

**SUBSTITUTE HOUSE BILL 2793**

**State of Washington**

**61st Legislature**

**2010 Regular Session**

**By** House Judiciary (originally sponsored by Representatives Kessler, Walsh, Pedersen, Chase, Williams, Kagi, Moeller, Haigh, Nelson, and Simpson)

READ FIRST TIME 01/25/10.

1       AN ACT Relating to clarifying and expanding the rights and  
2 obligations of state registered domestic partners and other couples  
3 related to parentage; amending RCW 26.26.011, 26.26.021, 26.26.041,  
4 26.26.051, 26.26.101, 26.26.106, 26.26.111, 26.26.116, 26.26.130,  
5 26.26.150, 26.26.300, 26.26.305, 26.26.310, 26.26.315, 26.26.320,  
6 26.26.325, 26.26.330, 26.26.335, 26.26.340, 26.26.345, 26.26.350,  
7 26.26.355, 26.26.360, 26.26.370, 26.26.375, 26.26.400, 26.26.405,  
8 26.26.410, 26.26.420, 26.26.425, 26.26.430, 26.26.435, 26.26.445,  
9 26.26.505, 26.26.510, 26.26.525, 26.26.530, 26.26.535, 26.26.540,  
10 26.26.545, 26.26.550, 26.26.555, 26.26.570, 26.26.575, 26.26.585,  
11 26.26.590, 26.26.600, 26.26.615, 26.26.620, 26.26.625, 26.26.630,  
12 26.26.700, 26.26.705, 26.26.710, 26.26.715, 26.26.720, 26.26.725,  
13 26.26.730, 26.26.740, 26.26.903, 26.26.911, and 9A.64.030; adding new  
14 sections to chapter 26.26 RCW; creating new sections; and repealing RCW  
15 26.26.210, 26.26.220, 26.26.230, 26.26.240, 26.26.250, 26.26.260, and  
16 26.26.735.

17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

18       **Sec. 1.** RCW 26.26.011 and 2002 c 302 s 102 are each amended to  
19 read as follows:

1 The definitions in this section apply throughout this chapter  
2 unless the context clearly requires otherwise.

3 (1) "Acknowledged (~~(father)~~) parent" means a (~~(man)~~) person who has  
4 established a (~~(father-child)~~) parent-child relationship under RCW  
5 26.26.300 through 26.26.375.

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

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

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

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

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

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

20 (a) (~~(Intrauterine)~~) Artificial insemination certified by a  
21 physician;

22 (b) Donation of eggs;

23 (c) Donation of embryos;

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

25 (e) Intracytoplasmic sperm injection.

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

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

31 (7) "Compensation" means payment of any valuable consideration for  
32 services in excess of reasonable medical, legal, and ancillary costs.

33 (8) "Determination of parentage" means the establishment of the  
34 parent-child relationship by the signing of a valid acknowledgment of  
35 (~~(paternity)~~) parentage under RCW 26.26.300 through 26.26.375 or  
36 adjudication by the court.

37 (~~(+8)~~) (9) "Domestic partner" means a state registered domestic  
38 partner as defined in chapter 26.60 RCW.

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

5       (a) A ~~((husband))~~ person who provides ~~((sperm, or a wife who~~  
6 ~~provides eggs,))~~ a gamete or gametes to be used for assisted  
7 reproduction ~~((by the wife))~~ with his or her spouse or domestic  
8 partner; or

9       (b) ~~((A woman who gives birth to a child by means of assisted~~  
10 ~~reproduction, except as otherwise provided in RCW 26.26.210 through~~  
11 ~~26.26.260 or 26.26.735.))~~ An intended parent under sections 59 through  
12 70 of this act.

13       ~~((+9))~~ (11) "Ethnic or racial group" means, for purposes of  
14 genetic testing, a recognized group that an individual identifies as  
15 all or part of ~~((his or her))~~ the individual's ancestry or that is so  
16 identified by other information.

17       ~~((+10))~~ (12) "Gamete" means either a sperm or an egg.

18       (13) "Genetic testing" means an analysis of genetic markers  
19 ~~((only))~~ to exclude or identify a man as the father or a woman as the  
20 mother of a child. The term includes an analysis of one or a  
21 combination of the following:

22       (a) Deoxyribonucleic acid; and

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

25       ~~((+11))~~ (14) "Gestational surrogacy" means the process by which a  
26 woman attempts to carry and give birth to a child created through in  
27 vitro fertilization to which the woman acting as a gestational  
28 surrogate has made no genetic contribution.

29       (15) "Gestational surrogacy contract" means a written agreement  
30 regarding gestational surrogacy as provided under sections 59 through  
31 70 of this act.

32       (16) "In vitro fertilization" means all medical and laboratory  
33 procedures that are necessary to effectuate the extracorporeal  
34 fertilization of egg and sperm.

35       (17) "Intended parent" means a person or persons who enters into a  
36 gestational surrogacy contract with a woman acting as a gestational  
37 surrogate pursuant to which he or she will be the legal parent upon the  
38 birth of the resulting child. In the case of a married couple or a

1 couple in a domestic partnership, any reference to an intended parent  
2 includes both spouses or both domestic partners for all purposes of  
3 this chapter. This term includes the intended mother, intended father,  
4 or both.

5 (18) "Man" means a male individual of any age.

6 ~~((+12))~~ (19) "Medical evaluation" means an evaluation and  
7 consultation with a physician meeting the requirements of section 69 of  
8 this act.

9 (20) "Mental health evaluation" means an evaluation and  
10 consultation with a mental health professional meeting the requirements  
11 of section 69 of this act.

12 (21) "Parent" means an individual who has established a parent-  
13 child relationship under RCW 26.26.101.

14 ~~((+13))~~ (22) "Parent-child relationship" means the legal  
15 relationship between a child and a parent of the child. The term  
16 includes the mother-child relationship and the father-child  
17 relationship.

18 ~~((+14) "Paternity"))~~ (23) "Parentage index" means the likelihood of  
19 (~~(paternity)~~) parentage calculated by computing the ratio between:

20 (a) The likelihood that the tested (~~(man)~~) person is the (~~(father)~~)  
21 parent, based on the genetic markers of the tested (~~(man)~~) person,  
22 (~~(mother)~~) genetic parent, and child, conditioned on the hypothesis  
23 that the tested (~~(man)~~) person is the (~~(father)~~) parent of the child;  
24 and

25 (b) The likelihood that the tested (~~(man)~~) person is not the  
26 (~~(father)~~) parent, based on the genetic markers of the tested (~~(man)~~)  
27 person, (~~(mother)~~) genetic parent, and child, conditioned on the  
28 hypothesis that the tested (~~(man)~~) person is not the (~~(father)~~) parent  
29 of the child and that the (~~(father)~~) parent is (~~(from)~~) of the same  
30 ethnic or racial group as the tested (~~(man)~~) person.

31 ~~((+15))~~ (24) "Physician" means a person licensed to practice  
32 medicine in a state.

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

37 ~~((+16))~~ (26) "Probability of (~~(paternity)~~) parentage" means the  
38 measure, for the ethnic or racial group to which the alleged (~~(father)~~)

1 parent belongs, of the probability that the individual in question is  
2 the ~~((father))~~ parent of the child, compared with a random, unrelated  
3 ~~((man))~~ person of the same ethnic or racial group, expressed as a  
4 percentage incorporating the ~~((paternity))~~ parentage index and a prior  
5 probability.

6 ~~((+17))~~ (27) "Record" means information that is inscribed on a  
7 tangible medium or that is stored in an electronic or other medium and  
8 is retrievable in perceivable form.

9 ~~((+18))~~ (28) "Signatory" means an individual who authenticates a  
10 record and is bound by its terms.

11 ~~((+19))~~ (29) "State" means a state of the United States, the  
12 District of Columbia, Puerto Rico, the United States Virgin Islands,  
13 any territory or insular possession subject to the jurisdiction of the  
14 United States, or an Indian tribe or band, or Alaskan native village,  
15 that is recognized by federal law or formally acknowledged by state  
16 law.

17 ~~((+20))~~ (30) "Support enforcement agency" means a public official  
18 or agency authorized to seek:

- 19 (a) Enforcement of support orders or laws relating to the duty of
- 20 support;
- 21 (b) Establishment or modification of child support;
- 22 (c) Determination of parentage; or
- 23 (d) Location of child support obligors and their income and assets.

24 (31) "Woman acting as a gestational surrogate" means a woman who  
25 agrees to engage in a gestational surrogacy.

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

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

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

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

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

36 (4) If a birth results under a ~~((surrogate parentage))~~ gestational  
37 surrogacy contract and the contract ~~((that))~~ is unenforceable under the

1 law of this state, the parent-child relationship is determined as  
2 provided in RCW 26.26.101 through 26.26.116 or through applicable case  
3 law.

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

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

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

14 (1) The provisions relating to determination of (~~paternity may be~~  
15 applied) parentage apply to (~~a~~) determinations of maternity and  
16 paternity.

17 (2) The provisions in this chapter apply to persons in a domestic  
18 partnership to the same extent they apply to persons in a marriage, and  
19 apply to persons of the same sex who have children together to the same  
20 extent they apply to persons of the opposite sex who have children  
21 together.

22 **Sec. 5.** RCW 26.26.101 and 2002 c 302 s 201 are each amended to  
23 read as follows:

24 (1) The (~~mother-child~~) parent-child relationship is established  
25 between a child and a man or woman by:

26 (a) The woman's having given birth to the child, except as  
27 otherwise provided in (~~RCW 26.26.210 through 26.26.260~~) sections 59  
28 through 72 of this act;

29 (b) An adjudication of the (~~woman's maternity~~) person's  
30 parentage;

31 (c) Adoption of the child by the (~~woman~~) person;

32 (d) (~~A valid surrogate parentage contract, under which the mother~~  
33 ~~is an intended parent of the child, as provided in RCW 26.26.210~~  
34 ~~through 26.26.260; or~~

1 ~~(e) An affidavit and physician's certificate in a form prescribed~~  
2 ~~by the department of health wherein the donor of ovum or surrogate~~  
3 ~~gestation carrier sets forth her intent to be legally bound as the~~  
4 ~~parent of a child or children born through alternative reproductive~~  
5 ~~medical technology by filing the affidavit and physician's certificate~~  
6 ~~with the registrar of vital statistics within ten days after the date~~  
7 ~~of the child's birth pursuant to RCW 26.26.735.~~

8 ~~(2) The father-child relationship is established between a child~~  
9 ~~and a man by:~~

10 ~~(a)) An adjudication confirming the person as a parent of a child~~  
11 ~~born pursuant to a gestational surrogacy contract if the contract was~~  
12 ~~validated under sections 59 through 70 of this act or is enforceable~~  
13 ~~under other law;~~

14 ~~(e) An un rebutted presumption of the ((man's paternity)) person's~~  
15 ~~parentage of the child under RCW 26.26.116;~~

16 ~~((b) The man's having signed an acknowledgment of paternity under~~  
17 ~~RCW 26.26.300 through 26.26.375)) (f) An effective acknowledgment of~~  
18 ~~parentage by the person under this chapter, unless the acknowledgment~~  
19 ~~has been rescinded or successfully challenged;~~

20 ~~((c) An adjudication of the man's paternity;~~

21 ~~(d) Adoption of the child by the man;~~

22 ~~(e)) or~~

23 ~~(g) The ((man's)) person having consented to assisted reproduction~~  
24 ~~by his ((wife)) or her spouse or domestic partner under RCW 26.26.700~~  
25 ~~through 26.26.730 that resulted in the birth of the child((~~or~~~~

26 ~~(f) A valid surrogate parentage contract, under which the father is~~  
27 ~~an intended parent of the child, as provided in RCW 26.26.210 through~~  
28 ~~26.26.260)).~~

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

31 A child born to parents who are not married to each other or in a  
32 domestic partnership with each other has the same rights under the law  
33 as a child born to parents who are married to each other or who are in  
34 a domestic partnership with each other.

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

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

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

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

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

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

16 (c) Before the birth of the child, ~~((he))~~ the person and the mother  
17 or father of the child married each other or entered into a domestic  
18 partnership with each other in apparent compliance with law, even if  
19 the attempted marriage or domestic partnership is, or could be,  
20 declared invalid and the child is born during the invalid marriage or  
21 invalid domestic partnership or within three hundred days after its  
22 termination by death, annulment, dissolution ~~((of marriage))~~, legal  
23 separation, or declaration of invalidity; or

24 (d) After the birth of the child, ~~((he))~~ the person and the mother  
25 or father of the child have married each other or entered into a  
26 domestic partnership with each other in apparent compliance with law,  
27 whether or not the marriage or domestic partnership is, or could be  
28 declared invalid, and ~~((he))~~ the person voluntarily asserted ~~((his~~  
29 ~~paternity))~~ parentage of the child, and:

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

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

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

36 (2) A person is presumed to be the parent of a child if, for the



1 first two years of the child's life, the person resided in the same  
2 household with the child and openly held out the child as his or her  
3 own.

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

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

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

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

15 (3) The judgment and order shall contain other appropriate  
16 provisions directed to the appropriate parties to the proceeding,  
17 concerning the duty of current and future support, the extent of any  
18 liability for past support furnished to the child if that issue is  
19 before the court, the furnishing of bond or other security for the  
20 payment of the judgment, or any other matter in the best interest of  
21 the child. The judgment and order may direct (~~the father~~) one parent  
22 to pay the reasonable expenses of the mother's pregnancy and  
23 (~~confinement~~) childbirth. The judgment and order may include a  
24 continuing restraining order or injunction. In issuing the order, the  
25 court shall consider the provisions of RCW 9.41.800.

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

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

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

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

11 (a) By filing a motion and proposed parenting plan or residential  
12 schedule and providing notice to the other parent and other persons who  
13 have residential time with the child pursuant to a court order:  
14 PROVIDED, That at the time of filing the motion less than twenty-four  
15 months have passed since entry of the order establishing parentage and  
16 that the proposed parenting plan or residential schedule does not  
17 change the designation of the parent with whom the child spends the  
18 majority of time. No filing fee shall be required for the filing of  
19 this motion; or

20 (b) By filing a petition for modification of a parenting plan or  
21 custody order pursuant to RCW 26.09.260.

22 (8) In any dispute between the ((~~natural parents~~)) persons claiming  
23 parentage of a child and a person or persons who have (a) commenced  
24 adoption proceedings or who have been granted an order of adoption, and  
25 (b) pursuant to a court order, or placement by the department of social  
26 and health services or by a licensed agency, have had actual custody of  
27 the child for a period of one year or more before court action is  
28 commenced by the ((~~natural parent or parents~~)) persons claiming  
29 parentage, the court shall consider the best welfare and interests of  
30 the child, including the child's need for situation stability, in  
31 determining the matter of custody, and the parent or person who is more  
32 fit shall have the superior right to custody.

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

37 (10) Restraining orders issued under this section restraining or  
38 enjoining the person from molesting or disturbing another party, from

1 going onto the grounds of or entering the home, workplace, or school of  
2 the other party or the day care or school of any child, or prohibiting  
3 the person from knowingly coming within, or knowingly remaining within,  
4 a specified distance of a location, shall prominently bear on the front  
5 page of the order the legend: VIOLATION OF THIS ORDER WITH ACTUAL  
6 NOTICE OF ITS TERMS IS A CRIMINAL OFFENSE UNDER CHAPTER 26.50 RCW AND  
7 WILL SUBJECT A VIOLATOR TO ARREST.

8 (11) The court shall order that any restraining order bearing a  
9 criminal offense legend, any domestic violence protection order, or any  
10 antiharassment protection order granted under this section be forwarded  
11 by the clerk of the court on or before the next judicial day to the  
12 appropriate law enforcement agency specified in the order. Upon  
13 receipt of the order, the law enforcement agency shall forthwith enter  
14 the order into any computer-based criminal intelligence information  
15 system available in this state used by law enforcement agencies to list  
16 outstanding warrants. The order is fully enforceable in any county in  
17 the state.

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

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

26 (1) If existence of the ((~~father~~)) parent and child relationship is  
27 declared, or ((~~paternity~~)) parentage or a duty of support has been  
28 acknowledged or adjudicated under this chapter or under prior law, the  
29 obligation of the ((~~father~~)) parent may be enforced in the same or  
30 other proceedings by the ((~~mother~~)) other parent, the child, the state  
31 of Washington, the public authority that has furnished or may furnish  
32 the reasonable expenses of pregnancy, ((~~confinement~~)) childbirth,  
33 education, support, or funeral, or by any other person, including a  
34 private agency, to the extent he or she has furnished or is furnishing  
35 these expenses.

36 (2) The court shall order support payments to be made to the

1 Washington state support registry, or the person entitled to receive  
2 the payments under an alternate arrangement approved by the court as  
3 provided in RCW 26.23.050(2).

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

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

7 ((The mother)) A genetic parent of a child and a ((man)) person  
8 claiming to be the ((father)) other parent of the child ((conceived as  
9 the result of his sexual intercourse with the mother)) may sign an  
10 acknowledgment of ((paternity)) parentage with intent to establish the  
11 ((man's paternity)) person's parentage.

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

14 (1) An acknowledgment of ((paternity)) parentage must:

- 15 (a) Be in a record;
- 16 (b) Be signed under penalty of perjury by ((the mother)) a genetic  
17 parent and by the ((man)) person seeking to establish ((his paternity))  
18 parentage;

19 (c) State that the child whose ((paternity)) parentage is being  
20 acknowledged:

21 (i) Does not have a presumed ((father)) parent, other than the  
22 person signing the acknowledgment, or has a presumed ((father)) parent  
23 whose full name is stated; and

24 (ii) Does not have another acknowledged or adjudicated ((father))  
25 parent;

26 (d) State whether there has been genetic testing and, if so, that  
27 the acknowledging ((man's)) parent's claim of ((paternity)) parentage  
28 is consistent with the results of the testing; and

29 (e) State that the signatories understand that the acknowledgment  
30 is the equivalent of a judicial adjudication of ((paternity)) parentage  
31 of the child and that a challenge to the acknowledgment is permitted  
32 only under limited circumstances and is barred after two years.

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

34 (a) States that another ((man)) person other than the person  
35 signing the acknowledgment is a presumed ((father)) parent, unless a

1 denial of ((~~paternity~~)) parentage signed by the presumed ((~~father~~))  
2 parent is filed with the state registrar of vital statistics;

3 (b) States that another ((~~man~~)) person is an acknowledged or  
4 adjudicated ((~~father~~)) parent; or

5 (c) Falsely denies the existence of a presumed, acknowledged, or  
6 adjudicated ((~~father~~)) parent of the child.

7 (3) A presumed ((~~father~~)) parent may sign an acknowledgment of  
8 ((~~paternity~~)) parentage.

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

11 A presumed ((~~father of a child~~)) parent may sign a denial of his  
12 ((~~paternity~~)) or her parentage. The denial is valid only if:

13 (1) An acknowledgment of ((~~paternity~~)) parentage signed by another  
14 ((~~man~~)) person is filed under RCW 26.26.320;

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

17 (3) The presumed ((~~father~~)) parent has not previously:

18 (a) Acknowledged ((~~his paternity~~)) parentage, unless the previous  
19 acknowledgment has been rescinded under RCW 26.26.330 or successfully  
20 challenged under RCW 26.26.335; or

21 (b) Been adjudicated to be the ((~~father~~)) parent of the child.

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

24 (1) An acknowledgment of ((~~paternity~~)) parentage and a denial of  
25 ((~~paternity~~)) parentage may be contained in a single document or may be  
26 signed in counterparts, and may be filed separately or simultaneously.  
27 If the acknowledgment and denial are both necessary, neither is valid  
28 until both are filed.

29 (2) An acknowledgment of ((~~paternity~~)) parentage or a denial of  
30 ((~~paternity~~)) parentage may be signed before the birth of the child.

31 (3) Subject to subsection (1) of this section, an acknowledgment of  
32 parentage and denial of ((~~paternity, if any,~~)) parentage takes effect  
33 on the birth of the child or the filing of the document with the state  
34 registrar of vital statistics, whichever occurs later.

35 (4) An acknowledgment of parentage or denial of ((~~paternity~~))

1 parentage signed by a minor is valid if it is otherwise in compliance  
2 with this chapter.

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

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

10 (2) Except as otherwise provided in RCW 26.26.330 and 26.26.335, a  
11 valid denial of ((paternity)) parentage by a presumed parent filed with  
12 the state registrar of vital statistics in conjunction with a valid  
13 acknowledgment of ((paternity)) parentage is equivalent to an  
14 adjudication of the ((nonpaternity)) parentage of the presumed  
15 ((father)) parent and discharges the presumed ((father)) parent from  
16 all of the rights and duties of a parent.

17 **Sec. 16.** RCW 26.26.325 and 2002 c 302 s 306 are each amended to  
18 read as follows:

19 The state registrar of vital statistics may charge a fee for filing  
20 an acknowledgment of parentage or denial of ((paternity)) parentage.

21 **Sec. 17.** RCW 26.26.330 and 2004 c 111 s 1 are each amended to read  
22 as follows:

23 A signatory may rescind an acknowledgment of parentage or denial of  
24 ((paternity)) parentage by commencing a court proceeding to rescind  
25 before the earlier of:

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

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

31 **Sec. 18.** RCW 26.26.335 and 2002 c 302 s 308 are each amended to  
32 read as follows:

33 (1) After the period for rescission under RCW 26.26.330 has

1 (~~elapsed~~) expired, a signatory of an acknowledgment of parentage or  
2 denial of (~~paternity~~) parentage may commence a proceeding to  
3 challenge the acknowledgment or denial only:

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

5 (b) Within two years after the acknowledgment or denial is filed  
6 with the state registrar of vital statistics.

7 (2) A party challenging an acknowledgment of parentage or denial of  
8 (~~paternity~~) parentage has the burden of proof.

9 **Sec. 19.** RCW 26.26.340 and 2002 c 302 s 309 are each amended to  
10 read as follows:

11 (1) Every signatory to an acknowledgment (~~of~~) of parentage and  
12 any related denial of (~~paternity~~) parentage must be made a party to  
13 a proceeding to rescind or challenge the acknowledgment or denial.

14 (2) For the purpose of rescission of, or challenge to, an  
15 acknowledgment of parentage or denial of (~~paternity~~) parentage, a  
16 signatory submits to personal jurisdiction of this state by signing the  
17 acknowledgment or denial, effective upon the filing of the document  
18 with the state registrar of vital statistics.

19 (3) Except for good cause shown, during the pendency of a  
20 proceeding to rescind or challenge an acknowledgment of parentage or  
21 denial of (~~paternity~~) parentage, the court may not suspend the legal  
22 responsibilities of a signatory arising from (~~an~~) the acknowledgment,  
23 including the duty to pay child support.

24 (4) A proceeding to rescind or to challenge an acknowledgment of  
25 parentage or denial of (~~paternity~~) parentage must be conducted in the  
26 same manner as a proceeding to adjudicate parentage under RCW 26.26.500  
27 through 26.26.630.

28 (5) At the conclusion of a proceeding to rescind or challenge an  
29 acknowledgment of parentage or denial of (~~paternity~~) parentage, the  
30 court shall order the state registrar of vital statistics to amend the  
31 birth record of the child, if appropriate.

32 **Sec. 20.** RCW 26.26.345 and 2002 c 302 s 310 are each amended to  
33 read as follows:

34 A court or administrative agency conducting a judicial or  
35 administrative proceeding is not required or permitted to ratify an  
36 unchallenged acknowledgment of (~~paternity~~) parentage.

1       **Sec. 21.** RCW 26.26.350 and 2002 c 302 s 311 are each amended to  
2 read as follows:

3       A court of this state shall give full faith and credit to an  
4 acknowledgment of parentage or denial of ((~~paternity~~)) parentage  
5 effective in another state if the acknowledgment or denial has been  
6 signed and is otherwise in compliance with the law of the other state.

7       **Sec. 22.** RCW 26.26.355 and 2002 c 302 s 312 are each amended to  
8 read as follows:

9       (1) To facilitate compliance with RCW 26.26.300 through 26.26.350,  
10 the state registrar of vital statistics shall prescribe forms for the  
11 acknowledgment of parentage and the denial of ((~~paternity~~)) parentage.  
12 The acknowledgment of ((~~paternity~~)) parentage shall state, in prominent  
13 lettering, that signing the acknowledgment of ((~~paternity~~)) parentage  
14 is equivalent to an adjudication of ((~~paternity~~)) parentage and confers  
15 upon the acknowledged ((~~father~~)) parent all the rights and duties of a  
16 parent, such as the payment of child support, if the acknowledgment is  
17 not challenged or rescinded as prescribed under RCW 26.26.310 through  
18 26.26.340. The form shall include copies of the provisions in RCW  
19 26.26.310 through 26.26.340.

20       (2) A valid acknowledgment of parentage or denial of ((~~paternity~~))  
21 parentage is not affected by a later modification of the prescribed  
22 form.

23       **Sec. 23.** RCW 26.26.360 and 2002 c 302 s 313 are each amended to  
24 read as follows:

25       The state registrar of vital statistics may release information  
26 relating to the acknowledgment of parentage or denial of ((~~paternity,~~  
27 ~~not expressly sealed under a court order~~)) parentage, to: (1) A  
28 signatory of the acknowledgment or denial ((~~or their attorneys of~~  
29 ~~record~~)); (2) the courts of this or any other state; (3) the agencies  
30 of this or any other state operating a child support program under  
31 Title IV-D of the social security act; ((~~or~~)) and (4) the agencies of  
32 this or any other state involved in a dependency determination for a  
33 child named in the acknowledgment of parentage or denial of  
34 ((~~paternity~~)) parentage.



1           **Sec. 24.** RCW 26.26.370 and 2002 c 302 s 315 are each amended to  
2 read as follows:

3           (1) RCW 26.26.300 through 26.26.375 apply to all acknowledgments of  
4 paternity or parentage executed on or after July 1, 1997.

5           (2) A man who executed an acknowledgment of paternity before July  
6 1, 1997, is rebuttably identified as the father of the child named  
7 therein. Any dispute of the parentage, custody, visitation, or support  
8 of the child named therein shall be determined in a proceeding to  
9 adjudicate the child's parentage commenced under RCW 26.26.500 through  
10 26.26.630.

11           **Sec. 25.** RCW 26.26.375 and 2002 c 302 s 316 are each amended to  
12 read as follows:

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

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

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

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

25           (3) Before the period for a challenge to the acknowledgment or  
26 denial of (~~(paternity)~~) parentage has elapsed under RCW 26.26.335, the  
27 petitioner must specifically allege under penalty of perjury, to the  
28 best of the petitioner's knowledge, that: (a) No (~~(man)~~) persons other  
29 than the (~~(man)~~) person with a parent-child relationship with the child  
30 and the person who executed the acknowledgment of (~~(paternity is the~~  
31 ~~father)) parentage are the parents of the child; (b) there is not  
32 currently pending a proceeding to adjudicate the parentage of the child  
33 or that another (~~(man)~~) person is adjudicated the child's (~~(father)~~)  
34 parent; and (c) the petitioner has provided notice of the proceeding to  
35 any other (~~(men)~~) persons who have claimed parentage of the child.  
36 Should the respondent or any other person appearing in the action deny  
37 the allegations, a permanent parenting plan or residential schedule may~~

1 not be entered for the child without the matter being converted to a  
2 proceeding to challenge the acknowledgment of (~~paternity~~) parentage  
3 under RCW 26.26.335 and 26.26.340. A copy of the acknowledgment of  
4 (~~paternity~~) parentage or the birth certificate issued by the state in  
5 which the child was born must be filed with the petition or response.  
6 The court may convert the matter to a proceeding to challenge the  
7 acknowledgment on its own motion.

8 **Sec. 26.** RCW 26.26.400 and 2002 c 302 s 401 are each amended to  
9 read as follows:

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

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

15 **Sec. 27.** RCW 26.26.405 and 2002 c 302 s 402 are each amended to  
16 read as follows:

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

21 (a) Alleging (~~paternity~~) parentage and stating facts establishing  
22 a reasonable probability of the requisite sexual contact between the  
23 individuals; or

24 (b) Denying (~~paternity~~) parentage and stating facts establishing  
25 a possibility that sexual contact between the individuals, if any, did  
26 not result in the conception of the child.

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

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

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

35 (5) This section does not apply when the child was conceived  
36 through assisted reproduction.

1       **Sec. 28.** 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. 29.** 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, or more than one woman is identified by genetic testing as the  
28 possible mother of the child, the court shall order them to submit to  
29 further genetic testing to identify the genetic ((father)) parent.

30 (4) This section does not apply when the child was conceived  
31 through assisted reproduction.

32 **Sec. 30.** 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. 31.** 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.

19 **Sec. 32.** RCW 26.26.435 and 2002 c 302 s 408 are each amended to  
20 read as follows:

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

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

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

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

1        (3) This section does not apply when the child was conceived  
2 through assisted reproduction.

3        **Sec. 33.** RCW 26.26.445 and 2002 c 302 s 410 are each amended to  
4 read as follows:

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

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

15        **Sec. 34.** RCW 26.26.505 and 2002 c 302 s 502 are each amended to  
16 read as follows:

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

19        (1) The child;

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

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

24        (4) The division of child support;

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

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

29        (7) An intended parent under a (~~surrogate parentage contract, as~~  
30 ~~provided in RCW 26.26.210 through 26.26.260~~) gestational surrogacy  
31 contract provided in sections 59 through 72 of this act.

32        **Sec. 35.** RCW 26.26.510 and 2002 c 302 s 503 are each amended to  
33 read as follows:

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

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

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

5        ~~((3))~~ (c) An intended parent under a ~~((surrogate parentage~~  
6 ~~contract, as provided in RCW 26.26.210 through 26.26.260))~~ gestational  
7 surrogacy contract as provided in sections 59 through 72 of this act.

8        (2) If a person who is required to be joined as a party under this  
9 section cannot be located after reasonable efforts, the failure to join  
10 that person does not preclude an adjudication of parentage.

11        **Sec. 36.** RCW 26.26.525 and 2002 c 302 s 506 are each amended to  
12 read as follows:

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

16        (1) The child becomes an adult, but only if the child initiates the  
17 proceeding; or

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

21        **Sec. 37.** RCW 26.26.530 and 2002 c 302 s 507 are each amended to  
22 read as follows:

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

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. 38.** 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~~) the parentage of a child having a presumed  
7 parent or to challenge the parentage of a child having an acknowledged  
8 parent, a court may deny a motion seeking an order for genetic testing  
9 of the mother or father, the child, and the presumed (~~father~~) or  
10 acknowledged parent if the court determines that:

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

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

17 (b) The child was conceived through assisted reproduction.

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

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

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

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

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

34 (e) The age of the child;

35 (f) The harm (~~to the child which~~) that may result to the child if  
36 presumed (~~paternity~~) or acknowledged parentage is successfully  
37 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. 39.** 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)) parent, a signatory  
23 to the acknowledgment of parentage or denial of ((paternity-must))  
24 parentage may commence any proceeding seeking to rescind the  
25 acknowledgment or denial or challenge the ((paternity)) parentage of  
26 ((that)) the child only within the time allowed under RCW 26.26.330 or  
27 26.26.335.

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

34 (3) A proceeding under this section is subject to the application  
35 of the principles of estoppel established in RCW 26.26.535.

1           **Sec. 40.** 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. 41.** RCW 26.26.550 and 2002 c 302 s 511 are each amended to  
15 read as follows:

16           ~~((Although))~~ Except as otherwise provided in section 64 of this  
17 act, a proceeding to ~~((determine))~~ adjudicate parentage may be  
18 commenced before the birth of the child, ~~((the proceeding))~~ but may not  
19 be concluded until after the birth of the child. The following actions  
20 may be taken before the birth of the child:

- 21           (1) Service of process;
- 22           (2) Discovery;
- 23           (3) Except as prohibited by RCW 26.26.405, collection of specimens  
24 for genetic testing; and
- 25           (4) Temporary orders authorized under RCW 26.26.590.

26           **Sec. 42.** RCW 26.26.555 and 2002 c 302 s 512 are each amended to  
27 read as follows:

28           (1) 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) The court shall appoint a guardian ad litem to represent a  
31 minor or incapacitated child if the child is a party, or if the court  
32 finds that the interests of ~~((a minor child or incapacitated))~~ the  
33 child are not adequately represented~~((, the court shall appoint a~~  
34 ~~guardian ad litem to represent the child, subject to RCW 74.20.310~~  
35 ~~neither the child's mother or father may represent the child as~~  
36 ~~guardian or otherwise))~~.

1           **Sec. 43.** 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, the results of genetic testing are inadmissible to  
19 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, or  
22 adjudicated (~~(father)~~) parent; 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. 44.** 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)~~) parentage is being  
34 determined declines to submit to genetic testing (~~(as)~~) ordered by the  
35 court, the court for that reason may (~~(on that basis)~~) adjudicate  
36 parentage contrary to the position of that individual.

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

7 (4) This section does not apply when the child was conceived  
8 through assisted reproduction.

9 **Sec. 45.** 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~~) parentage of a child by filing a pleading to that  
13 effect or by admitting (~~paternity~~) parentage under penalty of perjury  
14 when making an appearance or during a hearing.

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

20 **Sec. 46.** RCW 26.26.590 and 2002 c 302 s 524 are each amended to  
21 read as follows:

22 This section applies to any proceeding under RCW 26.26.500 through  
23 26.26.630.

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

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

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

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

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

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

1 (2) A temporary order may, on the same basis as provided in chapter  
2 26.09 RCW, make residential provisions with regard to minor children of  
3 the parties, except that a parenting plan is not required unless  
4 requested by a parent.

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

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

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

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

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

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

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

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

1 enter the order into any computer-based criminal intelligence  
2 information system available in this state used by law enforcement  
3 agencies to list outstanding warrants. The order is fully enforceable  
4 in any county in the state.

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

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

16 (9) The court may issue a temporary restraining order or  
17 preliminary injunction and an order for temporary support in such  
18 amounts and on such terms as are just and proper in the circumstances.  
19 In issuing the order, the court shall consider the provisions of RCW  
20 9.41.800.

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

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

25 (b) May be revoked or modified;

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

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

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

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

8 **Sec. 47.** RCW 26.26.600 and 2002 c 302 s 531 are each amended to  
9 read as follows:

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

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

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

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

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

32 (5) Subsections (1) through (4) of this section do not apply when  
33 the child was conceived through assisted reproduction. The parentage  
34 of a child conceived through assisted reproduction may be disproved  
35 only by admissible evidence showing the intent of the presumed,  
36 acknowledged, or adjudicated parent and the other parent.

1       **Sec. 48.** RCW 26.26.615 and 2002 c 302 s 534 are each amended to  
2 read as follows:

3       The court shall issue an order adjudicating the ~~((paternity))~~  
4 parentage of a ~~((man))~~ person who:

- 5       (1) After service of process, is in default; and
- 6       (2) Is found by the court to be the ~~((father))~~ parent of a child.

7       **Sec. 49.** RCW 26.26.620 and 2002 c 302 s 535 are each amended to  
8 read as follows:

9       The court may issue an order dismissing a proceeding commenced  
10 under this chapter for want of prosecution only without prejudice. An  
11 order of dismissal for want of prosecution purportedly with prejudice  
12 is void and ~~((may be challenged in another judicial or an  
13 administrative proceeding))~~ has only the effect of a dismissal without  
14 prejudice.

15       **Sec. 50.** RCW 26.26.625 and 2002 c 302 s 536 are each amended to  
16 read as follows:

17       (1) The court shall issue an order adjudicating whether a ~~((man))~~  
18 person alleged or claiming to be the ~~((father))~~ parent is the parent of  
19 the child.

20       (2) An order adjudicating parentage must identify the child by name  
21 and age.

22       (3) Except as otherwise provided in subsection (4) of this section,  
23 the court may assess filing fees, reasonable attorneys' fees, fees for  
24 genetic testing, other costs, and necessary travel and other reasonable  
25 expenses incurred in a proceeding under this section and RCW 26.26.500  
26 through 26.26.620 and 26.26.630. The court may award attorneys' fees,  
27 which may be paid directly to the attorney, who may enforce the order  
28 in the attorney's own name.

29       (4) The court may not assess fees, costs, or expenses against the  
30 support enforcement agency of this state or another state, except as  
31 provided by other law.

32       (5) On request of a party and for good cause shown, the court may  
33 order that the name of the child be changed.

34       (6) If the order of the court is at variance with the child's birth  
35 certificate, the court shall order the state registrar of vital  
36 statistics to issue an amended birth certificate.



1           **Sec. 51.** RCW 26.26.630 and 2002 c 302 s 537 are each amended to  
2 read as follows:

3           (1) Except as otherwise provided in subsection (2) of this section,  
4 a determination of parentage is binding on:

5           (a) All signatories to an acknowledgment or denial of (~~paternity~~)  
6 parentage as provided in RCW 26.26.300 through 26.26.375; and

7           (b) All parties to an adjudication by a court acting under  
8 circumstances that satisfy the jurisdictional requirements of RCW  
9 (~~26.21.075~~) 26.21A.100.

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

12          (a) The determination was based on an unrescinded acknowledgment of  
13 parentage and the acknowledgment of (~~paternity~~) parentage is  
14 consistent with the results of the genetic testing, or in the case of  
15 a child conceived through assisted reproduction, the acknowledgment of  
16 parentage is consistent with evidence showing the intent of the  
17 parents;

18          (b) The adjudication of parentage was based on a finding consistent  
19 with the results of genetic testing and the consistency is declared in  
20 the determination or is otherwise shown, or in the case of a child  
21 conceived through assisted reproduction, the adjudication of parentage  
22 was based on evidence showing the intent of the parents; or

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

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

30          (a) Expressly identifies a child as a "child of the marriage,"  
31 "issue of the marriage," "child of the domestic partnership," "issue of  
32 the domestic partnership," or similar words indicating that the  
33 (~~husband is the father~~) spouses in the marriage or domestic partners  
34 in the domestic partnership are the parents of the child; or

35          (b) Provides for support of the child by the (~~husband~~) spouses or  
36 domestic partners unless (~~paternity~~) parentage is specifically  
37 disclaimed in the order.

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

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

8 **Sec. 52.** RCW 26.26.700 and 2002 c 302 s 601 are each amended to  
9 read as follows:

10 RCW 26.26.705 through 26.26.740 do not apply to the birth of a  
11 child conceived by means of sexual intercourse or as a result of  
12 gestational surrogacy contract.

13 **Sec. 53.** RCW 26.26.705 and 2002 c 302 s 602 are each amended to  
14 read as follows:

15 A donor is not a parent of a child conceived by means of assisted  
16 reproduction, unless otherwise agreed in a signed record by the donor  
17 and the person or persons intending to be parents of the child  
18 conceived through assisted reproduction.

19 **Sec. 54.** RCW 26.26.710 and 2002 c 302 s 603 are each amended to  
20 read as follows:

21 (~~((If a husband provides sperm for, or consents to, assisted~~  
22 ~~reproduction by his wife as provided in RCW 26.26.715, he is the father~~  
23 ~~of a resulting child born to his wife.))~~) A person who provides gametes  
24 for, or consents in a signed record to assisted reproduction with  
25 another person, with the intent to be the parent of the child born, is  
26 the parent of the resulting child.

27 **Sec. 55.** RCW 26.26.715 and 2002 c 302 s 604 are each amended to  
28 read as follows:

29 (1) (~~((A consent to assisted reproduction by a married woman must be~~  
30 ~~in a record signed by the woman and her husband.))~~) Consent by a couple  
31 who intend to be parents of a child conceived by assisted reproduction  
32 must be in a record signed by both persons. This requirement does not  
33 apply to (~~(the donation of eggs for assisted reproduction by another~~  
34 ~~woman)) a donor.~~

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

7 **Sec. 56.** RCW 26.26.720 and 2002 c 302 s 605 are each amended to  
8 read as follows:

9 (1) Except as otherwise provided in subsection (2) of this section,  
10 (~~the husband of a wife~~) a spouse or domestic partner of a woman who  
11 gives birth to a child by means of assisted reproduction, or a spouse  
12 or domestic partner of a man who has a child by means of assisted  
13 reproduction, may not challenge his (~~paternity~~) or her parentage of  
14 the child unless:

15 (a) Within two years after learning of the birth of the child  
16 (~~he~~) the person commences a proceeding to adjudicate his  
17 (~~paternity~~) or her parentage; and

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

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

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

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

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

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

33 **Sec. 57.** RCW 26.26.725 and 2002 c 302 s 606 are each amended to  
34 read as follows:

35 (1) If a marriage or domestic partnership is dissolved before  
36 placement of eggs, sperm, or an embryo, the former spouse or former

1 domestic partner is not a parent of the resulting child unless the  
2 former spouse or former domestic partner consented in a signed record  
3 that if assisted reproduction were to occur after a ((divorce))  
4 dissolution, the former spouse or former domestic partner would be a  
5 parent of the child.

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

11 **Sec. 58.** RCW 26.26.730 and 2002 c 302 s 607 are each amended to  
12 read as follows:

13 If ((a spouse)) an individual who consented in a record to be a  
14 parent by assisted reproduction dies before placement of eggs, sperm,  
15 or an embryo, the deceased ((spouse)) individual is not a parent of the  
16 resulting child unless the deceased ((spouse)) individual consented in  
17 a signed record that if assisted reproduction were to occur after  
18 death, the deceased ((spouse)) individual would be a parent of the  
19 child.

20 NEW SECTION. **Sec. 59.** The purpose of sections 60 through 72 of  
21 this act is to establish consistent standards and procedural safeguards  
22 for the protection of all parties involved in a gestational surrogacy  
23 contract in this state and to confirm the legal status of children born  
24 as a result of these contracts. These standards and safeguards are  
25 meant to facilitate the use of this type of reproductive contract in  
26 accord with the public policy of this state.

27 NEW SECTION. **Sec. 60.** (1) Except as provided in this chapter, the  
28 woman who gives birth to a child is presumed to be the mother of that  
29 child for purposes of state law.

30 (2) In the case of a gestational surrogacy contract satisfying the  
31 requirements set forth in section 62 of this act:

32 (a) The intended parent or parents is the parent or are parents of  
33 the child for purposes of state law immediately upon the birth of the  
34 child;

1 (b) The child is considered the child of the intended parent or  
2 parents for purposes of state law immediately upon the birth of the  
3 child; and

4 (c) Neither the woman acting as a gestational surrogate nor her  
5 spouse or domestic partner, if any, are the parents of the child for  
6 purposes of state law immediately upon the birth of the child.

7 (3) The parties to a gestational surrogacy contract shall assume  
8 the rights and obligations of subsection (2) of this section if:

9 (a) The woman acting as a gestational surrogate satisfies the  
10 eligibility requirements set forth in section 61(1) of this act;

11 (b) The intended parent or parents satisfy the eligibility  
12 requirements set forth in section 61(2) of this act; and

13 (c) The birth as a result of gestational surrogacy occurs pursuant  
14 to a gestational surrogacy contract meeting the requirements set forth  
15 in section 62 of this act.

16 (4) In the case of a gestational surrogacy contract meeting the  
17 requirements set forth in section 62 of this act, the intended parents  
18 are the parents of the child for purposes of state law unless otherwise  
19 determined by a court of competent jurisdiction, even in the event of  
20 a laboratory error in which the resulting child is not genetically  
21 related to either of the intended parents.

22 NEW SECTION. **Sec. 61.** (1) A woman acting as a gestational  
23 surrogate is deemed to have satisfied the requirements of this chapter  
24 if she has met the following requirements at the time the gestational  
25 surrogacy contract is executed:

26 (a) She is at least twenty-one years of age;

27 (b) She has given birth to at least one child;

28 (c) She has completed a medical evaluation;

29 (d) She has indicated in a writing her informed consent to the  
30 medical procedures associated with the establishment of a pregnancy  
31 through embryo transfer, after being informed by a licensed physician  
32 of the risks of the procedures, including the risks that attend  
33 implantation of more than one embryo, and the information received was  
34 in accord with the provision of information recommended by the society  
35 for assisted reproductive technology, the American college of  
36 obstetricians and gynecologists, or the American society of  
37 reproductive medicine or their successor organizations;

1 (e) She has completed a mental health evaluation by a mental health  
2 provider licensed under chapter 18.71, 18.79, 18.83, or 18.225 RCW;

3 (f) She has undergone legal consultation with independent legal  
4 counsel regarding the terms of the gestational surrogacy contract and  
5 the potential legal consequences of the gestational surrogacy; and

6 (g) She has obtained a health insurance policy that covers major  
7 medical treatments and hospitalization and the health insurance policy  
8 has a term that extends throughout the duration of the expected  
9 pregnancy and for eight weeks after the birth of the child. The policy  
10 may be procured by the intended parents on behalf of the woman acting  
11 as a gestational surrogate pursuant to the gestational surrogacy  
12 contract.

13 (2) The intended parent or parents are deemed to have satisfied the  
14 requirements of this chapter if he, she, or they have met the following  
15 requirements at the time the gestational surrogacy contract is  
16 executed:

17 (a) He, she, or they have a medical need for the gestational  
18 surrogacy as evidenced by a qualified physician's affidavit attached to  
19 the gestational surrogacy contract. If both intended parents are the  
20 same sex as each other, this subsection (2)(a) is satisfied and an  
21 affidavit from a qualified physician is not required;

22 (b) He, she, or they have completed a mental health evaluation by  
23 a mental health provider licensed under chapter 18.71, 18.79, 18.83, or  
24 18.225 RCW; and

25 (c) He, she, or they have undergone legal consultation with  
26 independent legal counsel regarding the terms of the gestational  
27 surrogacy contract and the potential legal consequences of the  
28 gestational surrogacy.

29 NEW SECTION. **Sec. 62.** (1) A gestational surrogacy contract is  
30 presumed enforceable for purposes of state law only if:

31 (a) It meets the contractual requirements set forth in subsection  
32 (2) of this section; and

33 (b) It contains at a minimum each of the terms set forth in  
34 subsection (3) of this section.

35 (2) A gestational surrogacy contract must meet the following  
36 requirements:

37 (a) It must be in writing;

1 (b) It must be executed prior to the commencement of any medical  
2 procedures, other than medical or mental health evaluations necessary  
3 to determine eligibility of the parties pursuant to section 61 of this  
4 act, in furtherance of the gestational surrogacy:

5 (i) By the woman acting as a gestational surrogate meeting the  
6 eligibility requirements of section 61(1) of this act and, if married  
7 or in a domestic partnership, the spouse or domestic partner of the  
8 woman acting as a gestational surrogate; and

9 (ii) By the intended parent or parents meeting the eligibility  
10 requirements of section 61(2) of this act. In the event an intended  
11 parent is married or in a domestic partnership, both spouses or both  
12 domestic partners must execute the gestational surrogacy contract;

13 (c) Both the woman acting as a gestational surrogate and the  
14 intended parent or parents must have been represented by separate  
15 counsel in all matters concerning the gestational surrogacy and the  
16 gestational surrogacy contract;

17 (d) Both the woman acting as a gestational surrogate and the  
18 intended parent or parents must have signed a written acknowledgement  
19 that he or she received information about the legal, financial, and  
20 contractual rights, expectations, penalties, and obligations of the  
21 gestational surrogacy contract;

22 (e) If the gestational surrogacy contract provides for the payment  
23 of compensation to the woman acting as a gestational surrogate, the  
24 compensation must have been placed in escrow with an independent escrow  
25 agent prior to the commencement of any medical procedure, other than  
26 medical or mental health evaluations necessary to determine the  
27 eligibility of a woman to act as a gestational surrogate pursuant to  
28 section 61(1) of this act; and

29 (f) It must be witnessed by two competent adults.

30 (3) A gestational surrogacy contract must provide for:

31 (a) The express written agreement of the woman acting as a  
32 gestational surrogate to:

33 (i) Undergo embryo transfer and attempt to carry and give birth to  
34 the child, and that she has given her informed consent to the procedure  
35 as provided in section 61(1)(d) of this act; and

36 (ii) Surrender the child to the intended parent or parents  
37 immediately upon the birth of the child;

1 (b) If the woman acting as a gestational surrogate is married or in  
2 a domestic partnership, the express agreement of her spouse or her  
3 domestic partner to:

4 (i) Undertake the obligations imposed on the woman acting as a  
5 gestational surrogate pursuant to the terms of the gestational  
6 surrogacy contract;

7 (ii) Surrender the child to the intended parent or parents  
8 immediately upon the birth of the child;

9 (c) The right of the woman acting as a gestational surrogate to  
10 utilize the services of a physician of her choosing to provide her care  
11 during the pregnancy; and

12 (d) The express written agreement of the intended parent or parents  
13 to:

14 (i) Receive the child immediately upon his or her birth; and

15 (ii) Assume sole responsibility for the support of the child  
16 immediately upon his or her birth.

17 (4) A gestational surrogacy contract is presumed enforceable for  
18 purposes of state law even though it contains one or more of the  
19 following provisions:

20 (a) The agreement of the intended parent or parents to pay the  
21 woman acting as a gestational surrogate reasonable compensation; and

22 (b) The agreement of the intended parent or parents to pay for or  
23 reimburse the woman acting as a gestational surrogate for reasonable  
24 expenses, including, without limitation, medical, legal, or other  
25 professional expenses, related to the gestational surrogacy and the  
26 gestational surrogacy contract.

27 (5) In the event that any of the requirements of this section are  
28 not met, a court of competent jurisdiction shall determine parentage  
29 based on evidence of the parties' intent.

30 (6) Nothing in this chapter may be construed to limit or constrain  
31 the right of a woman acting as a gestational surrogate to make all  
32 health and welfare decisions regarding herself and her pregnancy,  
33 including the right whether or not to terminate the pregnancy as  
34 protected by law. Gestational surrogacy contract provisions, if any,  
35 that conflict with the aforementioned rights are severable from the  
36 remainder of the contract and are unenforceable.



1        NEW SECTION.    **Sec. 63.**    (1) Any person who is considered to be the  
2 parent of a child pursuant to section 62 of this act is obligated to  
3 support the child.

4        (2) The breach of the gestational surrogacy contract by the  
5 intended parent or parents may not relieve such intended parent or  
6 parents of the support obligations imposed by state law.

7        (3) A gamete donor may be liable for child support only if he or  
8 she fails to enter into a legal agreement in which either: (a) The  
9 intended parent or parents agree to assume all rights and  
10 responsibilities for any resulting child; or (b) the gamete donor  
11 relinquishes his or her rights to any gametes, resulting embryos, or  
12 children.

13        NEW SECTION.    **Sec. 64.**    (1) A parent-child relationship is  
14 established effective immediately upon the birth of a child born  
15 pursuant to a gestational surrogacy contract if, in addition to  
16 satisfying the provisions of the gestational surrogacy laws in this  
17 chapter, the attorneys representing both the woman acting as a  
18 gestational surrogate and the intended parent or parents certify that  
19 the parties entered into a gestational surrogacy contract intended to  
20 satisfy the requirements of section 62 of this act with respect to the  
21 child.

22        (2) The attorneys' certifications required by subsection (1) of  
23 this section must be filed with the superior court of the county in  
24 which the intended parents reside and may be filed either before or  
25 after the birth of the child.

26        (3) All court records related to the gestational surrogacy contract  
27 must be sealed and may not be thereafter open to inspection by any  
28 person except upon order of the court for good cause shown.

29        NEW SECTION.    **Sec. 65.**    Except as provided in this chapter, a  
30 person is not civilly or criminally liable for nonnegligent actions  
31 taken pursuant to the requirements of sections 59 through 70 of this  
32 act.

33        NEW SECTION.    **Sec. 66.**    Noncompliance by the woman acting as a  
34 gestational surrogate or the intended parent or parents occurs when

1 that party breaches a legally enforceable provision of the gestational  
2 surrogacy contract.

3 NEW SECTION. **Sec. 67.** (1) Except as otherwise provided in this  
4 chapter, in the event of noncompliance with the requirements of section  
5 60(3) of this act, a court of competent jurisdiction shall determine  
6 the respective rights and obligations of the parties.

7 (2) There is no specific performance remedy available for a breach  
8 of a gestational surrogacy contract term by the woman acting as a  
9 gestational surrogate that requires the woman to be impregnated.

10 NEW SECTION. **Sec. 68.** (1) Except as expressly provided in the  
11 gestational surrogacy contract or in section 67 of this act, the  
12 intended parent or parents are entitled to all remedies available at  
13 law or equity.

14 (2) Except as expressly provided in the gestational surrogacy  
15 contract, the woman acting as a gestational surrogate is entitled to  
16 all remedies available at law or equity.

17 NEW SECTION. **Sec. 69.** The department of health may adopt rules  
18 pertaining to the required medical and mental health evaluations and  
19 informed consent requirements for a gestational surrogacy contract.  
20 Until the department adopts these rules, medical and mental health  
21 evaluations and procedures and informed consent must be conducted in  
22 accordance with the recommended guidelines published as of the  
23 effective date of this act by the American society for reproductive  
24 medicine, the society for assisted reproductive technologists, or the  
25 American college of obstetricians and gynecologists. The rules may  
26 adopt these guidelines or others by reference.

27 NEW SECTION. **Sec. 70.** No action to invalidate a gestational  
28 surrogacy contract meeting the requirements of this chapter or to  
29 challenge the rights of parentage established pursuant to section 60 of  
30 this act may be commenced after twelve months from the date of birth of  
31 the child.

32 NEW SECTION. **Sec. 71.** (1) Sections 1 through 58 of this act apply  
33 to causes of action filed on or after the effective date of this act.

1 (2) This act applies to gestational surrogacy contracts entered  
2 into on or after the effective date of this act.

3 **Sec. 72.** RCW 26.26.740 and 2002 c 302 s 609 are each amended to  
4 read as follows:

5 The department of health shall, upon request, issue a birth  
6 certificate for any child born as a result of an alternative  
7 reproductive medical technology procedure or gestational surrogacy  
8 contract indicating the legal parentage of such child as intended by  
9 any agreement filed with the registrar of vital statistics pursuant to  
10 ((~~RCW 26.26.735~~)) the parties' filed certification under section 64 of  
11 this act.

12 **Sec. 73.** RCW 26.26.903 and 2002 c 302 s 709 are each amended to  
13 read as follows:

14 In applying and construing this uniform act, consideration must be  
15 given to the need to promote uniformity of the law with respect to its  
16 subject matter among states that enact it and to the intent that the  
17 act apply to persons of the same sex who have children together to the  
18 same extent the act applies to persons of the opposite sex who have  
19 children together.

20 **Sec. 74.** RCW 26.26.911 and 2002 c 302 s 101 are each amended to  
21 read as follows:

22 This act may be known and cited as the uniform parentage act of  
23 2002.

24 **Sec. 75.** RCW 9A.64.030 and 2003 c 53 s 81 are each amended to read  
25 as follows:

26 (1) It is unlawful for any person to sell or purchase a minor  
27 child.

28 (2) A transaction shall not be a purchase or sale under subsection  
29 (1) of this section if any of the following exists:

30 (a) The transaction is between the parents of the minor child; or

31 (b) The transaction is between a person receiving or to receive the  
32 child and an agency recognized under RCW 26.33.020; or

33 (c) The transaction is between the person receiving or to receive  
34 the child and a state agency or other governmental agency; or

1 (d) The transaction is pursuant to chapter 26.34 or 26.26 RCW; or  
2 (e) The transaction is pursuant to court order; or  
3 (f) The only consideration paid by the person receiving or to  
4 receive the child is intended to pay for the prenatal hospital or  
5 medical expenses involved in the birth of the child, or attorneys' fees  
6 and court costs involved in effectuating transfer of child custody.

7 (3)(a) Child selling is a class C felony.

8 (b) Child buying is a class C felony.

9 NEW SECTION. **Sec. 76.** Any action taken by an agency to implement  
10 the provisions of this act must be accomplished within existing  
11 resources.

12 NEW SECTION. **Sec. 77.** The following acts or parts of acts are  
13 each repealed:

14 (1) RCW 26.26.210 (Surrogate parenting--Definitions) and 1989 c 404  
15 s 1;

16 (2) RCW 26.26.220 (Surrogate parenting--Persons excluded from  
17 contracting) and 1989 c 404 s 2;

18 (3) RCW 26.26.230 (Surrogate parenting--Compensation prohibited)  
19 and 1989 c 404 s 3;

20 (4) RCW 26.26.240 (Surrogate parenting--Contract for compensation  
21 void) and 1989 c 404 s 4;

22 (5) RCW 26.26.250 (Surrogate parenting--Provisions violated--  
23 Penalty) and 1989 c 404 s 5;

24 (6) RCW 26.26.260 (Surrogate parenting--Custody of child) and 1989  
25 c 404 s 6; and

26 (7) RCW 26.26.735 (Child of assisted reproduction--Effect of  
27 agreement between ovum donor and woman who gives birth) and 2002 c 302  
28 s 608.

29 NEW SECTION. **Sec. 78.** If any provision of this act or its  
30 application to any person or circumstance is held invalid, the  
31 remainder of the act or the application of the provision to other  
32 persons or circumstances is not affected.

1        NEW SECTION.   **Sec. 79.**   Sections 59 through 70 of this act are each  
2   added to chapter 26.26 RCW.

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