

E2SHB 1267 - S AMD 338
By Senator Nelson

ADOPTED AS AMENDED 04/12/2011

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 26.26.011 and 2002 c 302 s 102 are each amended to
4 read as follows:

5 The definitions in this section apply throughout this chapter
6 unless the context clearly requires otherwise.

7 (1) "Acknowledged father" means a man who has established a father-
8 child relationship under RCW 26.26.300 through 26.26.375.

9 (2) "Adjudicated (~~(father)~~) parent" means a (~~(man)~~) person who has
10 been adjudicated by a court of competent jurisdiction to be the
11 (~~(father)~~) parent of a child.

12 (3) "Alleged (~~(father)~~) parent" means a (~~(man)~~) person who alleges
13 himself or herself to be, or is alleged to be, the genetic (~~(father)~~)
14 parent or a possible genetic (~~(father)~~) parent of a child, but whose
15 (~~(paternity)~~) parentage has not been determined. The term does not
16 include:

17 (a) A presumed (~~(father)~~) parent;

18 (b) A (~~(man)~~) person whose parental rights have been terminated or
19 declared not to exist; or

20 (c) A (~~(male)~~) donor.

21 (4) "Assisted reproduction" means a method of causing pregnancy
22 other than sexual intercourse. The term includes:

23 (a) (~~(Intrauterine)~~) Artificial insemination;

24 (b) Donation of eggs;

25 (c) Donation of embryos;

26 (d) In vitro fertilization and transfer of embryos; and

27 (e) Intracytoplasmic sperm injection.

28 (5) "Child" means an individual of any age whose parentage may be
29 determined under this chapter.

1 (6) "Commence" means to file the petition seeking an adjudication
2 of parentage in a superior court of this state or to serve a summons
3 and the petition.

4 (7) "Determination of parentage" means the establishment of the
5 parent-child relationship by the signing of a valid acknowledgment of
6 paternity under RCW 26.26.300 through 26.26.375 or adjudication by the
7 court.

8 (8) "Domestic partner" means a state registered domestic partner as
9 defined in chapter 26.60 RCW.

10 (9) "Donor" means an individual who (~~(produces eggs or sperm used)~~)
11 contributes a gamete or gametes for assisted reproduction, whether or
12 not for consideration. The term does not include:

13 (a) A (~~(husband)~~) person who provides (~~(sperm, or a wife who~~
14 ~~provides eggs,)~~) a gamete or gametes to be used for assisted
15 reproduction (~~(by the wife)~~) with his or her spouse or domestic
16 partner; or

17 (b) A woman who gives birth to a child by means of assisted
18 reproduction, except as otherwise provided in RCW 26.26.210 through
19 26.26.260 or 26.26.735.

20 (~~(+9)~~) (10) "Ethnic or racial group" means, for purposes of
21 genetic testing, a recognized group that an individual identifies as
22 all or part of (~~(his or her)~~) the individual's ancestry or that is so
23 identified by other information.

24 (~~(+10)~~) (11) "Gamete" means either a sperm or an egg.

25 (12) "Genetic testing" means an analysis of genetic markers
26 (~~(only)~~) to exclude or identify a man as the father or a woman as the
27 mother of a child. The term includes an analysis of one or a
28 combination of the following:

29 (a) Deoxyribonucleic acid; and

30 (b) Blood-group antigens, red-cell antigens, human-leukocyte
31 antigens, serum enzymes, serum proteins, or red-cell enzymes.

32 (~~(+11)~~) (13) "Man" means a male individual of any age.

33 (~~(+12)~~) (14) "Parent" means an individual who has established a
34 parent-child relationship under RCW 26.26.101.

35 (~~(+13)~~) (15) "Parent-child relationship" means the legal
36 relationship between a child and a parent of the child. The term
37 includes the mother-child relationship and the father-child
38 relationship.

1 (~~(14)~~) "~~Paternity~~)" (16) "Parentage index" means the likelihood of
2 (~~(paternity)~~) parentage calculated by computing the ratio between:

3 (a) The likelihood that the tested (~~(man)~~) person is the (~~(father)~~)
4 parent, based on the genetic markers of the tested (~~(man)~~) person,
5 (~~(mother)~~) genetic parent, and child, conditioned on the hypothesis
6 that the tested (~~(man)~~) person is the (~~(father)~~) parent of the child;
7 and

8 (b) The likelihood that the tested (~~(man)~~) person is not the
9 (~~(father)~~) parent, based on the genetic markers of the tested (~~(man)~~)
10 person, (~~(mother)~~) genetic parent, and child, conditioned on the
11 hypothesis that the tested (~~(man)~~) person is not the (~~(father)~~) parent
12 of the child and that the (~~(father)~~) parent is (~~(from)~~) of the same
13 ethnic or racial group as the tested (~~(man)~~) person.

14 (~~(15)~~) (17) "Physician" means a person licensed to practice
15 medicine in a state.

16 (18) "Presumed (~~(father)~~) parent" means a (~~(man)~~) person who, by
17 operation of law under RCW 26.26.116, is recognized (~~(to be)~~) as the
18 (~~(father)~~) parent of a child until that status is rebutted or confirmed
19 in a judicial proceeding.

20 (~~(16)~~) (19) "Probability of (~~(paternity)~~) parentage" means the
21 measure, for the ethnic or racial group to which the alleged (~~(father)~~)
22 parent belongs, of the probability that the individual in question is
23 the (~~(father)~~) parent of the child, compared with a random, unrelated
24 (~~(man)~~) person of the same ethnic or racial group, expressed as a
25 percentage incorporating the (~~(paternity)~~) parentage index and a prior
26 probability.

27 (~~(17)~~) (20) "Record" means information that is inscribed on a
28 tangible medium or that is stored in an electronic or other medium and
29 is retrievable in perceivable form.

30 (~~(18)~~) (21) "Signatory" means an individual who authenticates a
31 record and is bound by its terms.

32 (~~(19)~~) (22) "State" means a state of the United States, the
33 District of Columbia, Puerto Rico, the United States Virgin Islands,
34 any territory or insular possession subject to the jurisdiction of the
35 United States, or an Indian tribe or band, or Alaskan native village,
36 that is recognized by federal law or formally acknowledged by state
37 law.

1 ((+20+)) (23) "Support enforcement agency" means a public official
2 or agency authorized to seek:

- 3 (a) Enforcement of support orders or laws relating to the duty of
4 support;
5 (b) Establishment or modification of child support;
6 (c) Determination of parentage; or
7 (d) Location of child support obligors and their income and assets.

8 **Sec. 2.** RCW 26.26.021 and 2002 c 302 s 103 are each amended to
9 read as follows:

10 (1) This chapter ~~((governs every))~~ applies to determinations of
11 parentage in this state.

12 (2) The court shall apply the law of this state to adjudicate the
13 parent-child relationship. The applicable law does not depend on:

- 14 (a) The place of birth of the child; or
15 (b) The past or present residence of the child.

16 (3) This chapter does not create, enlarge, or diminish parental
17 rights or duties under other law of this state.

18 (4) If a birth results under a surrogate parentage contract that is
19 unenforceable under the law of this state, the parent-child
20 relationship is determined as provided in RCW 26.26.101 through
21 26.26.116.

22 **Sec. 3.** RCW 26.26.041 and 2002 c 302 s 105 are each amended to
23 read as follows:

24 Proceedings under this chapter are subject to other laws of this
25 state governing the health, safety, privacy, and liberty of a child or
26 other individuals ~~((that))~~ who could be jeopardized by disclosure of
27 identifying information, including the address, telephone number, place
28 of employment, social security number, and the child's day-care
29 facility and school.

30 **Sec. 4.** RCW 26.26.051 and 2002 c 302 s 106 are each amended to
31 read as follows:

32 (1) The provisions relating to determination of ~~((paternity may be~~
33 ~~applied))~~ parentage apply to ~~((a))~~ determinations of maternity and
34 paternity.

1 RCW 26.26.700 through 26.26.730 that resulted in the birth of the
2 child; or

3 ~~((f))~~ (8) A valid surrogate parentage contract, under which the
4 father is an intended parent of the child, as provided in RCW 26.26.210
5 through 26.26.260.

6 **Sec. 6.** RCW 26.26.106 and 2002 c 302 s 202 are each amended to
7 read as follows:

8 A child born to parents who are not married to each other or in a
9 domestic partnership with each other has the same rights under the law
10 as a child born to parents who are married to each other or who are in
11 a domestic partnership with each other.

12 **Sec. 7.** RCW 26.26.111 and 2002 c 302 s 203 are each amended to
13 read as follows:

14 Unless parental rights are terminated, the parent-child
15 relationship established under this chapter applies for all purposes,
16 except as otherwise specifically provided by other law of this state.

17 **Sec. 8.** RCW 26.26.116 and 2002 c 302 s 204 are each amended to
18 read as follows:

19 (1) In the context of a marriage or a domestic partnership, a
20 ~~((man))~~ person is presumed to be the ~~((father))~~ parent of a child if:

21 (a) ~~((He))~~ The person and the mother or father of the child are
22 married to each other or in a domestic partnership with each other and
23 the child is born during the marriage or domestic partnership;

24 (b) ~~((He))~~ The person and the mother or father of the child were
25 married to each other or in a domestic partnership with each other and
26 the child is born within three hundred days after the marriage or
27 domestic partnership is terminated by death, annulment, dissolution
28 ~~((of marriage))~~, legal separation, or declaration of invalidity;

29 (c) Before the birth of the child, ~~((he))~~ the person and the mother
30 or father of the child married each other or entered into a domestic
31 partnership with each other in apparent compliance with law, even if
32 the attempted marriage or domestic partnership is, or could be,
33 declared invalid and the child is born during the invalid marriage or
34 invalid domestic partnership or within three hundred days after its

1 termination by death, annulment, dissolution (~~(of marriage)~~), legal
2 separation, or declaration of invalidity; or

3 (d) After the birth of the child, (~~(he)~~) the person and the mother
4 or father of the child have married each other or entered into a
5 domestic partnership with each other in apparent compliance with law,
6 whether or not the marriage or domestic partnership is, or could be
7 declared invalid, and (~~(he)~~) the person voluntarily asserted (~~(his~~
8 ~~paternity)~~) parentage of the child, and:

9 (i) The assertion is in a record filed with the state registrar of
10 vital statistics;

11 (ii) The person agreed to be and is named as the child's (~~(father)~~)
12 parent on the child's birth certificate; or

13 (iii) The person promised in a record to support the child as his
14 or her own.

15 (2) A person is presumed to be the parent of a child if, for the
16 first two years of the child's life, the person resided in the same
17 household with the child and openly held out the child as his or her
18 own.

19 (3) A presumption of (~~(paternity)~~) parentage established under this
20 section may be rebutted only by an adjudication under RCW 26.26.500
21 through 26.26.630.

22 **Sec. 9.** RCW 26.26.130 and 2001 c 42 s 5 are each amended to read
23 as follows:

24 (1) The judgment and order of the court determining the existence
25 or nonexistence of the parent and child relationship shall be
26 determinative for all purposes.

27 (2) If the judgment and order of the court is at variance with the
28 child's birth certificate, the court shall order that an amended birth
29 certificate be issued.

30 (3) The judgment and order shall contain other appropriate
31 provisions directed to the appropriate parties to the proceeding,
32 concerning the duty of current and future support, the extent of any
33 liability for past support furnished to the child if that issue is
34 before the court, the furnishing of bond or other security for the
35 payment of the judgment, or any other matter in the best interest of
36 the child. The judgment and order may direct (~~(the father)~~) one parent
37 to pay the reasonable expenses of the mother's pregnancy and

1 ((~~confinement~~)) childbirth. The judgment and order may include a
2 continuing restraining order or injunction. In issuing the order, the
3 court shall consider the provisions of RCW 9.41.800.

4 (4) The judgment and order shall contain a provision that each
5 party must file with the court and the Washington state child support
6 registry and update as necessary the information required in the
7 confidential information form required by RCW 26.23.050.

8 (5) Support judgment and orders shall be for periodic payments
9 which may vary in amount. The court may limit the ((~~father's~~))
10 parent's liability for the past support to the child to the proportion
11 of the expenses already incurred as the court deems just. The court
12 shall not limit or affect in any manner the right of nonparties
13 including the state of Washington to seek reimbursement for support and
14 other services previously furnished to the child.

15 (6) After considering all relevant factors, the court shall order
16 either or both parents to pay an amount determined pursuant to the
17 schedule and standards contained in chapter 26.19 RCW.

18 (7) On the same basis as provided in chapter 26.09 RCW, the court
19 shall make residential provisions with regard to minor children of the
20 parties, except that a parenting plan shall not be required unless
21 requested by a party. If a parenting plan or residential schedule was
22 not entered at the time the order establishing parentage was entered,
23 a parent may move the court for entry of a parenting plan or
24 residential schedule:

25 (a) By filing a motion and proposed parenting plan or residential
26 schedule and providing notice to the other parent and other persons who
27 have residential time with the child pursuant to a court order:
28 PROVIDED, That at the time of filing the motion less than twenty-four
29 months have passed since entry of the order establishing parentage and
30 that the proposed parenting plan or residential schedule does not
31 change the designation of the parent with whom the child spends the
32 majority of time; or

33 (b) By filing a petition for modification under RCW 26.09.260 or
34 petition to establish a parenting plan, residential schedule, or
35 residential provisions.

36 (8) In any dispute between the ((~~natural parents~~)) persons claiming
37 parentage of a child and a person or persons who have (a) commenced
38 adoption proceedings or who have been granted an order of adoption, and

1 (b) pursuant to a court order, or placement by the department of social
2 and health services or by a licensed agency, have had actual custody of
3 the child for a period of one year or more before court action is
4 commenced by the ((~~natural parent or parents~~)) persons claiming
5 parentage, the court shall consider the best welfare and interests of
6 the child, including the child's need for situation stability, in
7 determining the matter of custody, and the parent or person who is more
8 fit shall have the superior right to custody.

9 (9) In entering an order under this chapter, the court may issue
10 any necessary continuing restraining orders, including the restraint
11 provisions of domestic violence protection orders under chapter 26.50
12 RCW or antiharassment protection orders under chapter 10.14 RCW.

13 (10) Restraining orders issued under this section restraining or
14 enjoining the person from molesting or disturbing another party, from
15 going onto the grounds of or entering the home, workplace, or school of
16 the other party or the day care or school of any child, or prohibiting
17 the person from knowingly coming within, or knowingly remaining within,
18 a specified distance of a location, shall prominently bear on the front
19 page of the order the legend: VIOLATION OF THIS ORDER WITH ACTUAL
20 NOTICE OF ITS TERMS IS A CRIMINAL OFFENSE UNDER CHAPTER 26.50 RCW AND
21 WILL SUBJECT A VIOLATOR TO ARREST.

22 (11) The court shall order that any restraining order bearing a
23 criminal offense legend, any domestic violence protection order, or any
24 antiharassment protection order granted under this section be forwarded
25 by the clerk of the court on or before the next judicial day to the
26 appropriate law enforcement agency specified in the order. Upon
27 receipt of the order, the law enforcement agency shall forthwith enter
28 the order into any computer-based criminal intelligence information
29 system available in this state used by law enforcement agencies to list
30 outstanding warrants. The order is fully enforceable in any county in
31 the state.

32 (12) If a restraining order issued pursuant to this section is
33 modified or terminated, the clerk of the court shall notify the law
34 enforcement agency specified in the order on or before the next
35 judicial day. Upon receipt of notice that an order has been
36 terminated, the law enforcement agency shall remove the order from any
37 computer-based criminal intelligence system.

1 **Sec. 10.** RCW 26.26.150 and 1994 c 230 s 16 are each amended to
2 read as follows:

3 (1) If existence of the ((~~father~~)) parent and child relationship is
4 declared, or paternity or a duty of support has been acknowledged or
5 adjudicated under this chapter or under prior law, the obligation of
6 the ((~~father~~)) parent may be enforced in the same or other proceedings
7 by the ((~~mother~~)) other parent, the child, the state of Washington, the
8 public authority that has furnished or may furnish the reasonable
9 expenses of pregnancy, ((~~confinement~~)) childbirth, education, support,
10 or funeral, or by any other person, including a private agency, to the
11 extent he or she has furnished or is furnishing these expenses.

12 (2) The court shall order support payments to be made to the
13 Washington state support registry, or the person entitled to receive
14 the payments under an alternate arrangement approved by the court as
15 provided in RCW 26.23.050(2).

16 (3) All remedies for the enforcement of judgments apply.

17 **Sec. 11.** RCW 26.26.300 and 2002 c 302 s 301 are each amended to
18 read as follows:

19 The mother of a child and a man claiming to be the genetic father
20 of the child ((~~conceived as the result of his sexual intercourse with~~
21 ~~the mother~~)) may sign an acknowledgment of paternity with intent to
22 establish the man's paternity.

23 **Sec. 12.** RCW 26.26.305 and 2002 c 302 s 302 are each amended to
24 read as follows:

25 (1) An acknowledgment of paternity must:

26 (a) Be in a record;

27 (b) Be signed under penalty of perjury by the mother and by the man
28 seeking to establish his paternity;

29 (c) State that the child whose paternity is being acknowledged:

30 (i) Does not have a presumed father, or has a presumed father whose
31 full name is stated; and

32 (ii) Does not have another acknowledged or adjudicated father;

33 (d) State whether there has been genetic testing and, if so, that
34 the acknowledging man's claim of paternity is consistent with the
35 results of the genetic testing; and

1 (e) State that the signatories understand that the acknowledgment
2 is the equivalent of a judicial adjudication of paternity of the child
3 and that a challenge to the acknowledgment is permitted only under
4 limited circumstances and is barred after two years, except as provided
5 in RCW 26.26.330.

6 (2) An acknowledgment of paternity is void if it:

7 (a) States that another man is a presumed father, unless a denial
8 of paternity signed by the presumed father is filed with the state
9 registrar of vital statistics;

10 (b) States that another man is an acknowledged or adjudicated
11 father; or

12 (c) Falsely denies the existence of a presumed, acknowledged, or
13 adjudicated father of the child.

14 (3) A presumed father may sign an acknowledgment of paternity.

15 **Sec. 13.** RCW 26.26.310 and 2002 c 302 s 303 are each amended to
16 read as follows:

17 A presumed father of a child may sign a denial of his paternity.
18 The denial is valid only if:

19 (1) An acknowledgment of paternity signed by another man is filed
20 under RCW 26.26.320;

21 (2) The denial is in a record, and is signed under penalty of
22 perjury; and

23 (3) The presumed father has not previously:

24 (a) Acknowledged his paternity, unless the previous acknowledgment
25 has been rescinded under RCW 26.26.330 or successfully challenged under
26 RCW 26.26.335; or

27 (b) Been adjudicated to be the father of the child.

28 **Sec. 14.** RCW 26.26.315 and 2002 c 302 s 304 are each amended to
29 read as follows:

30 (1) An acknowledgment of paternity and a denial of paternity may be
31 contained in a single document or may be signed in counterparts, and
32 may be filed separately or simultaneously. If the acknowledgment and
33 denial are both necessary, neither is valid until both are filed.

34 (2) An acknowledgment of paternity or a denial of paternity may be
35 signed before the birth of the child.

1 (3) Subject to subsection (1) of this section, an acknowledgment
2 and denial of paternity, if any, take effect on the birth of the child
3 or the filing of the document with the state registrar of vital
4 statistics, whichever occurs later.

5 (4) An acknowledgment or denial of paternity signed by a minor is
6 valid if it is otherwise in compliance with this chapter. An
7 acknowledgment or denial of paternity signed by a minor may be
8 rescinded under RCW 26.26.330.

9 **Sec. 15.** RCW 26.26.320 and 2002 c 302 s 305 are each amended to
10 read as follows:

11 (1) Except as otherwise provided in RCW 26.26.330 and 26.26.335, a
12 valid acknowledgment of paternity filed with the state registrar of
13 vital statistics is equivalent to an adjudication of ((paternity))
14 parentage of a child and confers upon the acknowledged father all of
15 the rights and duties of a parent.

16 (2) Except as otherwise provided in RCW 26.26.330 and 26.26.335, a
17 valid denial of paternity filed with the state registrar of vital
18 statistics in conjunction with a valid acknowledgment of paternity is
19 equivalent to an adjudication of the nonpaternity of the presumed
20 father and discharges the presumed father from all of the rights and
21 duties of a parent.

22 **Sec. 16.** RCW 26.26.330 and 2004 c 111 s 1 are each amended to read
23 as follows:

24 (1) Except as provided in subsection (2) of this section, a
25 signatory may rescind an acknowledgment or denial of paternity by
26 commencing a court proceeding to rescind before the earlier of:

27 ((+1)) (a) Sixty days after the effective date of the
28 acknowledgment or denial, as provided in RCW 26.26.315; or

29 ((+2)) (b) The date of the first hearing in a proceeding to which
30 the signatory is a party before a court to adjudicate an issue relating
31 to the child, including a proceeding that establishes support.

32 (2) If the signatory to an acknowledgment or denial of paternity
33 was a minor when he signed the acknowledgment or denial, the signatory
34 may rescind the acknowledgment or denial of paternity by commencing a
35 court proceeding to rescind on or before the signatory's nineteenth
36 birthday.

1 **Sec. 17.** RCW 26.26.335 and 2002 c 302 s 308 are each amended to
2 read as follows:

3 (1) After the period for rescission under RCW 26.26.330 has
4 (~~elapsed~~) expired, a signatory of an acknowledgment or denial of
5 paternity may commence a proceeding to challenge the acknowledgment or
6 denial only:

7 (a) On the basis of fraud, duress, or material mistake of fact; and

8 (b) Within (~~two~~) four years after the acknowledgment or denial is
9 filed with the state registrar of vital statistics. In actions
10 commenced more than two years after the birth of the child, the child
11 must be made a party to the action.

12 (2) A party challenging an acknowledgment or denial of paternity
13 has the burden of proof.

14 **Sec. 18.** RCW 26.26.340 and 2002 c 302 s 309 are each amended to
15 read as follows:

16 (1) Every signatory to an acknowledgment (~~or~~) of paternity and
17 any related denial of paternity must be made a party to a proceeding to
18 rescind or challenge the acknowledgment or denial.

19 (2) For the purpose of rescission of, or challenge to, an
20 acknowledgment or denial of paternity, a signatory submits to personal
21 jurisdiction of this state by signing the acknowledgment or denial,
22 effective upon the filing of the document with the state registrar of
23 vital statistics.

24 (3) Except for good cause shown, during the pendency of a
25 proceeding to rescind or challenge an acknowledgment or denial of
26 paternity, the court may not suspend the legal responsibilities of a
27 signatory arising from (~~an~~) the acknowledgment, including the duty to
28 pay child support.

29 (4) A proceeding to rescind or to challenge an acknowledgment or
30 denial of paternity must be conducted in the same manner as a
31 proceeding to adjudicate parentage under RCW 26.26.500 through
32 26.26.630.

33 (5) At the conclusion of a proceeding to rescind or challenge an
34 acknowledgment or denial of paternity, the court shall order the state
35 registrar of vital statistics to amend the birth record of the child,
36 if appropriate.

1 **Sec. 19.** RCW 26.26.360 and 2002 c 302 s 313 are each amended to
2 read as follows:

3 The state registrar of vital statistics may release information
4 relating to the acknowledgment or denial of paternity(~~(, not expressly~~
5 ~~sealed under a court order,)) to: (1) A signatory of the
6 acknowledgment or denial (~~or their attorneys of record~~); (2) the
7 courts of this or any other state; (3) the agencies of this or any
8 other state operating a child support program under Title IV-D of the
9 social security act; (~~or~~) and (4) the agencies of this or any other
10 state involved in a dependency determination for a child named in the
11 acknowledgment or denial of paternity.~~

12 **Sec. 20.** RCW 26.26.375 and 2002 c 302 s 316 are each amended to
13 read as follows:

14 (1) After the period for rescission of an acknowledgment of
15 paternity provided in RCW 26.26.330 has passed, a parent executing an
16 acknowledgment of paternity of the child named therein may commence a
17 judicial proceeding for:

18 (a) Making residential provisions or a parenting plan with regard
19 to the minor child on the same basis as provided in chapter 26.09 RCW;
20 or

21 (b) Establishing a child support obligation under chapter 26.19 RCW
22 and maintaining health insurance coverage under RCW 26.09.105.

23 (2) Pursuant to RCW 26.09.010(3), a proceeding authorized by this
24 section shall be (~~entitled~~) titled "In re the parenting and support
25 of...."

26 (3) Before the period for a challenge to the acknowledgment or
27 denial of paternity has elapsed under RCW 26.26.335, the petitioner
28 must specifically allege under penalty of perjury, to the best of the
29 petitioner's knowledge, that: (a) No man other than the man who
30 executed the acknowledgment of paternity is the father of the child;
31 (b) there is not currently pending a proceeding to adjudicate the
32 parentage of the child or that another man is adjudicated the child's
33 father; and (c) the petitioner has provided notice of the proceeding to
34 any other men who have claimed parentage of the child. Should the
35 respondent or any other person appearing in the action deny the
36 allegations, a permanent parenting plan or residential schedule may not
37 be entered for the child without the matter being converted to a

1 proceeding to challenge the acknowledgment of paternity under RCW
2 26.26.335 and 26.26.340. A copy of the acknowledgment of paternity or
3 the birth certificate issued by the state in which the child was born
4 must be filed with the petition or response. The court may convert the
5 matter to a proceeding to challenge the acknowledgment on its own
6 motion.

7 **Sec. 21.** RCW 26.26.400 and 2002 c 302 s 401 are each amended to
8 read as follows:

9 RCW 26.26.405 through 26.26.450 govern genetic testing of an
10 individual (~~only~~) to determine parentage, whether the individual:

- 11 (1) Voluntarily submits to testing; or
- 12 (2) Is tested pursuant to an order of the court or a support
13 enforcement agency.

14 **Sec. 22.** RCW 26.26.405 and 2002 c 302 s 402 are each amended to
15 read as follows:

16 (1) Except as otherwise provided in this section and RCW 26.26.410
17 through 26.26.630, the court shall order the child and other designated
18 individuals to submit to genetic testing if the request for testing is
19 supported by the sworn statement of a party to the proceeding:

- 20 (a) Alleging paternity and stating facts establishing a reasonable
21 probability of the requisite sexual contact between the individuals; or
- 22 (b) Denying paternity and stating facts establishing a possibility
23 that sexual contact between the individuals, if any, did not result in
24 the conception of the child.

25 (2) A support enforcement agency may order genetic testing only if
26 there is no presumed(~~, acknowledged,~~) or adjudicated (~~father~~)
27 parent and no acknowledged father.

28 (3) If a request for genetic testing of a child is made before
29 birth, the court or support enforcement agency may not order in utero
30 testing.

31 (4) If two or more (~~men~~) persons are subject to court-ordered
32 genetic testing, the testing may be ordered concurrently or
33 sequentially.

34 (5) This section does not apply when the child was conceived
35 through assisted reproduction, except for surrogate parentage contracts
36 pursuant to RCW 26.26.210 through 26.26.260.

1 **Sec. 23.** RCW 26.26.410 and 2002 c 302 s 403 are each amended to
2 read as follows:

3 (1) Genetic testing must be of a type reasonably relied upon by
4 experts in the field of genetic testing and performed in a testing
5 laboratory accredited by:

6 (a) The American association of blood banks, or a successor to its
7 functions;

8 (b) The American society for histocompatibility and immunogenetics,
9 or a successor to its functions; or

10 (c) An accrediting body designated by the United States secretary
11 of health and human services.

12 (2) A specimen used in genetic testing may consist of one or more
13 samples or a combination of samples of blood, buccal cells, bone, hair,
14 or other body tissue or fluid. The specimen used in the testing need
15 not be of the same kind for each individual undergoing genetic testing.

16 (3) Based on the ethnic or racial group of an individual, the
17 testing laboratory shall determine the databases from which to select
18 frequencies for use in ~~((the))~~ calculation~~((s))~~ of the probability of
19 parentage. If there is disagreement as to the testing laboratory's
20 choice, the following rules apply:

21 (a) The individual objecting may require the testing laboratory,
22 within thirty days after receipt of the report of the test, to
23 recalculate the probability of ~~((paternity))~~ parentage using an ethnic
24 or racial group different from that used by the laboratory.

25 (b) The individual objecting to the testing laboratory's initial
26 choice shall:

27 (i) If the frequencies are not available to the testing laboratory
28 for the ethnic or racial group requested, provide the requested
29 frequencies compiled in a manner recognized by accrediting bodies; or

30 (ii) Engage another testing laboratory to perform the calculations.

31 (c) The testing laboratory may use its own statistical estimate if
32 there is a question regarding which ethnic or racial group is
33 appropriate. If available, the testing laboratory shall calculate the
34 frequencies using statistics for any other ethnic or racial group
35 requested.

36 (4) If, after recalculation using a different ethnic or racial
37 group, genetic testing does not rebuttably identify a ~~((man))~~ person as

1 the ((father)) parent of a child under RCW 26.26.420, an individual who
2 has been tested may be required to submit to additional genetic
3 testing.

4 **Sec. 24.** RCW 26.26.420 and 2002 c 302 s 405 are each amended to
5 read as follows:

6 (1) Under this chapter, a ((man)) person is rebuttably identified
7 as the ((father)) parent of a child if the genetic testing complies
8 with this section and RCW 26.26.400 through 26.26.415 and 26.26.425
9 through 26.26.450 and the results disclose that:

10 (a) The ((man)) person has at least a ninety-nine percent
11 probability of ((paternity)) parentage, using a prior probability of
12 0.50, as calculated by using the combined ((paternity)) parentage index
13 obtained in the testing; and

14 (b) A combined ((paternity)) parentage index of at least one
15 hundred to one.

16 (2) A ((man)) person identified under subsection (1) of this
17 section as the ((father)) parent of the child may rebut the genetic
18 testing results only by other genetic testing satisfying the
19 requirements of this section and RCW 26.26.400 through 26.26.415 and
20 26.26.425 through 26.26.450 which:

21 (a) Excludes the ((man)) person as a genetic ((father)) parent of
22 the child; or

23 (b) Identifies another ((man)) person as the ((father)) parent of
24 the child.

25 (3) Except as otherwise provided in RCW 26.26.445, if more than one
26 man is identified by genetic testing as the possible father of the
27 child, the court shall order them to submit to further genetic testing
28 to identify the genetic ((father)) parent.

29 (4) This section does not apply when the child was conceived
30 through assisted reproduction, except for surrogate parentage contracts
31 pursuant to RCW 26.26.210 through 26.26.260.

32 **Sec. 25.** RCW 26.26.425 and 2002 c 302 s 406 are each amended to
33 read as follows:

34 (1) Subject to assessment of costs under RCW 26.26.500 through
35 26.26.630, the cost of initial genetic testing must be advanced:

- 1 (a) By a support enforcement agency in a proceeding in which the
2 support enforcement agency is providing services;
3 (b) By the individual who made the request;
4 (c) As agreed by the parties; or
5 (d) As ordered by the court.

6 (2) In cases in which the cost is advanced by the support
7 enforcement agency, the agency may seek reimbursement from a ((man))
8 person who is rebuttably identified as the ((father)) parent.

9 **Sec. 26.** RCW 26.26.430 and 2002 c 302 s 407 are each amended to
10 read as follows:

11 (1) The court or the support enforcement agency shall order
12 additional genetic testing upon the request of a party who contests the
13 result of the original testing. If the previous genetic testing
14 identified a ((man)) person as the ((father)) parent of the child under
15 RCW 26.26.420, the court or agency may not order additional testing
16 unless the party provides advance payment for the testing.

17 (2) This section does not apply when the child was conceived
18 through assisted reproduction, except for surrogate parentage contracts
19 pursuant to RCW 26.26.210 through 26.26.260.

20 **Sec. 27.** RCW 26.26.435 and 2002 c 302 s 408 are each amended to
21 read as follows:

22 (1) If a genetic testing specimen is not available from a man who
23 may be the father of a child, for good cause and under circumstances
24 the court considers to be just, a court may order the following
25 individuals to submit specimens for genetic testing:

- 26 (a) The parents of the man;
27 (b) Brothers and sisters of the man;
28 (c) Other children of the man and their mothers; and
29 (d) Other relatives of the man necessary to complete genetic
30 testing.

31 (2) If a specimen from the mother of a child is not available for
32 genetic testing, the court may order genetic testing to proceed without
33 a specimen from the mother.

34 (3) Issuance of an order under this section requires a finding that
35 a need for genetic testing outweighs the legitimate interests of the
36 individual sought to be tested.

1 (4) This section does not apply when the child was conceived
2 through assisted reproduction, except for surrogate parentage contracts
3 pursuant to RCW 26.26.210 through 26.26.260.

4 **Sec. 28.** RCW 26.26.445 and 2002 c 302 s 410 are each amended to
5 read as follows:

6 (1) The court may order genetic testing of a brother of a man
7 identified as the father of a child if the man is commonly believed to
8 have an identical brother and evidence suggests that the brother may be
9 the genetic father of the child.

10 (2) If (~~genetic testing excludes none of the brothers as the~~
11 ~~genetic father, and~~) each brother satisfies the requirements as the
12 identified father of the child under RCW 26.26.420 without
13 consideration of another identical brother being identified as the
14 father of the child, the court may rely on nongenetic evidence to
15 adjudicate which brother is the father of the child.

16 **Sec. 29.** RCW 26.26.505 and 2002 c 302 s 502 are each amended to
17 read as follows:

18 Subject to RCW 26.26.300 through 26.26.375, 26.26.530, and
19 26.26.540, a proceeding to adjudicate parentage may be maintained by:

20 (1) The child;

21 (2) The (~~mother of~~) person who has established a parent-child
22 relationship with the child;

23 (3) A (~~man~~) person whose (~~paternity~~) parentage of the child is
24 to be adjudicated;

25 (4) The division of child support;

26 (5) An authorized adoption agency or licensed child-placing agency;

27 (6) A representative authorized by law to act for an individual who
28 would otherwise be entitled to maintain a proceeding but who is
29 deceased, incapacitated, or a minor; or

30 (7) An intended parent under a surrogate parentage contract, as
31 provided in RCW 26.26.210 through 26.26.260.

32 **Sec. 30.** RCW 26.26.510 and 2002 c 302 s 503 are each amended to
33 read as follows:

34 The following individuals must be joined as parties in a proceeding
35 to adjudicate parentage:

1 (1) The ~~((mother))~~ parent of the child who has established a
2 parent-child relationship with the child;

3 (2) A ~~((man))~~ person whose ~~((paternity))~~ parentage of the child is
4 to be adjudicated; ~~((and))~~

5 (3) An intended parent under a surrogate parentage contract, as
6 provided in RCW 26.26.210 through 26.26.260; and

7 (4) The child if required under RCW 26.26.530, 26.26.540, or
8 26.26.720.

9 **Sec. 31.** RCW 26.26.525 and 2002 c 302 s 506 are each amended to
10 read as follows:

11 A proceeding to adjudicate the parentage of a child having no
12 presumed~~((, acknowledged,))~~ or adjudicated ~~((father))~~ second parent and
13 no acknowledged father may be commenced at any time during the life of
14 the child, even after:

15 (1) The child becomes an adult; or

16 (2) An earlier proceeding to adjudicate ~~((paternity))~~ parentage has
17 been dismissed based on the application of a statute of limitation then
18 in effect.

19 **Sec. 32.** RCW 26.26.530 and 2002 c 302 s 507 are each amended to
20 read as follows:

21 (1) Except as otherwise provided in subsection (2) of this section,
22 a proceeding brought by a presumed ~~((father))~~ parent, the ~~((mother))~~
23 person with a parent-child relationship with the child, or another
24 individual to adjudicate the parentage of a child having a presumed
25 ~~((father))~~ parent must be commenced not later than ~~((two))~~ four years
26 after the birth of the child. If an action is commenced more than two
27 years after the birth of the child, the child must be made a party to
28 the action.

29 (2) A proceeding seeking to disprove the ~~((father-child))~~ parent-
30 child relationship between a child and the child's presumed ~~((father))~~
31 parent may be maintained at any time if the court determines that~~((+~~

32 ~~(+))~~ the presumed ((father)) parent and the ((mother-of)) person
33 who has a parent-child relationship with the child neither cohabited
34 nor engaged in sexual intercourse with each other during the probable
35 time of conception~~((+and~~

1 ~~(b) The presumed father never openly treated the child as his own)~~
2 and the presumed parent never held out the child as his or her own.

3 **Sec. 33.** RCW 26.26.535 and 2002 c 302 s 508 are each amended to
4 read as follows:

5 (1) In a proceeding to adjudicate parentage under circumstances
6 described in RCW 26.26.530 or in RCW 26.26.540, a court may deny a
7 motion seeking an order for genetic testing of the mother or father,
8 the child, and the presumed or acknowledged father if the court
9 determines that:

10 (a)(i) The conduct of the mother or father or the presumed
11 ~~((father))~~ or acknowledged parent estops that party from denying
12 parentage; and

13 ~~((b))~~ (ii) It would be inequitable to disprove the ~~((father-~~
14 ~~child))~~ parent-child relationship between the child and the presumed
15 ~~((father))~~ or acknowledged parent; or

16 (b) The child was conceived through assisted reproduction, except
17 for surrogate parentage contracts pursuant to RCW 26.26.210 through
18 26.26.260.

19 (2) In determining whether to deny a motion to seek an order for
20 genetic testing under subsection (1)(a) of this section, the court
21 shall consider the best interest of the child, including the following
22 factors:

23 (a) The length of time between the proceeding to adjudicate
24 parentage and the time that the presumed ~~((father))~~ or acknowledged
25 parent was placed on notice that he or she might not be the genetic
26 ~~((father))~~ parent;

27 (b) The length of time during which the presumed ~~((father))~~ or
28 acknowledged parent has assumed the role of ~~((father))~~ parent of the
29 child;

30 (c) The facts surrounding the presumed ~~((father's))~~ or acknowledged
31 parent's discovery of his or her possible ~~((nonpaternity))~~
32 nonparentage;

33 (d) The nature of the ~~((father-child))~~ relationship between the
34 child and the presumed or acknowledged parent;

35 (e) The age of the child;

36 (f) The harm ~~((to the child which))~~ that may result to the child if
37 ~~((presumed paternity))~~ parentage is successfully disproved;

1 (g) The nature of the relationship (~~(of)~~) between the child (~~(to)~~)
2 and any alleged (~~(father)~~) parent;

3 (h) The extent to which the passage of time reduces the chances of
4 establishing the (~~(paternity)~~) parentage of another (~~(man)~~) person and
5 a child support obligation in favor of the child; and

6 (i) Other factors that may affect the equities arising from the
7 disruption of the (~~(father-child)~~) parent-child relationship between
8 the child and the presumed (~~(father)~~) or acknowledged parent or the
9 chance of other harm to the child.

10 (3) In a proceeding involving the application of this section,
11 (~~(the)~~) a minor or incapacitated child must be represented by a
12 guardian ad litem.

13 (4) A denial of a motion seeking an order for genetic testing under
14 subsection (1)(a) of this section must be based on clear and convincing
15 evidence.

16 (5) If the court denies a motion seeking an order for genetic
17 testing under subsection (1)(a) of this section, it shall issue an
18 order adjudicating the presumed (~~(father)~~) or acknowledged parent to be
19 the (~~(father)~~) parent of the child.

20 **Sec. 34.** RCW 26.26.540 and 2002 c 302 s 509 are each amended to
21 read as follows:

22 (1) If a child has an acknowledged father, a signatory to the
23 acknowledgment or denial of paternity must commence any proceeding
24 seeking to rescind the acknowledgment or denial or challenge the
25 paternity of (~~(that)~~) the child only within the time allowed under RCW
26 26.26.330 or 26.26.335.

27 (2) If a child has an acknowledged father or an adjudicated
28 (~~(father)~~) parent, an individual, other than the child, who is neither
29 a signatory to the acknowledgment nor a party to the adjudication and
30 who seeks an adjudication of (~~(paternity)~~) parentage of the child must
31 commence a proceeding not later than (~~(two)~~) four years after the
32 effective date of the acknowledgment or adjudication. If an action is
33 commenced more than two years after the birth of the child, the child
34 must be made a party to the action.

35 (3) A proceeding under this section is subject to RCW 26.26.535.

1 **Sec. 35.** RCW 26.26.545 and 2002 c 302 s 510 are each amended to
2 read as follows:

3 (1) Except as otherwise provided in subsection (2) of this section,
4 a proceeding to adjudicate parentage may be joined with a proceeding
5 for: Adoption or termination of parental rights under chapter 26.33
6 RCW; determination of a parenting plan, child support, annulment,
7 dissolution of marriage, dissolution of a domestic partnership, or
8 legal separation under chapter 26.09 or 26.19 RCW; or probate or
9 administration of an estate under chapter 11.48 or 11.54 RCW, or other
10 appropriate proceeding.

11 (2) A respondent may not join ~~((the))~~ a proceeding~~((s))~~ described
12 in subsection (1) of this section with a proceeding to adjudicate
13 parentage brought under chapter 26.21A RCW.

14 **Sec. 36.** RCW 26.26.550 and 2002 c 302 s 511 are each amended to
15 read as follows:

16 ~~((Although))~~ A proceeding to ~~((determine))~~ adjudicate parentage may
17 be commenced before the birth of the child, ~~((the proceeding))~~ but may
18 not be concluded until after the birth of the child. The following
19 actions may be taken before the birth of the child:

20 (1) Service of process;

21 (2) Discovery;

22 (3) Except as prohibited by RCW 26.26.405, collection of specimens
23 for genetic testing; and

24 (4) Temporary orders authorized under RCW 26.26.590.

25 **Sec. 37.** RCW 26.26.555 and 2002 c 302 s 512 are each amended to
26 read as follows:

27 (1) Unless specifically required under other provisions of this
28 chapter, a minor child is a permissible party, but is not a necessary
29 party to a proceeding under RCW 26.26.500 through 26.26.630.

30 (2) If ~~((the))~~ a minor or incapacitated child is a party, or if the
31 court finds that the interests of ~~((a minor child or incapacitated))~~
32 the child are not adequately represented, the court shall appoint a
33 guardian ad litem to represent the child, subject to RCW 74.20.310
34 ~~((neither the child's mother or father))~~. A parent of the child may
35 not represent the child as guardian or ~~((otherwise))~~ in any other
36 capacity.

1 **Sec. 38.** RCW 26.26.570 and 2002 c 302 s 521 are each amended to
2 read as follows:

3 (1) Except as otherwise provided in subsection (3) of this section,
4 a record of a genetic testing expert is admissible as evidence of the
5 truth of the facts asserted in the report unless a party objects to its
6 admission within fourteen days after its receipt by the objecting party
7 and cites specific grounds for exclusion. The admissibility of the
8 report is not affected by whether the testing was performed:

9 (a) Voluntarily or under an order of the court or a support
10 enforcement agency; or

11 (b) Before or after the commencement of the proceeding.

12 (2) A party objecting to the results of genetic testing may call
13 one or more genetic testing experts to testify in person or by
14 telephone, videoconference, deposition, or another method approved by
15 the court. Unless otherwise ordered by the court, the party offering
16 the testimony bears the expense for the expert testifying.

17 (3) If a child has a presumed(~~(, acknowledged,)~~) or adjudicated
18 (~~(father)~~) parent or an acknowledged father, the results of genetic
19 testing are inadmissible to adjudicate parentage unless performed:

20 (a) With the consent of both the (~~(mother)~~) person with a parent-
21 child relationship with the child and the presumed(~~(, acknowledged,)~~)
22 or adjudicated (~~(father)~~) parent or an acknowledged father; or

23 (b) Under an order of the court under RCW 26.26.405.

24 (4) Copies of bills for genetic testing and for prenatal and
25 postnatal health care for the mother and child that are furnished to
26 the adverse party not less than ten days before the date of a hearing
27 are admissible to establish:

28 (a) The amount of the charges billed; and

29 (b) That the charges were reasonable, necessary, and customary.

30 **Sec. 39.** RCW 26.26.575 and 2002 c 302 s 522 are each amended to
31 read as follows:

32 (1) An order for genetic testing is enforceable by contempt.

33 (2) If an individual whose paternity is being determined declines
34 to submit to genetic testing (~~(as)~~) ordered by the court, the court for
35 that reason may (~~(on that basis)~~) adjudicate parentage contrary to the
36 position of that individual.

1 (3) Genetic testing of the mother of a child is not a condition
2 precedent to testing the child and a man whose paternity is being
3 determined. If the mother is unavailable or declines to submit to
4 genetic testing, the court may order the testing of the child and every
5 man whose paternity is being adjudicated.

6 (4) This section does not apply when the child was conceived
7 through assisted reproduction, except for surrogate parentage contracts
8 pursuant to RCW 26.26.210 through 26.26.260.

9 **Sec. 40.** RCW 26.26.585 and 2002 c 302 s 523 are each amended to
10 read as follows:

11 (1) A respondent in a proceeding to adjudicate parentage may admit
12 to the paternity of a child by filing a pleading to that effect or by
13 admitting paternity under penalty of perjury when making an appearance
14 or during a hearing.

15 (2) If the court finds that the admission of paternity (~~was made~~
16 ~~under~~) satisfies the requirements of this section and finds that there
17 is no reason to question the admission, the court shall issue an order
18 adjudicating the child to be the child of the man admitting paternity.

19 **Sec. 41.** RCW 26.26.590 and 2002 c 302 s 524 are each amended to
20 read as follows:

21 This section applies to any proceeding under RCW 26.26.500 through
22 26.26.630.

23 (1) The court shall issue a temporary order for support of a child
24 if the individual ordered to pay support:

25 (a) Is a presumed (~~father~~) parent of the child;

26 (b) Is petitioning to have his (~~paternity~~) or her parentage
27 adjudicated or has admitted (~~paternity~~) parentage in pleadings filed
28 with the court;

29 (c) Is identified as the father through genetic testing under RCW
30 26.26.420;

31 (d) Has declined to submit to genetic testing but is shown by clear
32 and convincing evidence to be the father of the child; or

33 (e) Is (~~the mother of~~) a person who has established a parent-
34 child relationship with the child.

35 (2) A temporary order may, on the same basis as provided in chapter

1 26.09 RCW, make residential provisions with regard to minor children of
2 the parties, except that a parenting plan is not required unless
3 requested by a parent.

4 (3) Any party may request the court to issue a temporary
5 restraining order or preliminary injunction, providing relief proper in
6 the circumstances, and restraining or enjoining any party from:

7 (a) Molesting or disturbing the peace of another party;

8 (b) Going onto the grounds of or entering the home, workplace, or
9 school of another party or the day care or school of any child;

10 (c) Knowingly coming within, or knowingly remaining within, a
11 specified distance from a specified location; and

12 (d) Removing a child from the jurisdiction of the court.

13 (4) Either party may request a domestic violence protection order
14 under chapter 26.50 RCW or an antiharassment protection order under
15 chapter 10.14 RCW on a temporary basis. The court may grant any of the
16 relief provided in RCW 26.50.060 except relief pertaining to
17 residential provisions for the children which provisions shall be
18 provided for under this chapter, and any of the relief provided in RCW
19 10.14.080. Ex parte orders issued under this subsection shall be
20 effective for a fixed period not to exceed fourteen days, or upon court
21 order, not to exceed twenty-four days if necessary to ensure that all
22 temporary motions in the case can be heard at the same time.

23 (5) Restraining orders issued under this section restraining or
24 enjoining the person from molesting or disturbing another party, or
25 from going onto the grounds of or entering the home, workplace, or
26 school of the other party or the day care or school of any child, or
27 prohibiting the person from knowingly coming within, or knowingly
28 remaining within, a specified distance of a location, shall prominently
29 bear on the front page of the order the legend: VIOLATION OF THIS
30 ORDER WITH ACTUAL NOTICE OF ITS TERMS IS A CRIMINAL OFFENSE UNDER
31 CHAPTER 26.50 RCW AND WILL SUBJECT A VIOLATOR TO ARREST.

32 (6) The court shall order that any temporary restraining order
33 bearing a criminal offense legend, any domestic violence protection
34 order, or any antiharassment protection order granted under this
35 section be forwarded by the clerk of the court on or before the next
36 judicial day to the appropriate law enforcement agency specified in the
37 order. Upon receipt of the order, the law enforcement agency shall
38 enter the order into any computer-based criminal intelligence

1 information system available in this state used by law enforcement
2 agencies to list outstanding warrants. The order is fully enforceable
3 in any county in the state.

4 (7) If a restraining order issued pursuant to this section is
5 modified or terminated, the clerk of the court shall notify the law
6 enforcement agency specified in the order on or before the next
7 judicial day. Upon receipt of notice that an order has been
8 terminated, the law enforcement agency shall remove the order from any
9 computer-based criminal intelligence system.

10 (8) The court may issue a temporary restraining order without
11 requiring notice to the other party only if it finds on the basis of
12 the moving affidavit or other evidence that irreparable injury could
13 result if an order is not issued until the time for responding has
14 elapsed.

15 (9) The court may issue a temporary restraining order or
16 preliminary injunction and an order for temporary support in such
17 amounts and on such terms as are just and proper in the circumstances.
18 In issuing the order, the court shall consider the provisions of RCW
19 9.41.800.

20 (10) A temporary order, temporary restraining order, or preliminary
21 injunction:

22 (a) Does not prejudice the rights of a party or any child which are
23 to be adjudicated at subsequent hearings in the proceeding;

24 (b) May be revoked or modified;

25 (c) Terminates when the final order is entered or when the petition
26 is dismissed; and

27 (d) May be entered in a proceeding for the modification of an
28 existing order.

29 (11) A support debt owed to the state for public assistance
30 expenditures which has been charged against a party pursuant to RCW
31 74.20A.040 and/or 74.20A.055 shall not be merged in, or otherwise
32 extinguished by, the final decree or order, unless the office of
33 support enforcement has been given notice of the final proceeding and
34 an opportunity to present its claim for the support debt to the court
35 and has failed to file an affidavit as provided in this subsection.
36 Notice of the proceeding shall be served upon the office of support
37 enforcement personally, or by certified mail, and shall be given no
38 fewer than thirty days prior to the date of the final proceeding. An

1 original copy of the notice shall be filed with the court either before
2 service or within a reasonable time thereafter. The office of support
3 enforcement may present its claim, and thereby preserve the support
4 debt, by filing an affidavit setting forth the amount of the debt with
5 the court, and by mailing a copy of the affidavit to the parties or
6 their attorney prior to the date of the final proceeding.

7 **Sec. 42.** RCW 26.26.600 and 2002 c 302 s 531 are each amended to
8 read as follows:

9 The court shall apply the following rules to adjudicate the
10 ~~((paternity))~~ parentage of a child:

11 (1) Except as provided in subsection (5) of this section, the
12 ~~((paternity))~~ parentage of a child having a presumed~~((, acknowledged,))~~
13 or adjudicated ~~((father))~~ parent or an acknowledged father may be
14 disproved only by admissible results of genetic testing excluding that
15 ~~((man))~~ person as the ~~((father))~~ parent of the child or identifying
16 another man ~~((to be))~~ as the father of the child.

17 (2) Unless the results of genetic testing are admitted to rebut
18 other results of genetic testing, the man identified as the father of
19 the child under RCW 26.26.420 must be adjudicated the father of the
20 child.

21 (3) If the court finds that genetic testing under RCW 26.26.420
22 neither identifies nor excludes a man as the father of a child, the
23 court may not dismiss the proceeding. In that event, the results of
24 genetic testing, ~~((along with))~~ and other evidence, are admissible to
25 adjudicate the issue of paternity.

26 (4) Unless the results of genetic testing are admitted to rebut
27 other results of genetic testing, a man excluded as the father of a
28 child by genetic testing must be adjudicated not to be the father of
29 the child.

30 (5) Subsections (1) through (4) of this section do not apply when
31 the child was conceived through assisted reproduction, except for
32 surrogate parentage contracts pursuant to RCW 26.26.210 through
33 26.26.260. The parentage of a child conceived through assisted
34 reproduction other than via surrogacy may be disproved only by
35 admissible evidence showing the intent of the presumed, acknowledged,
36 or adjudicated parent and the other parent.

1 (b) All parties to an adjudication by a court acting under
2 circumstances that satisfy the jurisdictional requirements of RCW
3 ((~~26.21.075~~)) 26.21A.100.

4 (2) A child is not bound by a determination of parentage under this
5 chapter unless:

6 (a) The determination was based on an unrescinded acknowledgment of
7 paternity and the acknowledgment of paternity is consistent with the
8 results of the genetic testing;

9 (b) The adjudication of parentage was based on a finding consistent
10 with the results of genetic testing and the consistency is declared in
11 the determination or is otherwise shown, or in the case of a child
12 conceived through assisted reproduction, except for surrogate parentage
13 contracts pursuant to RCW 26.26.210 through 26.26.260, the adjudication
14 of parentage was based on evidence showing the intent of the parents;
15 or

16 (c) The child was a party or was represented in the proceeding
17 determining parentage by a guardian ad litem.

18 (3) In a proceeding to dissolve a marriage or domestic partnership,
19 the court is deemed to have made an adjudication of the parentage of a
20 child if the court acts under circumstances that satisfy the
21 jurisdictional requirements of RCW ((~~26.21.075~~)) 26.21A.100, and the
22 final order:

23 (a) Expressly identifies a child as a "child of the marriage,"
24 "issue of the marriage," "child of the domestic partnership," "issue of
25 the domestic partnership," or similar words indicating that the
26 ((~~husband is the father~~)) spouses in the marriage or domestic partners
27 in the domestic partnership are the parents of the child; or

28 (b) Provides for support of the child by one or both of the
29 ((~~husband~~)) spouses or domestic partners unless ((~~paternity~~)) parentage
30 is specifically disclaimed in the order.

31 (4) Except as otherwise provided in subsection (2) of this section,
32 a determination of parentage may be a defense in a subsequent
33 proceeding seeking to adjudicate parentage by an individual who was not
34 a party to the earlier proceeding.

35 (5) A party to an adjudication of ((~~paternity~~)) parentage may
36 challenge the adjudication only under law of this state relating to
37 appeal, vacation of judgments, ((~~and~~)) or other judicial review.

1 **Sec. 46.** RCW 26.26.705 and 2002 c 302 s 602 are each amended to
2 read as follows:

3 A donor is not a parent of a child conceived by means of assisted
4 reproduction, unless otherwise agreed in a signed record by the donor
5 and the person or persons intending to be parents of a child conceived
6 through assisted reproduction.

7 **Sec. 47.** RCW 26.26.710 and 2002 c 302 s 603 are each amended to
8 read as follows:

9 (~~If a husband provides sperm for, or consents to, assisted~~
10 ~~reproduction by his wife as provided in RCW 26.26.715, he is the father~~
11 ~~of a resulting child born to his wife.)) A person who provides gametes
12 for, or consents in a signed record to assisted reproduction with
13 another person, with the intent to be the parent of the child born, is
14 the parent of the resulting child.~~

15 **Sec. 48.** RCW 26.26.715 and 2002 c 302 s 604 are each amended to
16 read as follows:

17 (1) (~~A consent to assisted reproduction by a married woman must be~~
18 ~~in a record signed by the woman and her husband.)) Consent by a couple
19 who intend to be parents of a child conceived by assisted reproduction
20 must be in a record signed by both persons. This requirement does not
21 apply to (~~the donation of eggs for assisted reproduction by another~~
22 ~~woman)) a donor.~~~~

23 (2) Failure of the (~~husband~~) person to sign a consent required by
24 subsection (1) of this section, before or after birth of the child,
25 does not preclude a finding (~~that the husband is the father of a child~~
26 ~~born to his wife if the wife and husband openly treated)) of parentage
27 if the persons resided together in the same household with the child
28 and openly held out the child as their own.~~

29 **Sec. 49.** RCW 26.26.720 and 2002 c 302 s 605 are each amended to
30 read as follows:

31 (1) Except as otherwise provided in subsection (2) of this section,
32 (~~the husband of a wife~~) a spouse or domestic partner of a woman who
33 gives birth to a child by means of assisted reproduction, or a spouse
34 or domestic partner of a man who has a child by means of assisted

1 reproduction, may not challenge his (~~(paternity)~~) or her parentage of
2 the child unless:

3 (a) Within (~~(two)~~) four years after learning of the birth of the
4 child (~~(he)~~) the person commences a proceeding to adjudicate his
5 (~~(paternity)~~) or her parentage. In actions commenced more than two
6 years after the birth of the child, the child must be made a party to
7 the action; and

8 (b) The court finds that (~~(he)~~) the person did not consent to the
9 assisted reproduction, before or after birth of the child.

10 (2) A proceeding to adjudicate (~~(paternity)~~) parentage may be
11 maintained at any time if the court determines that:

12 (a) The (~~(husband)~~) spouse or domestic partner did not provide
13 (~~(sperm)~~) gametes for, or before or after the birth of the child
14 consent to, assisted reproduction by his (~~(wife)~~) or her spouse or
15 domestic partner;

16 (b) The (~~(husband and the mother)~~) spouse or domestic partner and
17 the parent of the child have not cohabited since the probable time of
18 assisted reproduction; and

19 (c) The (~~(husband)~~) spouse or domestic partner never openly
20 (~~(treated)~~) held out the child as his or her own.

21 (3) The limitation provided in this section applies to a marriage
22 or domestic partnership declared invalid after assisted reproduction.

23 **Sec. 50.** RCW 26.26.725 and 2002 c 302 s 606 are each amended to
24 read as follows:

25 (1) If a marriage or domestic partnership is dissolved before
26 placement of eggs, sperm, or an embryo, the former spouse or former
27 domestic partner is not a parent of the resulting child unless the
28 former spouse or former domestic partner consented in a signed record
29 that if assisted reproduction were to occur after a (~~(divorce)~~)
30 dissolution, the former spouse or former domestic partner would be a
31 parent of the child.

32 (2) The consent of the former spouse or former domestic partner to
33 assisted reproduction may be (~~(revoked)~~) withdrawn by that individual
34 in a record at any time before placement of eggs, sperm, or embryos.
35 An individual who withdraws consent under this section is not a parent
36 of the resulting child.

1 **Sec. 51.** RCW 26.26.730 and 2002 c 302 s 607 are each amended to
2 read as follows:

3 If (~~(a spouse)~~) an individual who consented in a record to be a
4 parent by assisted reproduction dies before placement of eggs, sperm,
5 or an embryo, the deceased (~~(spouse)~~) individual is not a parent of the
6 resulting child unless the deceased (~~(spouse)~~) individual consented in
7 a signed record that if assisted reproduction were to occur after
8 death, the deceased (~~(spouse)~~) individual would be a parent of the
9 child.

10 **Sec. 52.** RCW 26.26.735 and 2002 c 302 s 608 are each amended to
11 read as follows:

12 (~~(The donor of ovum provided to a licensed physician for use in the~~
13 ~~alternative reproductive medical technology process of attempting to~~
14 ~~achieve a pregnancy in a woman other than the donor is treated in law~~
15 ~~as if she were not the natural mother of a child thereafter conceived~~
16 ~~and born unless the donor and the woman who gives birth to a child as~~
17 ~~a result of the alternative reproductive medical technology procedures~~
18 ~~agree in writing that the donor is to be a parent. RCW 26.26.705 does~~
19 ~~not apply in such case. A woman who gives birth to a child conceived~~
20 ~~through alternative reproductive medical technology procedures under~~
21 ~~the supervision and with the assistance of a licensed physician is~~
22 ~~treated in law as if she were the natural mother of the child unless an~~
23 ~~agreement in writing signed by an ovum donor and the woman giving birth~~
24 ~~to the child states otherwise. An agreement pursuant to this section~~
25 ~~must be in writing and signed by the ovum donor and the woman who gives~~
26 ~~birth to the child and any other intended parent of the child. The~~
27 ~~physician shall certify the parties' signatures and the date of the~~
28 ~~ovum harvest, identify the subsequent medical procedures undertaken,~~
29 ~~and identify the intended parents.)) (1) An affidavit and physician's
30 certificate may be used by intended parents to establish parentage if:~~

31 (a) The two intended parents are both female intending to be the
32 parents of the child born through assisted reproduction pursuant to RCW
33 26.26.210 through 26.26.260; and

34 (b) One of the intended parents contributes ovum and the other
35 intended parent gives birth to the child.

36 (2) The (~~(agreement, including the)~~) affidavit and certification

1 ((referenced in RCW 26.26.030,)) must be filed with the registrar of
2 vital statistics, where it must be kept confidential and in a sealed
3 file.

4 **Sec. 53.** RCW 26.26.903 and 2002 c 302 s 709 are each amended to
5 read as follows:

6 In applying and construing this uniform act, consideration must be
7 given to the need to promote uniformity of the law with respect to its
8 subject matter among states that enact it and to the intent that the
9 act apply to persons of the same sex who have children together to the
10 same extent the act applies to persons of the opposite sex who have
11 children together.

12 **Sec. 54.** RCW 26.26.911 and 2002 c 302 s 101 are each amended to
13 read as follows:

14 This act may be known and cited as the uniform parentage act of
15 2002.

16 NEW SECTION. **Sec. 55.** Any action taken by an agency to implement
17 the provisions of this act must be accomplished within existing
18 resources. Any costs incurred by the administrative office of the
19 courts for modifications to the judicial information system as a result
20 of the provisions of this act shall be paid from the judicial
21 information system account.

22 NEW SECTION. **Sec. 56.** If any provision of this act or its
23 application to any person or circumstance is held invalid, the
24 remainder of the act or the application of the provision to other
25 persons or circumstances is not affected."

E2SHB 1267 - S AMD
By Senator Nelson

ADOPTED AS AMENDED 04/12/2011

26 On page 1, line 3 of the title, after "parentage;" strike the

1 remainder of the title and insert "amending RCW 26.26.011, 26.26.021,
2 26.26.041, 26.26.051, 26.26.101, 26.26.106, 26.26.111, 26.26.116,
3 26.26.130, 26.26.150, 26.26.300, 26.26.305, 26.26.310, 26.26.315,
4 26.26.320, 26.26.330, 26.26.335, 26.26.340, 26.26.360, 26.26.375,
5 26.26.400, 26.26.405, 26.26.410, 26.26.420, 26.26.425, 26.26.430,
6 26.26.435, 26.26.445, 26.26.505, 26.26.510, 26.26.525, 26.26.530,
7 26.26.535, 26.26.540, 26.26.545, 26.26.550, 26.26.555, 26.26.570,
8 26.26.575, 26.26.585, 26.26.590, 26.26.600, 26.26.620, 26.26.625,
9 26.26.630, 26.26.705, 26.26.710, 26.26.715, 26.26.720, 26.26.725,
10 26.26.730, 26.26.735, 26.26.903, and 26.26.911; and creating a new
11 section."

EFFECT: Removes all provisions revising current laws relating to surrogacy contracting, and retains the following elements:

(1) Updates the state Uniform Parentage Act (UPA) to incorporate state-registered domestic partnerships in compliance with Referendum 71.

(2) Adopts recommendations from the Uniform Law Commission and restores a provision establishing a presumption of parentage when, for the first two years of the child's life, a person resides in the same home with the child and openly holds out the child as his or her own.

(3) Exempts provisions on court-ordered genetic testing when child is conceived via assisted reproduction other than surrogacy.

(4) Extends from two to four years, the time period allowed to challenge paternity.

(5) Requires the child to be made a party to the case in actions to challenge parentage commenced more than two years after the child's birth.

(6) Authorizes a man under age 19 to rescind a previously filed denial or acknowledgment of paternity if the acknowledgment or denial was signed when the man was a minor.

--- END ---