSA 1978 is enacted  
11 to read:

12 "40-11B-309. [NEW MATERIAL] CHALLENGE AFTER EXPIRATION OF  
13 PERIOD FOR RESCISSION.--

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

23 B. A challenge to an acknowledgment of parentage or  
24 denial of parentage by an individual who was not a signatory to  
25 the acknowledgment or denial is governed by Section 40-11B-610

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1 NMSA 1978."

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

4 "40-11B-310. [NEW MATERIAL] PROCEDURE FOR CHALLENGE BY  
5 SIGNATORY.--

6 A. Every signatory to an acknowledgment of  
7 parentage and any related denial of parentage shall be made a  
8 party to a proceeding to challenge the acknowledgment or  
9 denial.

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

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

21 D. A party challenging an acknowledgment of  
22 parentage or denial of parentage has the burden of proof.

23 E. If the court determines that a party has  
24 satisfied the burden of proof pursuant to Subsection D of this  
25 section, the court shall order the bureau to amend the birth

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1 record of the child to reflect the legal parentage of the  
2 child.

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

6 SECTION 22. A new Section 40-11B-311 NMSA 1978 is enacted  
7 to read:

8 "40-11B-311. [NEW MATERIAL] FULL FAITH AND CREDIT.--The  
9 court shall give full faith and credit to an acknowledgment of  
10 parentage or denial of parentage effective in another state if  
11 the acknowledgment or denial was in a signed record and  
12 otherwise complies with law of the other state."

13 SECTION 23. A new Section 40-11B-312 NMSA 1978 is enacted  
14 to read:

15 "40-11B-312. [NEW MATERIAL] FORMS FOR ACKNOWLEDGMENT AND  
16 DENIAL OF PARENTAGE.--

17 A. The bureau shall prescribe forms for an  
18 acknowledgment of parentage and denial of parentage.

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

22 SECTION 24. A new Section 40-11B-313 NMSA 1978 is enacted  
23 to read:

24 "40-11B-313. [NEW MATERIAL] RELEASE OF INFORMATION.--The  
25 bureau may release information relating to an acknowledgment of

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1 parentage or denial of parentage to a signatory of the  
2 acknowledgment or denial, a court, federal agency and support-  
3 enforcement agency of this or another state as permitted by the  
4 provisions of Chapter 24, Article 14 NMSA 1978."

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

7 "40-11B-314. [NEW MATERIAL] ADOPTION OF RULES.--The  
8 bureau may adopt rules pursuant to the State Rules Act to  
9 implement this article of the Revised Uniform Parentage Act."

10 ARTICLE 4

11 REGISTRY OF PATERNITY

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

14 "40-11B-401. [NEW MATERIAL] ESTABLISHMENT OF REGISTRY.--  
15 The putative father registry established pursuant to Section  
16 32A-5-20 NMSA 1978 is also the registry of paternity  
17 established pursuant to the Revised Uniform Parentage Act."

18 ARTICLE 5

19 GENETIC TESTING

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

22 "40-11B-501. [NEW MATERIAL] DEFINITIONS.--As used in this  
23 article of the Revised Uniform Parentage Act:

24 A. "combined relationship index" means the product  
25 of all tested relationship indices;

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

5           C. "hypothesized genetic relationship" means an  
6 asserted genetic relationship between an individual and a  
7 child;

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

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

23           **SECTION 28.** A new Section 40-11B-502 NMSA 1978 is enacted  
24 to read:

25           "40-11B-502. [NEW MATERIAL] SCOPE OF ARTICLE 5--

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1       LIMITATION ON USE OF GENETIC TESTING.--

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

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

8               B. Genetic testing shall not be used:

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

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

16               "40-11B-503. [NEW MATERIAL] AUTHORITY TO ORDER OR DENY  
17 GENETIC TESTING.--

18               A. Except as otherwise provided in this article of  
19 the Revised Uniform Parentage Act or Article 6 of the Revised  
20 Uniform Parentage Act, in a proceeding pursuant to that act to  
21 determine parentage, the court shall order the child and any  
22 other individual to submit to genetic testing if a request for  
23 testing is supported by the sworn statement of a party:

- 24                       (1) alleging genetic parentage of the child  
25 and stating facts establishing a reasonable possibility that

underscored material = new  
[bracketed material] = delete

1 the individual is the child's genetic parent; or

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

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

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

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

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

21 F. In a proceeding to adjudicate the parentage of a  
22 child having a presumed parent or an individual who claims to  
23 be a parent pursuant to Section 40-11B-609 NMSA 1978, or to  
24 challenge an acknowledgment of parentage, the court may deny a  
25 motion for genetic testing of the child and any other

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1 individual after considering the factors in Subsections A and B  
2 of Section 40-11B-613 NMSA 1978.

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

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

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

12 "40-11B-504. [NEW MATERIAL] REQUIREMENTS FOR GENETIC  
13 TESTING.--

14 A. Genetic testing shall be of a type reasonably  
15 relied on by experts in the field of genetic testing and  
16 performed in a testing laboratory accredited by:

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

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

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



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

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

13                   (2) the individual or the support-enforcement  
14 agency objecting to the laboratory's choice pursuant to this  
15 subsection shall:

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

20                           (b) engage another laboratory to perform  
21 the calculations; and

22                   (3) the laboratory may use its own statistical  
23 estimate if there is a question as to which ethnic or racial  
24 group is appropriate. The laboratory shall calculate the  
25 frequencies using statistics, if available, for any other

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1 ethnic or racial group requested.

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

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

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

14 "40-11B-505. [NEW MATERIAL] REPORT OF GENETIC TESTING.--

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

20 B. Documentation from a testing laboratory of the  
21 following information is sufficient to establish a reliable  
22 chain of custody and allow the results of genetic testing to be  
23 admissible without testimony:

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

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

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

5 (4) the name of the individual who received  
6 each specimen in the testing laboratory;

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

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

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

13 "40-11B-506. [NEW MATERIAL] GENETIC TESTING RESULTS--  
14 CHALLENGE TO RESULTS.--

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

20 (1) that the individual has at least a ninety-  
21 nine percent probability of parentage, using a prior  
22 probability of zero point five zero, as calculated by using the  
23 combined relationship index obtained in the testing; and

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

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

6                   (1) excludes the individual as a genetic  
7 parent of the child; or

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

10                           (a) the individual who gave birth to the  
11 child; or

12                           (b) the individual identified pursuant  
13 to Subsection A of this section.

14           C. Except as otherwise provided in Section  
15 40-11B-511 NMSA 1978, if more than one individual other than  
16 the individual who gave birth is identified by genetic testing  
17 as a possible genetic parent of the child, the court shall  
18 order each individual to submit to further genetic testing to  
19 identify a genetic parent."

20           **SECTION 33.** A new Section 40-11B-507 NMSA 1978 is enacted  
21 to read:

22           "40-11B-507. [NEW MATERIAL] COST OF GENETIC TESTING.--

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

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1 (1) by a support-enforcement agency in a  
 2 proceeding in which the support-enforcement agency is providing  
 3 services;

4 (2) by the individual who made the request for  
 5 genetic testing;

6 (3) as agreed by the parties; or

7 (4) as ordered by the court.

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

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

14 "40-11B-508. [NEW MATERIAL] ADDITIONAL GENETIC TESTING.--  
 15 The court or support-enforcement agency shall order additional  
 16 genetic testing on request of an individual who contests the  
 17 result of the initial testing pursuant to Section 40-11B-506  
 18 NMSA 1978. If initial genetic testing pursuant to that section  
 19 identified an individual as a genetic parent of the child, the  
 20 court or agency shall not order additional testing unless the  
 21 contesting individual pays for the testing in advance."

22 SECTION 35. A new Section 40-11B-509 NMSA 1978 is enacted  
 23 to read:

24 "40-11B-509. [NEW MATERIAL] GENETIC TESTING WHEN SPECIMEN  
 25 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 an alleged  
3 genetic parent of a child, an individual seeking genetic  
4 testing demonstrates good cause and the court finds that the  
5 circumstances are just, the court may order any of the  
6 following individuals to submit specimens for genetic testing:

- 7                   (1) a parent of the alleged genetic parent;
- 8                   (2) a sibling of the alleged genetic parent;
- 9                   (3) another child of the alleged genetic  
10 parent and the individual who gave birth to the other child;

11 and

- 12                   (4) another relative of the alleged genetic  
13 parent necessary to complete genetic testing.

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

17           **SECTION 36.** A new Section 40-11B-510 NMSA 1978 is enacted  
18 to read:

19           "40-11B-510. [NEW MATERIAL] DECEASED INDIVIDUAL.--If an  
20 individual seeking genetic testing demonstrates good cause, the  
21 court may order genetic testing of a deceased individual."

22           **SECTION 37.** A new Section 40-11B-511 NMSA 1978 is enacted  
23 to read:

24           "40-11B-511. [NEW MATERIAL] IDENTICAL SIBLINGS.--

25           A. If the court finds there is reason to believe

1 that an alleged genetic parent has an identical sibling and  
2 evidence that the sibling may be a genetic parent of the child,  
3 the court may order genetic testing of the sibling.

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

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

10 "40-11B-512. [NEW MATERIAL] CONFIDENTIALITY OF GENETIC  
11 TESTING.--

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

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

23 ARTICLE 6

24 PROCEEDING TO ADJUDICATE PARENTAGE

25 PART 1

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NATURE OF PROCEEDING

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

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

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

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

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

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

A. the child;

B. the individual who gave birth to the child, unless a court has adjudicated that the individual is not a parent;

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

D. an individual whose parentage of the child is to be adjudicated;



1 E. the support-enforcement agency;

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

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

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

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

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

14 (1) the individual who gave birth to the  
15 child, unless a court has adjudicated that the individual is  
16 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.

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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:

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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 individual who  
21 gave birth to the child is the only other individual with a  
22 claim to parentage of the child. The court shall adjudicate an  
23 alleged genetic parent to be a parent of the child if the  
24 alleged genetic parent:

25 (1) is identified pursuant to Section

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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 individual who gave birth  
25 to the child has a claim to parentage of the child, the court

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1 shall adjudicate parentage pursuant to Section 40-11B-613 NMSA  
2 1978."

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

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

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

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

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

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

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

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

- 25 (1) if no party to the proceeding challenges

1 the presumed parent's parentage of the child, the court shall  
2 adjudicate the presumed parent to be a parent of the child;

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

8 (3) if the presumed parent is not identified  
9 pursuant to Section 40-11B-506 NMSA 1978 as a genetic parent of  
10 the child and the presumed parent or the individual who gave  
11 birth to the child challenges the presumed parent's parentage  
12 of the child, the court shall adjudicate the parentage of the  
13 child in the best interest of the child based on the factors  
14 set forth in Subsections A and B of Section 40-11B-613 NMSA  
15 1978; and

16 (4) except as otherwise provided in Section  
17 40-11B-614 NMSA 1978, and subject to other limitations in  
18 Sections 40-11B-606 through 40-11B-614 NMSA 1978, if in a  
19 proceeding to adjudicate a presumed parent's parentage of a  
20 child, another individual in addition to the individual who  
21 gave birth to the child asserts a claim to parentage of the  
22 child, the court shall adjudicate parentage pursuant to Section  
23 40-11B-613 NMSA 1978."

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

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1 "40-11B-609. [NEW MATERIAL] ADJUDICATING CLAIM OF DE  
2 FACTO PARENTAGE OF CHILD.--

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

6 (1) is alive when the proceeding is commenced;

7 and

8 (2) claims to be a de facto parent of the  
9 child.

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

13 (1) before the child attains eighteen years of  
14 age; and

15 (2) while the child is alive.

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

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

25 (2) an adverse party, parent or legal guardian

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1 may file a pleading in response to the pleading filed pursuant  
2 to Paragraph (1) of this subsection; a responsive pleading  
3 shall be verified and shall be served on parties to the  
4 proceeding; and

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

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

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

24 (2) the individual engaged in consistent  
25 caretaking of the child;

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1 (3) the individual undertook full and  
2 permanent responsibilities of a parent of the child without  
3 expectation of financial compensation;

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

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

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

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

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

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

24 "40-11B-610. [NEW MATERIAL] ADJUDICATING PARENTAGE OF  
25 CHILD WITH ACKNOWLEDGED PARENT.--

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1           A. If a child has an acknowledged parent, a  
2 proceeding to challenge the acknowledgment of parentage or a  
3 denial of parentage, brought by a signatory to the  
4 acknowledgment or denial, is governed by Sections 40-11B-309  
5 and 40-11B-310 NMSA 1978.

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

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

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

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

21           **SECTION 49.** A new Section 40-11B-611 NMSA 1978 is enacted  
22 to read:

23                   "40-11B-611. [NEW MATERIAL] ADJUDICATING PARENTAGE OF  
24 CHILD WITH ADJUDICATED PARENT.--

25           A. If a child has an adjudicated parent, a

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underscored material = new  
[bracketed material] = delete

1 proceeding to challenge the adjudication, brought by an  
2 individual who was a party to the adjudication or received  
3 notice pursuant to Section 40-11B-603 NMSA 1978, is governed by  
4 the rules governing a collateral attack on a judgment.

5 B. If a child has an adjudicated parent, the  
6 following rules apply to a proceeding to challenge the  
7 adjudication of parentage brought by an individual, other than  
8 the child, who has standing pursuant to Section 40-11B-602 NMSA  
9 1978 and was not a party to the adjudication and did not  
10 receive notice pursuant to Section 40-11B-603 NMSA 1978:

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

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

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

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

22 "40-11B-612. [NEW MATERIAL] ADJUDICATING PARENTAGE OF  
23 CHILD OF ASSISTED REPRODUCTION.--

24 A. An individual who is a parent pursuant to  
25 Article 7 of the Revised Uniform Parentage Act or the

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1 individual who gave birth to the child may bring a proceeding  
 2 to adjudicate parentage. If the court determines the  
 3 individual is a parent pursuant to Article 7 of that act, the  
 4 court shall adjudicate the individual to be a parent of the  
 5 child.

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

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

14 "40-11B-613. [NEW MATERIAL] ADJUDICATING COMPETING CLAIMS  
 15 OF PARENTAGE.--

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

23 (1) the age of the child;

24 (2) the length of time during which each  
 25 individual assumed the role of parent of the child;

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1 (3) the nature of the relationship between the  
2 child and each individual;

3 (4) the harm to the child if the relationship  
4 between the child and each individual is not recognized;

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

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

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

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

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

19 C. The court may adjudicate a child to have more  
20 than two parents pursuant to the Revised Uniform Parentage Act  
21 if the court finds that failure to recognize more than two  
22 parents would be detrimental to the child. A finding of  
23 detriment to the child does not require a finding of unfitness  
24 of any parent or individual seeking an adjudication of  
25 parentage. In determining detriment to the child, the court

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1 shall consider all relevant factors, including the harm if the  
2 child is removed from a stable placement with an individual who  
3 has fulfilled the child's physical needs and psychological  
4 needs for care and affection and has assumed the role for a  
5 substantial period."

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

8 "40-11B-614. [NEW MATERIAL] PRECLUDING ESTABLISHMENT OF  
9 PARENTAGE BY PERPETRATOR OF SEXUAL ASSAULT.--

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

13 B. In a proceeding in which an individual alleges  
14 that another individual committed criminal sexual penetration  
15 that resulted in the individual giving birth to a child, the  
16 individual who gave birth may seek to preclude the other  
17 individual from establishing that the other individual is a  
18 parent of the child.

19 C. This section does not apply if:

20 (1) the other individual described in  
21 Subsection B of this section has previously been adjudicated to  
22 be a parent of the child; or

23 (2) after the birth of the child, the other  
24 individual established a bonded and dependent relationship with  
25 the child that is parental in nature.

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1           D. Unless Section 40-11B-309 or Section 40-11B-607  
2 NMSA 1978 applies, an individual who gave birth shall file a  
3 pleading making an allegation pursuant to Subsection B of this  
4 section not later than two years after the birth of the child.  
5 That individual shall file the pleading in a proceeding to  
6 establish parentage pursuant to the Revised Uniform Parentage  
7 Act.

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

10                 (1) evidence that the other individual was  
11 convicted of criminal sexual penetration, or a comparable crime  
12 in another jurisdiction, against the individual who gave birth  
13 and the child was born not later than three hundred days after  
14 the criminal sexual penetration; or

15                 (2) clear and convincing evidence that the  
16 other individual committed criminal sexual penetration against  
17 the individual who gave birth and the child was born not later  
18 than three hundred days after the criminal sexual penetration.

19           F. Subject to Subsections A through D of this  
20 section, if the court determines that an allegation has been  
21 proved pursuant to Subsection E of this section, the court  
22 shall:

23                 (1) adjudicate that the other individual  
24 described in Subsection B of this section is not a parent of  
25 the child;



1 (2) require the bureau to amend the birth  
2 certificate if requested by the individual who gave birth and  
3 the court determines that the amendment is in the best interest  
4 of the child; and

5 (3) require the other individual described in  
6 Subsection B of this section to pay child support, birth-  
7 related costs or both, unless the individual who gave birth  
8 requests otherwise and the court determines that granting the  
9 request is in the best interest of the child."

10 PART 3

11 HEARING AND ADJUDICATION

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

14 "40-11B-615. [NEW MATERIAL] TEMPORARY ORDER.--

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

- 20 (1) a presumed parent of the child;  
21 (2) petitioning to be adjudicated a parent;  
22 (3) identified as a genetic parent through  
23 genetic testing pursuant to Section 40-11B-506 NMSA 1978;  
24 (4) an alleged genetic parent who has declined  
25 to submit to genetic testing;

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1 (5) shown by clear and convincing evidence to  
2 be a parent of the child; or

3 (6) a parent pursuant to the Revised Uniform  
4 Parentage Act.

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

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

10 "40-11B-616. [NEW MATERIAL] COMBINING PROCEEDINGS.--

11 A. Except as otherwise provided in Subsection B of  
12 this section, the court may combine a proceeding to adjudicate  
13 parentage pursuant to the Revised Uniform Parentage Act with a  
14 proceeding for adoption, termination of parental rights, child  
15 custody or visitation, child support, dissolution of marriage,  
16 separation, probate, administration of an estate or other  
17 appropriate proceeding.

18 B. A respondent shall not combine a proceeding  
19 described in Subsection A of this section with a proceeding to  
20 adjudicate parentage brought pursuant to the Uniform Interstate  
21 Family Support Act."

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

24 "40-11B-617. [NEW MATERIAL] PROCEEDING BEFORE BIRTH.--

25 Except as otherwise provided in Article 8 of the Revised

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1 Uniform Parentage Act, a proceeding to adjudicate parentage may  
2 be commenced before the birth of the child and an order or  
3 judgment may be entered before birth, but enforcement of the  
4 order or judgment shall be stayed until the birth of the  
5 child."

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

8 "40-11B-618. [NEW MATERIAL] CHILD AS PARTY--  
9 REPRESENTATION.--

10 A. A minor child is a permissive party but not a  
11 necessary party to a proceeding pursuant to this article of the  
12 Revised Uniform Parentage Act.

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

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

19 "40-11B-619. [NEW MATERIAL] COURT TO ADJUDICATE  
20 PARENTAGE.--The court without a jury shall adjudicate parentage  
21 of a child."

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

24 "40-11B-620. [NEW MATERIAL] HEARING--INSPECTION OF  
25 RECORDS.--

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

4           B. A final order in a proceeding pursuant to this  
5 article of the Revised Uniform Parentage Act is available for  
6 public inspection. Other papers and records are available for  
7 public inspection only with the consent of the parties or by  
8 court order for good cause."

9           **SECTION 59.** A new Section 40-11B-621 NMSA 1978 is enacted  
10 to read:

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

17           **SECTION 60.** A new Section 40-11B-622 NMSA 1978 is enacted  
18 to read:

19           "40-11B-622. [NEW MATERIAL] ORDER ADJUDICATING  
20 PARENTAGE.--

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

23           B. Except as otherwise provided in Subsection C of  
24 this section, the court may assess filing fees, reasonable  
25 attorney fees, fees for genetic testing, other costs and

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1 necessary travel and other reasonable expenses incurred in a  
2 proceeding pursuant to this article of the Revised Uniform  
3 Parentage Act. Attorney fees, costs and expenses awarded  
4 pursuant to this subsection may be paid directly to the  
5 attorney, and the attorney may enforce the order in the  
6 attorney's own name. The court may order these fees, costs and  
7 expenses to be paid by any party in proportions and at times as  
8 determined by the court, but not exceeding three years from the  
9 date of the filing of the action unless there is a substantial  
10 showing that parentage could not have been established and an  
11 action for child support could not have been brought within  
12 three years of the child's birth. The court may order the  
13 proportion of any indigent party to be paid from court funds.

14 C. The court shall not assess fees, costs or  
15 expenses in a proceeding pursuant to this article of the  
16 Revised Uniform Parentage Act against a support-enforcement  
17 agency of New Mexico or another state, except as otherwise  
18 provided by law of New Mexico other than the Revised Uniform  
19 Parentage Act.

20 D. In a proceeding pursuant to this article of the  
21 Revised Uniform Parentage Act, a copy of a bill for genetic  
22 testing or prenatal or postnatal health care for the individual  
23 who gave birth to the child and the child, provided to the  
24 adverse party not later than ten days before a hearing, is  
25 admissible to establish:

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

4 E. On request of a party and for good cause, the  
5 court in a proceeding pursuant to this article of the Revised  
6 Uniform Parentage Act may order the name of the child changed.  
7 If the court order changing the name varies from the name on  
8 the birth certificate of the child, the court shall order the  
9 bureau to issue an amended birth certificate.

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

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1 retroactive support, the court shall consider:

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

4 (2) whether equitable defenses are applicable.

5 G. Support judgments or orders ordinarily shall be  
6 for periodic payments that may vary in amount. In the best  
7 interest of the child, a lump-sum payment or the purchase of an  
8 annuity may be ordered in lieu of periodic payments of support;  
9 provided, however, that nothing in this section shall deprive a  
10 state agency of its right to reimbursement from an appropriate  
11 party should the child be a past or future recipient of public  
12 assistance.

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

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

20 "40-11B-623. [NEW MATERIAL] BINDING EFFECT OF  
21 DETERMINATION OF PARENTAGE.--

22 A. Except as otherwise provided in Subsection B of  
23 this section:

24 (1) a signatory to an acknowledgment of  
25 parentage or denial of parentage is bound by the acknowledgment

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1 or denial as provided in Article 3 of the Revised Uniform  
2 Parentage Act; and

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

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

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

13 (2) the determination was based on a finding  
14 consistent with the results of genetic testing, and the  
15 consistency is declared in the determination or otherwise  
16 shown;

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

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

22 C. In a proceeding for dissolution of marriage or  
23 separation, the court is deemed to have made an adjudication of  
24 parentage of a child if the court acts under circumstances that  
25 satisfy the jurisdiction requirements of Section 40-6A-201 NMSA

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1 1978 and the final order:

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

5 (2) provides for support of the child by a  
6 spouse unless that spouse's parentage is disclaimed  
7 specifically in the order.

8 D. Except as otherwise provided in Subsection B of  
9 this section or Section 40-11B-611 NMSA 1978, a determination  
10 of parentage may be asserted as a defense in a subsequent  
11 proceeding seeking to adjudicate parentage of an individual who  
12 was not a party to the earlier proceeding.

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

17 ARTICLE 7

18 ASSISTED REPRODUCTION

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

21 "40-11B-701. [NEW MATERIAL] SCOPE OF ARTICLE.--This  
22 article of the Revised Uniform Parentage Act does not apply to  
23 the birth of a child conceived by sexual intercourse or  
24 assisted reproduction pursuant to a surrogacy agreement  
25 pursuant to Article 8 of the Revised Uniform Parentage Act."

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

3           "40-11B-702. [NEW MATERIAL] PARENTAL STATUS OF DONOR.--A  
4 donor is not a parent of a child conceived by assisted  
5 reproduction."

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

8           "40-11B-703. [NEW MATERIAL] PARENTAGE OF CHILD OF  
9 ASSISTED REPRODUCTION.--An individual who consents pursuant to  
10 Section 40-11B-704 NMSA 1978 to assisted reproduction by an  
11 individual with the intent to be a parent of a child conceived  
12 by the assisted reproduction is a parent of the child."

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

15           "40-11B-704. [NEW MATERIAL] CONSENT TO ASSISTED  
16 REPRODUCTION.--

17           A. Except as otherwise provided in Subsection B of  
18 this section, the consent described in Section 40-11B-703 NMSA  
19 1978 shall be in a record signed by an individual giving birth  
20 to a child conceived by assisted reproduction and an individual  
21 who intends to be a parent of the child.

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

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1                   (1) the individual giving birth or the  
2 individual intending to be a parent proves by clear and  
3 convincing evidence the existence of an express agreement  
4 entered into before conception that the individual intending to  
5 be a parent and the individual giving birth intended that they  
6 both would be parents of the child; or

7                   (2) the individual giving birth and the  
8 individual intending to be a parent for the first two years of  
9 the child's life, including any period of temporary absence,  
10 resided together in the same household with the child and both  
11 openly held out the child as the individual intending to be a  
12 parent's child, unless the individual intending to be a parent  
13 dies or becomes incapacitated before the child attains two  
14 years of age or the child dies before the child attains two  
15 years of age, in which case the court may find consent pursuant  
16 to this subsection to parentage if a party proves by clear and  
17 convincing evidence that the individual who gave birth and the  
18 individual intending to be a parent intended to reside together  
19 in the same household with the child and that the individual  
20 intending to be a parent would openly hold out the child as  
21 that individual's child, but the individual intending to be a  
22 parent was prevented from carrying out that intent by death or  
23 incapacity."

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

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1 "40-11B-705. [NEW MATERIAL] LIMITATION ON SPOUSE'S  
2 DISPUTE OF PARENTAGE.--

3 A. Except as otherwise provided in Subsection B of  
4 this section, an individual who, at the time of a child's  
5 birth, is the spouse of the individual who gave birth to the  
6 child by assisted reproduction may not challenge the spouse's  
7 own parentage of the child unless:

8 (1) not later than two years after the birth  
9 of the child, the spouse commences a proceeding to adjudicate  
10 the spouse's parentage of the child; and

11 (2) the court finds that the spouse did not  
12 consent to the assisted reproduction, before, on or after birth  
13 of the child, or withdrew consent pursuant to Section  
14 40-11B-707 NMSA 1978.

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

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

20 (2) the spouse and the individual who gave  
21 birth to the child have not cohabited since the probable time  
22 of assisted reproduction; and

23 (3) the spouse never openly held out the child  
24 as the spouse's child.

25 C. This section applies to a spouse's dispute of

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1 parentage even if the spouse's marriage is declared invalid  
 2 after assisted reproduction occurs."

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

5 "40-11B-706. [NEW MATERIAL] EFFECT OF CERTAIN LEGAL  
 6 PROCEEDINGS REGARDING MARRIAGE.--If a marriage of an individual  
 7 who gives birth to a child conceived by assisted reproduction  
 8 is terminated through dissolution of marriage or is subject to  
 9 separation before transfer of gametes or embryos to that  
 10 individual, a former spouse of that individual is not a parent  
 11 of the child unless the former spouse consented in a record  
 12 that the former spouse would be a parent of the child if  
 13 assisted reproduction were to occur after a dissolution of  
 14 marriage or after separation and the former spouse did not  
 15 withdraw consent pursuant to Section 40-11B-707 NMSA 1978."

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

18 "40-11B-707. [NEW MATERIAL] WITHDRAWAL OF CONSENT.--

19 A. An individual who consents, pursuant to Section  
 20 40-11B-704 NMSA 1978, to assisted reproduction may withdraw  
 21 consent any time before a transfer that results in a pregnancy  
 22 by giving notice in a record of the withdrawal of consent to  
 23 the individual who agreed to give birth to a child conceived by  
 24 assisted reproduction and to any clinic or health care provider  
 25 facilitating the assisted reproduction. Failure to give notice

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1 to the clinic or health care provider does not affect a  
2 determination of parentage pursuant to the Revised Uniform  
3 Parentage Act.

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

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

9 "40-11B-708. [NEW MATERIAL] PARENTAL STATUS OF DECEASED  
10 INDIVIDUAL.--

11 A. If an individual who intends to be a parent of a  
12 child conceived by assisted reproduction dies during the period  
13 between the transfer of gametes or embryos and the birth of the  
14 child, the individual's death does not preclude the  
15 establishment of the individual's parentage of the child if the  
16 individual otherwise would be a parent of the child pursuant to  
17 the Revised Uniform Parentage Act.

18 B. If an individual who consented in a record to  
19 assisted reproduction by an individual who agreed to give birth  
20 to a child dies before a transfer of gametes or embryos, the  
21 deceased individual is a parent of a child conceived by the  
22 assisted reproduction only if:

23 (1) either:

24 (a) the individual consented in a record  
25 that if assisted reproduction were to occur after the death of

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1 the individual, the individual would be a parent of the child;  
2 or

3 (b) the individual's intent to be a  
4 parent of a child conceived by assisted reproduction after the  
5 individual's death is established by clear and convincing  
6 evidence; and

7 (2) either:

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

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

12 ARTICLE 8

13 SURROGACY AGREEMENTS

14 PART 1

15 GENERAL REQUIREMENTS

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

18 "40-11B-801. [NEW MATERIAL] DEFINITIONS.--As used in this  
19 article of the Revised Uniform Parentage Act:

20 A. "genetic surrogate" means an individual who is  
21 not an intended parent and who agrees to become pregnant  
22 through assisted reproduction using the individual's own  
23 gamete, pursuant to a genetic surrogacy agreement;

24 B. "gestational surrogate" means an individual who  
25 is not an intended parent and who agrees to become pregnant

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1 through assisted reproduction using gametes that are not the  
2 individual's own, pursuant to a gestational surrogacy  
3 agreement; and

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

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

14 "40-11B-802. [NEW MATERIAL] ELIGIBILITY TO ENTER  
15 GESTATIONAL OR GENETIC SURROGACY AGREEMENT.--

16 A. To execute an agreement to act as a gestational  
17 or genetic surrogate, an individual shall:

- 18 (1) have attained twenty-one years of age;  
19 (2) have previously given birth to at least  
20 one child;  
21 (3) complete a medical evaluation related to  
22 the surrogacy agreement by a licensed medical doctor;  
23 (4) complete a mental health consultation by a  
24 licensed mental health professional; and  
25 (5) have independent legal representation of

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1 the individual's choice throughout the surrogacy arrangement  
 2 regarding the terms of the surrogacy agreement and the  
 3 potential legal consequences of the agreement.

4 B. To execute a gestational or genetic surrogacy  
 5 agreement, each intended parent, whether or not genetically  
 6 related to the child, shall:

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

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

10 (3) complete a mental health consultation by a  
 11 licensed mental health professional; and

12 (4) have independent legal representation of  
 13 the intended parent's choice throughout the surrogacy  
 14 arrangement regarding the terms of the surrogacy agreement and  
 15 the potential legal consequences of the agreement."

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

18 "40-11B-803. [NEW MATERIAL] REQUIREMENTS OF GESTATIONAL  
 19 OR GENETIC SURROGACY AGREEMENT--PROCESS.--A gestational or  
 20 genetic surrogacy agreement shall be executed in compliance  
 21 with the following rules:

22 A. at least one party shall be a resident of this  
 23 state or, if no party is a resident of this state, at least one  
 24 medical evaluation or procedure or mental health consultation  
 25 pursuant to the agreement shall occur in this state;

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

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

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

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

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

11           G. the surrogate and the intended parent or parents  
12 shall have independent legal representation throughout the  
13 surrogacy arrangement regarding the terms of the surrogacy  
14 agreement and the potential legal consequences of the  
15 agreement, and each counsel shall be identified in the  
16 surrogacy agreement;

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

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

23           **SECTION 73.** A new Section 40-11B-804 NMSA 1978 is enacted  
24 to read:

25           "40-11B-804. [NEW MATERIAL] REQUIREMENTS OF GESTATIONAL

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1 OR GENETIC SURROGACY AGREEMENT--CONTENT.--

2 A. A gestational or genetic surrogacy agreement  
3 shall comply with the following requirements:

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

6 (2) except as otherwise provided in Sections  
7 40-11B-811, 40-11B-814 and 40-11B-815 NMSA 1978, the surrogate  
8 and the surrogate's spouse or former spouse, if any, shall have  
9 no claim to parentage of a child conceived by assisted  
10 reproduction pursuant to the surrogacy agreement;

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

14 (4) except as otherwise provided in Sections  
15 40-11B-811, 40-11B-814 and 40-11B-815 NMSA 1978, the intended  
16 parent or, if there are two intended parents, each one jointly  
17 and severally, immediately on birth shall be the exclusive  
18 parent or parents of the child, regardless of number of  
19 children born or gender or mental or physical condition of each  
20 child;

21 (5) except as otherwise provided in Sections  
22 40-11B-811, 40-11B-814 and 40-11B-815 NMSA 1978, the intended  
23 parent or, if there are two intended parents, each parent  
24 jointly and severally, immediately on birth shall assume  
25 responsibility for the financial support of the child,

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1 regardless of number of children born or gender or mental or  
2 physical condition of each child;

3 (6) the surrogacy agreement shall include  
4 information disclosing how each intended parent will cover the  
5 surrogacy-related expenses of the surrogate and the medical  
6 expenses of the child. If health care coverage is used to  
7 cover the medical expenses, the disclosure shall include a  
8 summary of the health care policy provisions related to  
9 coverage for surrogate pregnancy, including any possible  
10 liability of the surrogate, third-party-liability liens, other  
11 insurance coverage and any notice requirement that could affect  
12 coverage or liability of the surrogate. Unless the agreement  
13 expressly provides otherwise, the review and disclosure do not  
14 constitute legal advice. If the extent of coverage is  
15 uncertain, a statement of that fact is sufficient to comply  
16 with this paragraph;

17 (7) the surrogacy agreement shall permit the  
18 surrogate to make all health and welfare decisions regarding  
19 the surrogate and the surrogate's pregnancy. The Revised  
20 Uniform Parentage Act does not enlarge or diminish the  
21 surrogate's right to terminate the pregnancy; and

22 (8) the surrogacy agreement shall include  
23 information about each party's right pursuant to this article  
24 of the Revised Uniform Parentage Act to terminate the surrogacy  
25 agreement.

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1           B. A gestational or genetic surrogacy agreement may  
2 provide for:

3                   (1) payment of consideration and reasonable  
4 expenses; and

5                   (2) reimbursement of specific expenses if the  
6 agreement is terminated pursuant to this article of the Revised  
7 Uniform Parentage Act.

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

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

13           "40-11B-805. [NEW MATERIAL] GESTATIONAL OR GENETIC  
14 SURROGACY AGREEMENT--EFFECT OF SUBSEQUENT CHANGE OF MARITAL  
15 STATUS.--

16           A. Unless a gestational or genetic surrogacy  
17 agreement expressly provides otherwise:

18                   (1) the marriage of a surrogate after the  
19 agreement is signed by all parties does not affect the validity  
20 of the agreement, the surrogate's spouse's consent to the  
21 agreement is not required and the surrogate's spouse is not a  
22 presumed parent of a child conceived by assisted reproduction  
23 pursuant to the agreement; and

24                   (2) the dissolution of marriage or separation  
25 of the surrogate after the agreement is signed by all parties

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1 shall not affect the validity of the agreement.

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

4 (1) the marriage of an intended parent after  
5 the agreement is signed by all parties shall not affect the  
6 validity of a surrogacy agreement, the consent of the spouse of  
7 the intended parent is not required and the spouse of the  
8 intended parent is not, based on the agreement, a parent of a  
9 child conceived by assisted reproduction pursuant to the  
10 agreement; and

11 (2) the dissolution of marriage or separation  
12 of an intended parent after the agreement is signed by all  
13 parties shall not affect the validity of the agreement and,  
14 except as otherwise provided in Section 40-11B-814 NMSA 1978,  
15 the intended parents are the parents of the child."

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

18 "40-11B-806. [NEW MATERIAL] GESTATIONAL OR GENETIC  
19 SURROGACY AGREEMENT--INSPECTION OF DOCUMENTS.--Unless the court  
20 orders otherwise, a petition and any other document related to  
21 a gestational or genetic surrogacy agreement filed with the  
22 court pursuant to Sections 40-11B-801 through 40-11B-807 NMSA  
23 1978 are not open to inspection by any person other than the  
24 parties to the proceeding, a child conceived by assisted  
25 reproduction pursuant to the agreement, their attorneys and the

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1 support-enforcement agency. A court shall not authorize a  
 2 person to inspect a document related to the agreement, unless  
 3 required by exigent circumstances. The person seeking to  
 4 inspect the document may be required to pay the expense of  
 5 preparing a copy of the document to be inspected."

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

8 "40-11B-807. [NEW MATERIAL] GESTATIONAL OR GENETIC  
 9 SURROGACY AGREEMENT--EXCLUSIVE, CONTINUING JURISDICTION.--  
 10 During the period after the execution of a gestational or  
 11 genetic surrogacy agreement until ninety days after the birth  
 12 of a child conceived by assisted reproduction pursuant to the  
 13 agreement, a court of this state conducting a proceeding  
 14 pursuant to the Revised Uniform Parentage Act has exclusive,  
 15 continuing jurisdiction over all matters arising out of the  
 16 agreement. This section shall not give the court jurisdiction  
 17 over a child-custody or child-support proceeding if  
 18 jurisdiction is not otherwise authorized by law of this state  
 19 other than the Revised Uniform Parentage Act."

20 PART 2

21 SPECIAL RULES FOR GESTATIONAL SURROGACY AGREEMENTS

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

24 "40-11B-808. [NEW MATERIAL] TERMINATION OF GESTATIONAL  
 25 SURROGACY AGREEMENT.--

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1           A. A party to a gestational surrogacy agreement may  
2 terminate the agreement at any time before an embryo transfer  
3 by giving notice of termination in a record to all other  
4 parties. If an embryo transfer does not result in a pregnancy,  
5 a party may terminate the agreement at any time before a  
6 subsequent embryo transfer by giving notice of termination in a  
7 record to all other parties.

8           B. Unless a gestational surrogacy agreement  
9 provides otherwise, on termination of the agreement pursuant to  
10 Subsection A of this section, the parties are released from the  
11 agreement, except that each intended parent remains responsible  
12 for expenses that are reimbursable pursuant to the agreement  
13 and incurred by the gestational surrogate through the date of  
14 termination.

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

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

23           "40-11B-809. [NEW MATERIAL] PARENTAGE UNDER GESTATIONAL  
24 SURROGACY AGREEMENT.--

25           A. Except as otherwise provided in Subsection C of  
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1 this section, Subsection B of Section 40-11B-810 NMSA 1978 or  
2 Section 40-11B-812 NMSA 1978, on the birth of a child conceived  
3 by assisted reproduction pursuant to a gestational surrogacy  
4 agreement, each intended parent is, by operation of law, a  
5 parent of the child.

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

10 C. If a child is alleged to be a genetic child of  
11 the individual who agreed to be a gestational surrogate, the  
12 court shall order genetic testing of the child. If the child  
13 is a genetic child of the individual who agreed to be a  
14 gestational surrogate, parentage shall be determined based on  
15 Articles 1 through 6 of the Revised Uniform Parentage Act.

16 D. Except as otherwise provided in Subsection C of  
17 this section, Subsection B of Section 40-11B-810 NMSA 1978 or  
18 Section 40-11B-812 NMSA 1978, if, due to a clinical or  
19 laboratory error, a child conceived by assisted reproduction  
20 pursuant to a gestational surrogacy agreement is not  
21 genetically related to an intended parent or a donor who  
22 donated to the intended parent or parents, each intended  
23 parent, and not the gestational surrogate and the surrogate's  
24 spouse or former spouse, if any, is a parent of the child,  
25 subject to any other claim of parentage."

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

3           "40-11B-810. [NEW MATERIAL] GESTATIONAL SURROGACY  
4 AGREEMENT--PARENTAGE OF DECEASED INTENDED PARENT.--

5           A. Section 40-11B-809 NMSA 1978 applies to an  
6 intended parent even if the intended parent died during the  
7 period between the transfer of a gamete or embryo and the birth  
8 of the child.

9           B. Except as otherwise provided in Section  
10 40-11B-812 NMSA 1978, an intended parent is not a parent of a  
11 child conceived by assisted reproduction pursuant to a  
12 gestational surrogacy agreement if the intended parent dies  
13 before the transfer of a gamete or embryo unless:

14                   (1) the agreement provides otherwise; and

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

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

21           "40-11B-811. [NEW MATERIAL] GESTATIONAL SURROGACY  
22 AGREEMENT--ORDER OF PARENTAGE.--

23           A. Except as otherwise provided in Subsection C of  
24 Section 40-11B-809 NMSA 1978 or Section 40-11B-812 NMSA 1978,  
25 before, on or after the birth of a child conceived by assisted

1 reproduction pursuant to a gestational surrogacy agreement, a  
2 party to the agreement may commence a proceeding in court for  
3 an order or judgment:

4 (1) declaring that each intended parent is a  
5 parent of the child and ordering that parental rights and  
6 duties vest immediately on the birth of the child exclusively  
7 in each intended parent;

8 (2) declaring that the gestational surrogate  
9 and the surrogate's spouse or former spouse, if any, are not  
10 the parents of the child;

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

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

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

21 (6) for other relief the court determines  
22 necessary and proper.

23 B. The court may issue an order or judgment  
24 pursuant to Subsection A of this section before the birth of  
25 the child. The court shall stay enforcement of the order or

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1 judgment until the birth of the child.

2 C. Neither this state nor the department of health  
3 is a necessary party to a proceeding pursuant to Subsection A  
4 this section."

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

7 "40-11B-812. [NEW MATERIAL] EFFECT OF GESTATIONAL  
8 SURROGACY AGREEMENT.--

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

12 B. If a child was conceived by assisted  
13 reproduction pursuant to a gestational surrogacy agreement that  
14 does not comply with Sections 40-11B-802 through 40-11B-804  
15 NMSA 1978, the court shall determine the rights and duties of  
16 the parties to the agreement consistent with the intent of the  
17 parties at the time of execution of the agreement. Each party  
18 to the agreement and any individual who at the time of the  
19 execution of the agreement was a spouse of a party to the  
20 agreement has standing to maintain a proceeding to adjudicate  
21 an issue related to the enforcement of the agreement.

22 C. Except as expressly provided in a gestational  
23 surrogacy agreement or Subsection D or E of this section, if  
24 the agreement is breached by the gestational surrogate or one  
25 or more intended parents, the non-breaching party is entitled

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1 to the remedies available at law or in equity.

2 D. Specific performance is not a remedy available  
3 for breach by a gestational surrogate of a provision in the  
4 agreement that the gestational surrogate be impregnated,  
5 terminate or not terminate a pregnancy or submit to medical  
6 procedures.

7 E. Except as otherwise provided in Subsection D of  
8 this section, if an intended parent is determined to be a  
9 parent of the child, specific performance is a remedy available  
10 for:

11 (1) breach of the agreement by a gestational  
12 surrogate that prevents the intended parent from exercising  
13 immediately on birth of the child the full rights of parentage;  
14 or

15 (2) breach by the intended parent that  
16 prevents the intended parent's acceptance, immediately on birth  
17 of the child conceived by assisted reproduction pursuant to the  
18 agreement, of the full duties of parentage or that results in  
19 the intended parent's failure to accept those duties  
20 immediately."

21 PART 3

22 SPECIAL RULES FOR GENETIC SURROGACY AGREEMENT

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

25 "40-11B-813. [NEW MATERIAL] REQUIREMENTS TO VALIDATE

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1 GENETIC SURROGACY AGREEMENT.--

2 A. Except as otherwise provided in Section  
3 40-11B-816 NMSA 1978, to be enforceable, a genetic surrogacy  
4 agreement shall be validated by the court. A proceeding to  
5 validate the agreement shall be commenced before assisted  
6 reproduction related to the surrogacy agreement.

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

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

11 (2) all parties entered into the agreement  
12 voluntarily and understand its terms.

13 C. An individual who terminates a genetic surrogacy  
14 agreement pursuant to Section 40-11B-814 NMSA 1978 shall file  
15 notice of the termination with the court. On receipt of the  
16 notice, the court shall vacate any order issued pursuant to  
17 Subsection B of this section. An individual who does not  
18 notify the court of the termination of the agreement is subject  
19 to sanctions."

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

22 "40-11B-814. [NEW MATERIAL] TERMINATION OF GENETIC  
23 SURROGACY AGREEMENT.--

24 A. A party to a genetic surrogacy agreement may  
25 terminate the agreement as follows:

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1                   (1) an intended parent who is a party to the  
2 agreement may terminate the agreement at any time before a  
3 gamete or embryo transfer by giving notice of termination in a  
4 record to all other parties. If a gamete or embryo transfer  
5 does not result in a pregnancy, a party may terminate the  
6 agreement at any time before a subsequent gamete or embryo  
7 transfer. The notice of termination shall be attested by a  
8 notarial officer or witnessed; or

9                   (2) a genetic surrogate who is a party to the  
10 agreement may withdraw consent to the agreement any time before  
11 forty-eight hours after the birth of a child conceived by  
12 assisted reproduction pursuant to the agreement. To withdraw  
13 consent, the genetic surrogate shall execute a notice of  
14 termination in a record stating the surrogate's intent to  
15 terminate the agreement. The notice of termination shall be  
16 attested by a notarial officer or witnessed and be delivered to  
17 each intended parent any time before forty-eight hours after  
18 the birth of the child.

19                   B. On termination of the genetic surrogacy  
20 agreement pursuant to Subsection A of this section, the parties  
21 are released from all obligations pursuant to the agreement  
22 except that each intended parent remains responsible for all  
23 expenses incurred by the surrogate through the date of  
24 termination that are reimbursable pursuant to the agreement.  
25 Unless the agreement provides otherwise, the surrogate is not

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1 entitled to any non-expense-related compensation for serving as  
2 a surrogate.

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

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

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

13 A. Unless a genetic surrogate exercises the right  
14 pursuant to Section 40-11B-814 NMSA 1978 to terminate a genetic  
15 surrogacy agreement, each intended parent is a parent of a  
16 child conceived by assisted reproduction pursuant to an  
17 agreement validated pursuant to Section 40-11B-813 NMSA 1978.

18 B. Unless a genetic surrogate exercises the right  
19 pursuant to Section 40-11B-814 NMSA 1978 to terminate the  
20 genetic surrogacy agreement, on proof of a court order issued  
21 pursuant to Section 40-11B-813 NMSA 1978 validating the  
22 agreement, the court shall make an order:

23 (1) declaring that each intended parent is a  
24 parent of a child conceived by assisted reproduction pursuant  
25 to the agreement and ordering that parental rights and duties

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1 vest exclusively in each intended parent;

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

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

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

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

15 (6) for other relief the court determines  
16 necessary and proper.

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

23 D. If a child born to a genetic surrogate is  
24 alleged not to have been conceived by assisted reproduction,  
25 the court shall order genetic testing to determine the genetic

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1 parentage of the child. If the child was not conceived by  
2 assisted reproduction, parentage shall be determined pursuant  
3 to Articles 1 through 6 of the Revised Uniform Parentage Act.  
4 Unless the genetic surrogacy agreement provides otherwise, if  
5 the child was not conceived by assisted reproduction, the  
6 surrogate is not entitled to any non-expense-related  
7 compensation for serving as a surrogate.

8 E. Unless a genetic surrogate exercises the right  
9 pursuant to Section 40-11B-814 NMSA 1978 to terminate the  
10 genetic surrogacy agreement, if an intended parent fails to  
11 file notice required pursuant to Subsection A of Section  
12 40-11B-814 NMSA 1978, the genetic surrogate or the support-  
13 enforcement agency may file with the court, not later than  
14 sixty days after the birth of a child conceived by assisted  
15 reproduction pursuant to the agreement, notice that the child  
16 has been born to the genetic surrogate. Unless the genetic  
17 surrogate has properly exercised the right pursuant to Section  
18 40-11B-814 NMSA 1978 to withdraw consent to the agreement, on  
19 proof of a court order issued pursuant to Section 40-11B-813  
20 NMSA 1978 validating the agreement, the court shall order that  
21 each intended parent is a parent of the child."

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

24 "40-11B-816. [NEW MATERIAL] EFFECT OF NON-VALIDATED  
25 GENETIC SURROGACY AGREEMENT.--

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

5           B. If all parties agree, a court may validate a  
6 genetic surrogacy agreement after assisted reproduction has  
7 occurred but before the birth of a child conceived by assisted  
8 reproduction pursuant to the agreement.

9           C. If a child conceived by assisted reproduction  
10 pursuant to a genetic surrogacy agreement that is not validated  
11 pursuant to Section 40-11B-813 NMSA 1978 is born and the  
12 genetic surrogate, consistent with Paragraph (2) of Subsection  
13 A of Section 40-11B-814 NMSA 1978, withdraws consent to the  
14 agreement before forty-eight hours after the birth of the  
15 child, the court shall adjudicate the parentage of the child  
16 pursuant to Articles 1 through 6 of the Revised Uniform  
17 Parentage Act.

18           D. If a child conceived by assisted reproduction  
19 pursuant to a genetic surrogacy agreement that is not validated  
20 pursuant to Section 40-11B-813 NMSA 1978 is born and a genetic  
21 surrogate does not withdraw consent to the agreement,  
22 consistent with Paragraph (2) of Subsection A of Section  
23 40-11B-814 NMSA 1978, before forty-eight hours after the birth  
24 of the child, the genetic surrogate is not automatically a  
25 parent and the court shall adjudicate parentage of the child

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1 based on the best interest of the child, taking into account  
2 the factors in Subsection A of Section 40-11B-813 NMSA 1978 and  
3 the intent of the parties at the time of the execution of the  
4 agreement.

5 E. Each party to a genetic surrogacy agreement has  
6 standing to maintain a proceeding to adjudicate parentage  
7 pursuant to this section."

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

10 "40-11B-817. [NEW MATERIAL] GENETIC SURROGACY AGREEMENT--  
11 PARENTAGE OF DECEASED INTENDED PARENT.--

12 A. Except as otherwise provided in Section  
13 40-11B-815 or 40-11B-816 NMSA 1978, on the birth of a child  
14 conceived by assisted reproduction pursuant to a genetic  
15 surrogacy agreement, each intended parent is, by operation of  
16 law, a parent of the child, notwithstanding the death of an  
17 intended parent during the period between the transfer of a  
18 gamete or embryo and the birth of the child.

19 B. Except as otherwise provided in Sections  
20 40-11B-815 and 40-11B-816 NMSA 1978, an intended parent is not  
21 a parent of a child conceived by assisted reproduction pursuant  
22 to a genetic surrogacy agreement if the intended parent dies  
23 before the transfer of a gamete or embryo unless:

- 24 (1) the agreement provides otherwise; and  
25 (2) the transfer of the gamete or embryo

1 occurs not later than thirty-six months after the death of the  
 2 intended parent, or the birth of the child occurs not later  
 3 than forty-five months after the death of the intended parent."

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

6 "40-11B-818. [NEW MATERIAL] BREACH OF GENETIC SURROGACY  
 7 AGREEMENT.--

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

13 B. Specific performance is not a remedy available  
 14 for breach by a genetic surrogate of a requirement of a  
 15 validated or non-validated genetic surrogacy agreement that the  
 16 surrogate be impregnated, terminate or not terminate a  
 17 pregnancy or submit to medical procedures.

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

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

24 (2) breach by an intended parent that prevents  
 25 the intended parent's acceptance of the full duties of

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1 parentage forty-eight hours after the birth of the child or  
2 that results in the intended parent's failure to accept those  
3 duties forty-eight hours after the birth of the child."

4 ARTICLE 9

5 INFORMATION ABOUT DONOR

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

8 "40-11B-901. [NEW MATERIAL] DEFINITIONS.--As used in this  
9 article of the Revised Uniform Parentage Act:

10 A. "identifying information" means:

- 11 (1) the full name of a donor;  
12 (2) the date of birth of the donor; and  
13 (3) the permanent and, if different, current  
14 address, telephone number and electronic mail address of the  
15 donor at the time of the donation; and

16 B. "medical history" means information regarding  
17 any:

- 18 (1) present illness of a donor;  
19 (2) past illness of the donor; and  
20 (3) social, genetic and family history  
21 pertaining to the health of the donor."

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

24 "40-11B-902. [NEW MATERIAL] APPLICABILITY.--This article  
25 of the Revised Uniform Parentage Act applies only to gametes

1 collected on or after January 1, 2026."

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

4 "40-11B-903. [NEW MATERIAL] COLLECTION OF INFORMATION.--

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

8 B. A gamete bank or fertility clinic licensed in  
9 New Mexico that receives gametes of a donor collected by  
10 another gamete bank or fertility clinic shall collect the name,  
11 address, telephone number and electronic mail address of the  
12 gamete bank or fertility clinic from which it received the  
13 gametes.

14 C. A gamete bank or fertility clinic licensed in  
15 New Mexico shall disclose the information collected pursuant to  
16 Subsections A and B of this section as provided in Section  
17 40-11B-905 NMSA 1978."

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

20 (RESERVED)

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

23 "40-11B-905. [NEW MATERIAL] DISCLOSURE OF IDENTIFYING  
24 INFORMATION AND MEDICAL HISTORY.--

25 A. On request of a child conceived by assisted

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1 reproduction who attains eighteen years of age, a gamete bank  
2 or fertility clinic licensed in New Mexico that collected the  
3 gametes used in the assisted reproduction shall provide to the  
4 child identifying information of the donor who provided the  
5 gametes.

6 B. Regardless of whether a child has made a request  
7 pursuant to Subsection A of this section, on request of a child  
8 conceived by assisted reproduction who attains eighteen years  
9 of age, or, if the child is a minor, of a parent or guardian of  
10 the child, a gamete bank or fertility clinic licensed in New  
11 Mexico that collected the gametes used in the assisted  
12 reproduction shall provide the child or, if the child is a  
13 minor, the parent or guardian of the child, access to  
14 nonidentifying medical history of the donor.

15 C. On request of a child conceived by assisted  
16 reproduction who attains eighteen years of age, or, if the  
17 child is a minor, of a parent or guardian of the child, a  
18 gamete bank or fertility clinic licensed in New Mexico that  
19 received the gametes used in the assisted reproduction from  
20 another gamete bank or fertility clinic shall disclose to the  
21 child or, if the child is a minor, the parent or guardian of  
22 the child, the name, address, telephone number and electronic  
23 mail address of the gamete bank or fertility clinic from which  
24 it received the gametes."

25 SECTION 93. A new Section 40-11B-906 NMSA 1978 is

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1 enacted to read:

2 "40-11B-906. [NEW MATERIAL] RECORDKEEPING.--

3 A. A gamete bank or fertility clinic licensed in  
4 New Mexico that collects gametes for use in assisted  
5 reproduction shall maintain identifying information and medical  
6 history about each gamete donor. The gamete bank or fertility  
7 clinic shall maintain records of gamete screening and testing  
8 and comply with reporting requirements, in accordance with  
9 federal law and applicable law of New Mexico other than the  
10 Revised Uniform Parentage Act.

11 B. A gamete bank or fertility clinic licensed in  
12 New Mexico that receives gametes from another gamete bank or  
13 fertility clinic shall maintain the name, address, telephone  
14 number and electronic mail address of the gamete bank or  
15 fertility clinic from which it received the gametes."

16 ARTICLE 10

17 MISCELLANEOUS PROVISIONS

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

20 "40-11B-1001. [NEW MATERIAL] UNIFORMITY OF APPLICATION  
21 AND CONSTRUCTION.--In applying and construing the Revised  
22 Uniform Parentage Act, consideration shall be given to the need  
23 to promote uniformity of the law with respect to its subject  
24 matter among states that enact it."

25 SECTION 95. A new Section 40-11B-1002 NMSA 1978 is

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1 enacted to read:

2 "40-11B-1002. [NEW MATERIAL] RELATION TO FEDERAL  
3 ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT.--The  
4 Revised Uniform Parentage Act modifies, limits or supersedes  
5 the federal Electronic Signatures in Global and National  
6 Commerce Act, 15 U.S.C. Section 7001 et seq., but does not  
7 modify limit, or supersede Section 101(c) of that act, 15  
8 U.S.C. Section 7001(c), or authorize electronic delivery of any  
9 of the notices described in Section 103(b) of that act, 15  
10 U.S.C. Section 7003(b)."

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

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

14 A. A certificate of birth for each live birth that  
15 occurs in this state shall be filed with the bureau or as  
16 otherwise directed by the state registrar within ten days after  
17 the birth and shall be registered if it has been completed and  
18 filed in accordance with this section. When a birth, however,  
19 occurs on a moving conveyance, a birth certificate shall be  
20 registered in this state and the place where the child is first  
21 removed shall be considered the place of birth.

22 B. When a birth occurs in an institution, the  
23 person in charge of the institution or the person's designated  
24 representative shall obtain the personal data, prepare the  
25 certificate of birth, secure the signatures required and file

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1 it as directed in this section. The physician or other person  
2 in attendance shall certify the medical information required by  
3 the certificate of birth within ten working days after the  
4 birth in accordance with policies established by the  
5 institution where the birth occurred. The person in charge of  
6 the institution or the person's designee shall complete and  
7 sign the certificate of birth.

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

11 (1) the physician in attendance at or  
12 immediately after the birth;

13 (2) any other person in attendance at or  
14 immediately after the birth; or

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

18 D. If the mother was married at the time of either  
19 conception or birth, the name of the husband shall be entered  
20 on the certificate of birth as the father of the child, unless  
21 paternity has been determined pursuant to Subsection F or G of  
22 this section or by a court, in which case the name of the  
23 father as determined pursuant to Subsection F or G of this  
24 section or by the court shall be entered.

25 E. If the mother was not married at the time of

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1 either conception or birth, but the mother and father have  
2 signed under penalty of perjury an acknowledgment of paternity  
3 on a form provided by the bureau pursuant to the [~~New Mexico~~]  
4 Revised Uniform Parentage Act, the father's name, date of birth  
5 and social security number shall be entered on the  
6 acknowledgment of paternity. The name of the father shall not  
7 be entered on the certificate of birth without such a written  
8 acknowledgment of paternity signed under penalty of perjury by  
9 the mother and the person to be named as the father, unless a  
10 determination of paternity has been made by a court, in which  
11 case the name of the father as determined by the court shall be  
12 entered.

13 F. At or before the birth of a child to an  
14 unmarried woman, the person in charge of the institution, a  
15 designated representative, the attending physician or midwife  
16 shall:

17 (1) provide an opportunity for the child's  
18 mother and father to sign under penalty of perjury an  
19 acknowledgment of paternity on a form provided by the bureau  
20 pursuant to the [~~New Mexico~~] Revised Uniform Parentage Act.  
21 The completed acknowledgment of paternity shall be filed with  
22 the bureau. The acknowledgment shall contain or have attached  
23 to it:

24 (a) a statement by the mother consenting  
25 to the assertion of paternity;

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1 (b) a statement by the father that he is  
2 the father of the child;

3 (c) written information, furnished by  
4 the [~~human services department~~] health care authority,  
5 explaining the implications of signing, including legal  
6 parental rights and responsibilities; and

7 (d) the social security numbers of both  
8 parents; and

9 (2) provide written information, furnished by  
10 the [~~human services department~~] health care authority, to the  
11 mother and father, regarding the benefits of having the child's  
12 paternity established and of the availability of paternity  
13 establishment services and child support enforcement services.

14 G. If a married mother claims that her husband is  
15 not the father of the child, the husband signs under penalty of  
16 perjury a denial of paternity on a form provided by the bureau  
17 pursuant to the [~~New Mexico~~] Revised Uniform Parentage Act and  
18 the non-husband agrees that he is the father, an acknowledgment  
19 of paternity may be signed under penalty of perjury by the  
20 mother and the non-husband. Upon filing the acknowledgment of  
21 paternity and the denial of paternity with the bureau, the name  
22 of the non-husband shall be entered on the certificate of birth  
23 as the father.

24 H. Pursuant to an interagency agreement for proper  
25 reimbursement, the bureau shall make available to the [~~human~~

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1 ~~services department]~~ health care authority the birth  
2 certificate, the mother's and father's social security numbers  
3 and paternity acknowledgments or denials. The [~~human services~~  
4 ~~department]~~ health care authority shall use these records only  
5 in conjunction with its duties as the state IV-D agency  
6 responsible for the child support program under Title IV-D of  
7 the federal Social Security Act.

8 I. Each party shall be provided with copies of any  
9 acknowledgment of paternity and any related denial of  
10 paternity.

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

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

17 "24-14-16. JUDICIAL PROCEDURE TO ESTABLISH FACTS OF  
18 BIRTH.--

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

24 B. The petition shall allege that:

25 (1) the person for whom a delayed certificate

1 of birth is sought was born in this state;

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

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

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

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

10 C. The petition shall be accompanied by a statement  
11 of the registration official made in accordance with Section  
12 24-14-15 NMSA 1978 and all documentary evidence that was  
13 submitted to the registration official in support of the  
14 registration. The petition shall be sworn to by the  
15 petitioner.

16 D. The court shall fix a time and place for hearing  
17 the petition and shall give the registration official who  
18 refused to register the petitioner's delayed certificate of  
19 birth ten days' notice of the hearing. The official or the  
20 official's authorized representative may appear and testify in  
21 the proceeding.

22 E. If the court finds from the evidence presented  
23 that the person for whom a delayed certificate of birth is  
24 sought was born in this state, it shall make findings as to the  
25 place and date of birth, parentage and other findings as the

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1 case may require and shall issue an order to establish a record  
2 of birth. This order shall include the birth data to be  
3 registered, a description of the evidence presented in the  
4 manner prescribed by Section 24-14-15 NMSA 1978 and the date of  
5 the court's action.

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

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

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

17 "32A-5-20. PUTATIVE FATHER REGISTRY--NOTICE--PENALTY.--

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

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1           B. A putative father registry shall be established  
2 by the department of health to record the names and addresses  
3 of:

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

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

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

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

15           C. A person filing a notice of intent to claim  
16 paternity of a child or an acknowledgment of paternity shall  
17 include in the notice the following:

18                   (1) his name;

19                   (2) his current address;

20                   (3) the mother's name and any other  
21 identifying information requested by the department of health;  
22 and

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

25           D. If the person filing the notice of intent to

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

1 claim paternity of a child or acknowledgment changes his  
2 address, the person shall notify the department of health of  
3 his new address in the manner prescribed by the department of  
4 health.

5 E. A person who has filed a notice of intent to  
6 claim paternity may at any time revoke a notice of intent to  
7 claim paternity previously filed. Upon receipt by the registry  
8 of the notice of revocation, the revoked notice of intent to  
9 claim paternity shall be deemed a nullity nunc pro tunc.

10 F. No registration fee shall be charged for  
11 registering the intent to claim paternity of a child or  
12 acknowledgment of paternity. The department of health may  
13 charge a reasonable fee as prescribed by [~~regulation~~] rule for  
14 processing searches of the putative father registry.

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

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

23 I. If a petitioner for adoption of or termination  
24 of parental rights regarding a child has reason to believe that  
25 the conception or birth of the child may have occurred in

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1 another state, the petitioner shall also obtain a certificate  
2 of search from the putative father registry, if any, in that  
3 state.

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

11 K. A certificate provided by the department of  
12 health shall be signed on behalf of the department of health  
13 and state that:

14 (1) a search has been made of the registry;  
15 and

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

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

20 (b) has not been found.

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

25 M. Subject to any rules established by the New

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1 Mexico supreme court, a certificate of search of the registry  
2 of paternity in this or another state is admissible in a  
3 proceeding for adoption of or termination of parental rights  
4 regarding a child and, if relevant, in other legal proceedings.

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

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

14 SECTION 99. Section 40-4-9.1 NMSA 1978 (being Laws 1986,  
15 Chapter 41, Section 1, as amended) is amended to read:

16 "40-4-9.1. JOINT CUSTODY--STANDARDS FOR DETERMINATION--  
17 PARENTING PLAN.--

18 A. There shall be a presumption that joint custody  
19 is in the best interests of a child in an initial custody  
20 determination. An award of joint custody does not imply an  
21 equal division of financial responsibility for the child.  
22 Joint custody shall not be awarded as a substitute for an  
23 existing custody arrangement unless there has been a  
24 substantial and material change in circumstances since the  
25 entry of the prior custody order or decree, which change

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1 affects the welfare of the child such that joint custody is  
2 presently in the best interests of the child. With respect to  
3 any proceeding in which it is proposed that joint custody be  
4 terminated, the court shall not terminate joint custody unless  
5 there has been a substantial and material change in  
6 circumstances affecting the welfare of the child, since entry  
7 of the joint custody order, such that joint custody is no  
8 longer in the best interests of the child.

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

13 (1) whether the child has established a close  
14 relationship with each parent;

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

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

23 (4) whether the child can best maintain and  
24 strengthen a relationship with ~~[both parents]~~ each parent  
25 through predictable, frequent contact and whether the child's

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1 development will profit from such involvement and influence  
2 from [~~both parents~~] each parent;

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

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

10 (7) geographic distance between the parents'  
11 residences;

12 (8) willingness or ability of the parents to  
13 communicate, cooperate or agree on issues regarding the child's  
14 needs; and

15 (9) whether a judicial adjudication has been  
16 made in a prior or the present proceeding that [~~either~~] a  
17 parent or other person seeking custody has engaged in one or  
18 more acts of domestic abuse against the child, a parent of the  
19 child or other household member. If a determination is made  
20 that domestic abuse has occurred, the court shall set forth  
21 findings that the custody or visitation ordered by the court  
22 adequately protects the child, the abused parent or other  
23 household member.

24 C. In any proceeding in which the custody of a  
25 child is at issue, the court shall not prefer one parent as a

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1       custodian solely because of gender.

2               D. In any case in which the parents agree to a form  
3 of custody, the court should award custody consistent with the  
4 agreement unless the court determines that such agreement is  
5 not in the best interests of the child.

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

11              F. When joint custody is awarded, the court shall  
12 approve a parenting plan for the implementation of the  
13 prospective custody arrangement prior to the award of joint  
14 custody. The parenting plan shall include a division of a  
15 child's time and care into periods of responsibility for each  
16 parent. It may also include:

17                   (1) statements regarding the child's religion,  
18 education, child care, recreational activities and medical and  
19 dental care;

20                   (2) designation of specific decision-making  
21 responsibilities;

22                   (3) methods of communicating information about  
23 the child, transporting the child, exchanging care for the  
24 child and maintaining telephone and mail contact between parent  
25 and child;

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1 (4) procedures for future decision-making,  
2 including procedures for dispute resolution; and

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

6 In a case where joint custody is not agreed to or  
7 necessary aspects of the parenting plan are contested, the  
8 parties shall each submit parenting plans. The court may  
9 accept the plan proposed by [~~either~~] a party or it may combine  
10 or revise these plans as it deems necessary in the child's best  
11 interests. The time of filing of parenting plans shall be set  
12 by local rule. A plan adopted by the court shall be entered as  
13 an order of the court.

14 G. Where custody is contested, the court shall  
15 refer that issue to mediation if feasible. The court may also  
16 use auxiliary services such as professional evaluation by  
17 application of Rule [~~706~~] 11-706 of the New Mexico Rules of  
18 Evidence or Rule [~~53~~] 1-053 of the Rules of Civil Procedure for  
19 the District Courts.

20 H. Notwithstanding any other provisions of law,  
21 access to records and information pertaining to a minor child,  
22 including medical, dental and school records, shall not be  
23 denied to a parent because that parent is not the child's  
24 physical custodial parent or because that parent is not a joint  
25 custodial parent.

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1 I. Whenever a request for joint custody is granted  
2 or denied, the court shall state in its decision its basis for  
3 granting or denying the request for joint custody. A statement  
4 that joint custody is or is not in the best interests of the  
5 child is not sufficient to meet the requirements of this  
6 subsection.

7 J. An award of joint custody means that:

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

10 (2) each parent shall have, and be allowed and  
11 expected to carry out, responsibility for the child's  
12 financial, physical, emotional and developmental needs during  
13 that parent's periods of responsibility;

14 (3) the parents shall consult [~~with each~~  
15 ~~other~~] together on major decisions involving the child before  
16 implementing those decisions; that is, [~~neither~~] no parent  
17 shall make a decision or take an action [~~which~~] that results in  
18 a major change in a child's life until the matter has been  
19 discussed [~~with the other parent~~] among the parents and the  
20 parents agree. If the parents, after discussion, cannot agree  
21 and if one parent wishes to effect a major change while [~~the~~  
22 ~~other~~] another does not wish the major change to occur, then no  
23 change shall occur until the issue has been resolved as  
24 provided in this subsection;

25 (4) the following guidelines apply to major

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1 changes in a child's life:

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

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

11 (c) ~~[both parents]~~ each parent shall  
12 have access to school records, teachers and activities. The  
13 type of education, public or private, ~~[which]~~ that was in place  
14 during the marriage should continue, whenever possible, and  
15 school districts should not be changed unless the parties agree  
16 or it has been otherwise resolved as provided in this  
17 subsection;

18 (d) ~~[both parents]~~ each parent shall  
19 have access to medical and dental treatment providers and  
20 records. Each parent has authority to make emergency medical  
21 decisions. ~~[Neither]~~ No parent may contract for major elective  
22 medical or dental treatment unless ~~[both parents agree]~~ each  
23 parent agrees or it has been otherwise resolved as provided in  
24 this subsection; and

25 (e) ~~[both parents]~~ each parent may

1 attend the child's public activities and [~~both parents~~] each  
2 parent should know the necessary schedules. Whatever  
3 recreational activities the child participated in during the  
4 marriage should continue with the child's agreement, regardless  
5 of which of the parents has physical custody. Also, [~~neither~~]  
6 no parent may enroll the child in a new recreational activity  
7 unless the parties agree or it has been otherwise resolved as  
8 provided in this subsection; and

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

11 (a) agreement between the joint  
12 custodial parents;

13 (b) requiring that the parents seek  
14 family counseling, conciliation or mediation service to assist  
15 in resolving their differences;

16 (c) agreement by the parents to submit  
17 the dispute to binding arbitration;

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

20 (e) terminating joint custody and  
21 awarding sole custody to one person;

22 (f) reference to a master pursuant to  
23 Rule 53 of the Rules of Civil Procedure for the District  
24 Courts; or

25 (g) the district court.

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1           K. When [~~any~~] a person other than a [~~natural or~~  
2 ~~adoptive~~] parent as determined pursuant to the provisions of  
3 the Revised Uniform Parentage Act or the Adoption Act seeks  
4 custody of a child, no such person shall be awarded custody  
5 absent a showing of unfitness of the [~~natural or adoptive~~]  
6 parent as determined pursuant to the provisions of the Revised  
7 Uniform Parentage Act or the Adoption Act.

8           L. As used in this section:

9                   (1) "child" means a person under the age of  
10 eighteen;

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

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

17                           (a) physical harm;

18                           (b) severe emotional distress;

19                           (c) a threat causing imminent fear of  
20 physical harm by any household member;

21                           (d) criminal trespass;

22                           (e) criminal damage to property;

23                           (f) stalking or aggravated stalking, as  
24 provided in Sections 30-3A-3 and 30-3A-3.1 NMSA 1978; or

25                           (g) harassment, as provided in Section

1 30-3A-2 NMSA 1978;

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

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

12 (6) "parenting plan" means a document  
13 submitted for approval of the court setting forth the  
14 responsibilities of each parent individually and the parents  
15 jointly in a joint custody arrangement;

16 (7) "period of responsibility" means a  
17 specified period of time during which a parent is responsible  
18 for providing for a child's physical, developmental and  
19 emotional needs, including the decision-making required in  
20 daily living. Specified periods of responsibility shall not be  
21 changed in an instance or more permanently except by the  
22 methods of decision-making described under Subsection [~~L~~] J of  
23 this section;

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

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1 (9) "visitation" means a period of time  
2 available to a noncustodial parent, under a sole custody  
3 arrangement, during which a child resides with or is under the  
4 care and control of the noncustodial parent."

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

7 "40-4-20. FAILURE TO DIVIDE OR DISTRIBUTE PROPERTY ON  
8 THE ENTRY OF A DECREE OF DISSOLUTION OF MARRIAGE OR  
9 SEPARATION--DISTRIBUTION OF SPOUSAL OR CHILD SUPPORT AND  
10 DETERMINATION OF PATERNITY WHEN DEATH OCCURS DURING PROCEEDINGS  
11 FOR DISSOLUTION OF MARRIAGE, SEPARATION, [~~ANNULMENT OF MARRIAGE~~  
12 ~~OR~~] PATERNITY OR TO VOID A MARRIAGE.--

13 A. The failure to divide or distribute property on  
14 the entry of a decree of dissolution of marriage or of  
15 separation shall not affect the property rights of either the  
16 husband or wife, and either may subsequently institute and  
17 prosecute a suit for division and distribution or with  
18 reference to any other matter pertaining thereto that could  
19 have been litigated in the original proceeding for dissolution  
20 of marriage or separation.

21 B. Upon the filing and service of a petition for  
22 dissolution of marriage, separation, [~~annulment~~] division of  
23 property or debts, spousal support, child support, [~~or~~]  
24 determination of paternity or a declaration that the marriage  
25 is void pursuant to the provisions of Chapter 40, Article 4 or

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1     [~~++~~] 11B NMSA 1978, if a party to the action dies during the  
 2     pendency of the action, but prior to the entry of a decree  
 3     granting dissolution of marriage, separation, [~~annulment or~~]  
 4     determination of paternity or a declaration that the marriage  
 5     is void, the proceedings for the determination, division and  
 6     distribution of marital property rights and debts, distribution  
 7     of spousal or child support or determination of paternity shall  
 8     not abate. The court shall conclude the proceedings as if both  
 9     parties had survived. The court may allow the spouse or any  
 10    children of the marriage support as if the decedent had  
 11    survived, pursuant to the provisions of Chapter 40, Article 4  
 12    or [~~++~~] 11B NMSA 1978. In determining the support, the court  
 13    shall, in addition to the factors listed in Chapter 40, Article  
 14    4 NMSA 1978, consider the amount and nature of the property  
 15    passing from the [~~decedent~~] decedent to the person for whom  
 16    the support would be paid, whether by will or otherwise."

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

19           "40-9-2. CHILDREN--VISITATION BY GRANDPARENT--PETITION--  
 20    MEDIATION.--

21           A. In rendering a judgment of dissolution of  
 22    marriage, legal separation or the existence of the parent and  
 23    child relationship pursuant to the provisions of the  
 24    Revised Uniform Parentage Act, or at any time after the entry  
 25    of the judgment, the district court may grant reasonable

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1 visitation privileges to a grandparent of a minor child, not in  
2 conflict with the child's education or prior established  
3 visitation or time-sharing privileges.

4 B. If one or both parents of a minor child are  
5 deceased, any grandparent of the minor child may petition the  
6 district court for visitation privileges with respect to the  
7 minor. The district court may order temporary visitation  
8 privileges until a final order regarding visitation privileges  
9 is issued by the court.

10 C. If a minor child resided with a grandparent for  
11 a period of at least three months and the child was less than  
12 six years of age at the beginning of the three-month period and  
13 the child was subsequently removed from the grandparent's home  
14 by the child's parent or any other person, the grandparent may  
15 petition the district court for visitation privileges with  
16 respect to the child, if the child's home state is New Mexico,  
17 as provided in the [~~Child Custody Jurisdiction~~] Uniform Child-  
18 Custody Jurisdiction and Enforcement Act.

19 D. If a minor child resided with a grandparent for  
20 a period of at least six months and the child was six years of  
21 age or older at the beginning of the six-month period and the  
22 child was subsequently removed from the grandparent's home by  
23 the child's parent or any other person, the grandparent may  
24 petition the district court for visitation privileges with  
25 respect to the child, if the child's home state is New Mexico,

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1 as provided in the [~~Child Custody Jurisdiction~~] Uniform Child-  
2 Custody Jurisdiction and Enforcement Act.

3 E. A biological grandparent may petition the  
4 district court for visitation privileges with respect to a  
5 grandchild when the grandchild has been adopted or adoption is  
6 sought, pursuant to the provisions of the Adoption Act, by:

7 (1) a stepparent;

8 (2) a relative of the grandchild;

9 (3) a person designated to care for the  
10 grandchild in the provisions of a deceased parent's will; or

11 (4) a person who sponsored the grandchild at a  
12 baptism or confirmation conducted by a recognized religious  
13 organization.

14 F. When a minor child is adopted by a stepparent  
15 and the parental rights of the natural parent terminate or are  
16 relinquished, the biological grandparents are not precluded  
17 from attempting to establish visitation privileges. When a  
18 petition filed pursuant to the provisions of the Grandparent's  
19 Visitation Privileges Act is filed during the pendency of an  
20 adoption proceeding, the petition shall be filed as part of the  
21 adoption proceedings. The provisions of the Grandparent's  
22 Visitation Privileges Act shall have no application in the  
23 event of a relinquishment or termination of parental rights in  
24 cases of other statutory adoption proceedings.

25 G. When considering a grandparent's petition for

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1 visitation privileges with a child, the district court shall  
2 assess:

3 (1) any factors relevant to the best interests  
4 of the child;

5 (2) the prior interaction between the  
6 grandparent and the child;

7 (3) the prior interaction between the  
8 grandparent and each parent of the child;

9 (4) the present relationship between the  
10 grandparent and each parent of the child;

11 (5) time-sharing or visitation arrangements  
12 that were in place prior to filing of the petition;

13 (6) the effect the visitation with the  
14 grandparent will have on the child;

15 (7) if the grandparent has any prior  
16 convictions for physical, emotional or sexual abuse or neglect;  
17 and

18 (8) if the grandparent has previously been a  
19 full-time caretaker for the child for a significant period.

20 H. The district court may order mediation and  
21 evaluation in any matter when a grandparent's visitation  
22 privileges with respect to a minor child are at issue. When a  
23 judicial district has established a domestic relations  
24 mediation program pursuant to the provisions of the Domestic  
25 Relations Mediation Act, the mediation shall conform with the

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1 provisions of that act. Upon motion and hearing, the district  
 2 court shall act promptly on the recommendations set forth in a  
 3 mediation report and consider assessment of mediation and  
 4 evaluation to the parties. The district court may order  
 5 temporary visitation privileges until a final order regarding  
 6 visitation privileges is issued by the court.

7 I. When the district court decides that visitation  
 8 is not in the best interest of the child, the court may issue  
 9 an order requiring other reasonable contact between the  
 10 grandparent and the child, including regular communication by  
 11 telephone, mail or any other reasonable means.

12 J. The provisions of the [~~Child-Custody~~  
 13 ~~Jurisdiction~~] Uniform Child-Custody Jurisdiction and  
 14 Enforcement Act and Section 30-4-4 NMSA 1978, regarding  
 15 custodial interference, are applicable to the provisions of the  
 16 Grandparent's Visitation Privileges Act."

17 **SECTION 102.** Section 40-10B-3 NMSA 1978 (being Laws  
 18 2001, Chapter 167, Section 3, as amended) is amended to read:

19 "40-10B-3. DEFINITIONS.--As used in the Kinship  
 20 Guardianship Act:

21 A. "caregiver" means an adult, who is not a parent  
 22 of a child, with whom a child resides and who provides that  
 23 child with the care, maintenance and supervision consistent  
 24 with the duties and responsibilities of a parent of the child;

25 B. "child" means an individual who is a minor;

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1           C. "department" means the children, youth and  
2 families department;

3           D. "guardian" means a person appointed as a  
4 guardian by a court or Indian tribal authority;

5           E. "Indian" means, whether an adult or child, a  
6 person who is:

7                   (1) a member of an Indian tribe; or

8                   (2) eligible for membership in an Indian  
9 tribe;

10          F. "Indian child" means an Indian person, or a  
11 person whom there is reason to know is an Indian person, under  
12 eighteen years of age, who is neither:

13                   (1) married; or

14                   (2) emancipated;

15          G. "Indian child's tribe" means:

16                   (1) the Indian tribe in which an Indian child  
17 is a member or eligible for membership; or

18                   (2) in the case of an Indian child who is a  
19 member or eligible for membership in more than one tribe, the  
20 Indian tribe with which the Indian child has more significant  
21 contacts;

22          H. "Indian custodian" means an Indian who, pursuant  
23 to tribal law or custom or pursuant to state law:

24                   (1) is an adult with legal custody of an  
25 Indian child; or

1 (2) has been transferred temporary physical  
2 care, custody and control by the parent of the Indian child;

3 I. "Indian tribe" means an Indian nation, tribe,  
4 pueblo or other band, organized group or community of Indians  
5 recognized as eligible for the services provided to Indians by  
6 the secretary of the interior because of their status as  
7 Indians, including an Alaska native village as defined in 43  
8 U.S.C. Section 1602(c) or a regional corporation as defined in  
9 43 U.S.C. Section 1606. For the purposes of notification to  
10 and communication with a tribe as required in the Indian Family  
11 Protection Act, "Indian tribe" also includes those tribal  
12 officials and staff who are responsible for child welfare and  
13 social services matters;

14 J. "kinship" means the relationship that exists  
15 between a child and a relative of the child, a godparent, a  
16 member of the child's tribe or clan or an adult with whom the  
17 child has a significant bond;

18 K. "parent" means a biological or adoptive parent  
19 of a child whose parental rights have not been terminated and  
20 includes an individual identified as a parent under the [~~New~~  
21 ~~Mexico~~] Revised Uniform Parentage Act; and

22 L. "relative" means an individual related to a  
23 child as a spouse, parent, stepparent, brother, sister,  
24 stepbrother, stepsister, half-brother, half-sister, uncle,  
25 aunt, niece, nephew, first cousin or any person denoted by the

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1 prefix "grand" or "great", or the spouse or former spouse of  
2 the persons specified."

3 SECTION 103. Section 45-1-301 NMSA 1978 (being Laws  
4 1975, Chapter 257, Section 1-301, as amended) is amended to  
5 read:

6 "45-1-301. APPLICATION.--

7 A. Except as otherwise provided in the Uniform  
8 Probate Code, the code applies to:

9 (1) the affairs and estates of decedents,  
10 missing persons and protected persons domiciled in New Mexico;

11 (2) the property of nonresidents located in  
12 New Mexico or property coming into the control of a fiduciary  
13 who is subject to the laws of New Mexico;

14 (3) incapacitated persons, minors and  
15 protected persons in New Mexico;

16 (4) survivorship and related accounts and  
17 similar property interests in New Mexico;

18 (5) the disclaimer of property interests by  
19 persons in New Mexico;

20 (6) certain kinds of governing instruments  
21 that are governed by the laws of New Mexico; and

22 (7) the apportionment of taxes on estates  
23 subject to tax by New Mexico.

24 B. The Uniform Probate Code does not create,  
25 enlarge, modify or diminish parental rights or duties pursuant

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

8 **SECTION 104. REPEAL.**--Sections 40-11A-101 through  
 9 40-11A-903 NMSA 1978 (being Laws 2009, Chapter 215, Sections  
 10 1-101 through 1-106, 2-201 through 2-204, 3-301 through 3-314,  
 11 4-401, 5-501 through 5-511, 6-601 through 6-643, 7-701 through  
 12 7-707, 8-801 and 9-901 through 9-903, as amended) are repealed.

13 **SECTION 105. APPLICABILITY.**--The provisions of the  
 14 Revised Uniform Parentage Act apply to actions commenced on or  
 15 after January 1, 2026.

16 **SECTION 106. EFFECTIVE DATE.**--The effective date of the  
 17 provisions of this act is January 1, 2026.