
ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1267

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62nd Legislature

2011 Regular Session

By House General Government Appropriations & Oversight (originally sponsored by Representatives Pedersen, Walsh, Jinkins, Eddy, Roberts, Kagi, Sullivan, Van De Wege, Hurst, Goodman, Orwall, Moeller, Kirby, Frockt, Carlyle, Liias, Kenney, Clibborn, Seaquist, Blake, Hudgins, Fitzgibbon, Darneille, Dunshee, Morris, Takko, Pettigrew, Finn, Billig, Hunter, Cody, Dickerson, Stanford, Springer, Reykdal, Haigh, Rolfes, Sells, Jacks, Appleton, Hunt, Maxwell, Ryu, Ormsby, Ladenburg, McCoy, Santos, Lytton, Moscoso, Upthegrove, Green, Hasegawa, and Tharinger; by request of Washington State Bar Association)

READ FIRST TIME 02/17/11.

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 26.26.330, 26.26.335, 26.26.340, 26.26.360, 26.26.375, 26.26.400,
7 26.26.405, 26.26.410, 26.26.420, 26.26.425, 26.26.430, 26.26.435,
8 26.26.445, 26.26.505, 26.26.510, 26.26.525, 26.26.530, 26.26.535,
9 26.26.540, 26.26.545, 26.26.550, 26.26.555, 26.26.570, 26.26.575,
10 26.26.585, 26.26.590, 26.26.600, 26.26.620, 26.26.625, 26.26.630,
11 26.26.700, 26.26.705, 26.26.710, 26.26.715, 26.26.720, 26.26.725,
12 26.26.730, 26.26.735, 26.26.740, 26.26.903, 26.26.911, 9A.64.030, and
13 26.26.220; adding new sections to chapter 26.26 RCW; creating new
14 sections; and repealing RCW 26.26.210, 26.26.230, 26.26.240, 26.26.250,
15 and 26.26.260.

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

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

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

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

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

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

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

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

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

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

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

20 (b) Donation of eggs;

21 (c) Donation of embryos;

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

23 (e) Intracytoplasmic sperm injection.

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

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

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

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

35 (~~(+8)~~) (9) "Domestic partner" means a state registered domestic
36 partner as defined in chapter 26.60 RCW.

37 (10) "Donor" means an individual who (~~(produces—eggs—or—sperm~~

1 used)) contributes a gamete or gametes for assisted reproduction,
2 whether or not for ~~((consideration))~~ compensation. The term does not
3 include:

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

8 (b) ~~((A woman who gives birth to a child by means of assisted~~
9 ~~reproduction, except as otherwise provided in RCW 26.26.210 through~~
10 ~~26.26.260 or 26.26.735.))~~ An intended parent under sections 56 through
11 67 of this act.

12 ~~((9))~~ (11) "Ethnic or racial group" means, for purposes of
13 genetic testing, a recognized group that an individual identifies as
14 all or part of ~~((his or her))~~ the individual's ancestry or that is so
15 identified by other information.

16 ~~((10))~~ (12) "Gamete" means either a sperm or an egg.

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

21 (a) Deoxyribonucleic acid; and

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

24 ~~((11))~~ (14) "Gestational surrogacy" means the process by which a
25 woman attempts, through assisted reproduction, to carry and give birth
26 to a child to which the woman acting as a surrogate has made no genetic
27 contribution and the woman acting as a surrogate does not intend to be
28 the parent of the child.

29 (15) "Surrogacy contract" means a written agreement regarding
30 gestational or traditional surrogacy as provided under sections 55
31 through 66 of this act.

32 (16) "Identifying information" includes, but is not limited to, the
33 following information of the gamete donor or woman acting as a
34 surrogate:

35 (a) The first and last name of the person; and

36 (b) The age of the person at the time of the donation or surrogacy.

37 (17) "In vitro fertilization" means all medical and laboratory

1 procedures that are necessary to effectuate the extracorporeal
2 fertilization of egg and sperm.

3 (18) "Intended parent" means a person or persons who enters into a
4 surrogacy contract with a woman acting as a surrogate pursuant to which
5 he or she will be the legal parent upon the birth of the resulting
6 child. In the case of a married couple or a couple in a domestic
7 partnership, any reference to an intended parent includes both spouses
8 or both domestic partners for all purposes of this chapter. This term
9 includes the intended mother, intended father, or both.

10 (19) "Man" means a male individual of any age.

11 ~~((12))~~ (20) "Medical evaluation" means an evaluation and
12 consultation with a physician meeting the requirements of section 64 of
13 this act.

14 (21) "Mental health evaluation" means an evaluation and
15 consultation with a mental health professional meeting the requirements
16 of section 65 of this act.

17 (22) "Parent" means an individual who has established a parent-
18 child relationship under RCW 26.26.101.

19 ~~((13))~~ (23) "Parent-child relationship" means the legal
20 relationship between a child and a parent of the child. The term
21 includes the mother-child relationship and the father-child
22 relationship.

23 ~~((14) "Paternity"))~~ (24) "Parentage index" means the likelihood of
24 ~~((paternity))~~ parentage calculated by computing the ratio between:

25 (a) The likelihood that the tested ~~((man))~~ person is the ~~((father))~~
26 parent, based on the genetic markers of the tested ~~((man))~~ person,
27 ~~((mother))~~ genetic parent, and child, conditioned on the hypothesis
28 that the tested ~~((man))~~ person is the ~~((father))~~ parent of the child;
29 and

30 (b) The likelihood that the tested ~~((man))~~ person is not the
31 ~~((father))~~ parent, based on the genetic markers of the tested ~~((man))~~
32 person, ~~((mother))~~ genetic parent, and child, conditioned on the
33 hypothesis that the tested ~~((man))~~ person is not the ~~((father))~~ parent
34 of the child and that the ~~((father))~~ parent is ~~((from))~~ of the same
35 ethnic or racial group as the tested ~~((man))~~ person.

36 ~~((15))~~ (25) "Physician" means a person licensed to practice
37 medicine in a state.

1 (26) "Presumed ((father)) parent" means a ((man)) person who, by
2 operation of law under RCW 26.26.116, is recognized ((to be)) as the
3 ((father)) parent of a child until that status is rebutted or confirmed
4 in a judicial proceeding.

5 ((+16+)) (27) "Probability of ((paternity)) parentage" means the
6 measure, for the ethnic or racial group to which the alleged ((father))
7 parent belongs, of the probability that the individual in question is
8 the ((father)) parent of the child, compared with a random, unrelated
9 ((man)) person of the same ethnic or racial group, expressed as a
10 percentage incorporating the ((paternity)) parentage index and a prior
11 probability.

12 ((+17+)) (28) "Record" means information that is inscribed on a
13 tangible medium or that is stored in an electronic or other medium and
14 is retrievable in perceivable form.

15 ((+18+)) (29) "Signatory" means an individual who authenticates a
16 record and is bound by its terms.

17 ((+19+)) (30) "State" means a state of the United States, the
18 District of Columbia, Puerto Rico, the United States Virgin Islands,
19 any territory or insular possession subject to the jurisdiction of the
20 United States, or an Indian tribe or band, or Alaskan native village,
21 that is recognized by federal law or formally acknowledged by state
22 law.

23 ((+20+)) (31) "Support enforcement agency" means a public official
24 or agency authorized to seek:

25 (a) Enforcement of support orders or laws relating to the duty of
26 support;

27 (b) Establishment or modification of child support;

28 (c) Determination of parentage; or

29 (d) Location of child support obligors and their income and assets.

30 (32) "Woman acting as a surrogate" means a woman who agrees to
31 engage in a gestational or traditional surrogacy.

32 (33) "Genetic parent" means a person who is the source of the egg
33 or sperm that produced the child. The term does not include a donor.

34 (34) "Traditional surrogacy" means the process by which a woman
35 attempts, through assisted reproduction, to carry and give birth to a
36 child to which the woman acting as the surrogate has made a genetic
37 contribution and the woman acting as a surrogate does not intend to be
38 the parent of the child.

1 (35) "Surrogacy" means a traditional or gestational surrogacy.

2 (36) "Fertility clinic" means a facility that provides assisted
3 reproduction services or gametes to be used in assisted reproduction.

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

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

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

10 (a) The place of birth of the child; or

11 (b) The past or present residence of the child.

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

14 (4) If a birth results under a (~~((surrogate parentage))~~) surrogacy
15 contract and the contract (~~((that))~~) is unenforceable under the law of
16 this state, the parent-child relationship is determined as provided in
17 RCW 26.26.101 through 26.26.116 and applicable case law.

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

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

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

28 (1) The provisions relating to determination of (~~((paternity may be~~
29 ~~applied))~~) parentage apply to (~~((a))~~) determinations of maternity and
30 paternity.

31 (2) The provisions in this chapter apply to persons in a domestic
32 partnership to the same extent they apply to persons in a marriage, and
33 apply to persons of the same sex who have children together to the same
34 extent they apply to persons of the opposite sex who have children
35 together.

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

3 ~~((+))~~ The ~~((mother-child))~~ parent-child relationship is established
4 between a child and a man or woman by:

5 ~~((+a))~~ (1) The woman's having given birth to the child, except as
6 otherwise provided in ~~((RCW 26.26.210 through 26.26.260))~~ sections 55
7 through 68 of this act;

8 ~~((+b))~~ (2) An adjudication of the ~~((woman's maternity))~~ person's
9 parentage;

10 ~~((+c))~~ (3) Adoption of the child by the ~~((woman))~~ person;

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

14 ~~((+e))~~ (4) An affidavit and physician's certificate in a form
15 prescribed by the department of health ~~((wherein the donor of ovum or~~
16 ~~surrogate gestation carrier sets forth her intent to be legally bound~~
17 ~~as the parent of a child or children born through alternative~~
18 ~~reproductive medical technology by filing the affidavit and physician's~~
19 ~~certificate with the registrar of vital statistics within ten days~~
20 ~~after the date of the child's birth))~~ pursuant to RCW 26.26.735(~~-~~

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

23 ~~((+a))~~);

24 (5) An adjudication confirming the person as a parent of a child
25 born pursuant to a surrogacy contract if the contract was validated
26 under sections 55 through 66 of this act or is enforceable under other
27 law;

28 (6) An un rebutted presumption of the ~~((man's paternity))~~ person's
29 parentage of the child under RCW 26.26.116;

30 ~~((+b))~~ (7) The man's having signed an acknowledgment of paternity
31 under RCW 26.26.300 through 26.26.375, unless the acknowledgment has
32 been rescinded or successfully challenged;

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

34 ~~((+d))~~ ~~Adoption of the child by the man;~~

35 ~~((+e))~~ or

36 (8) The ~~((man's))~~ person's having consented to assisted
37 reproduction by his ~~((wife))~~ or her spouse or domestic partner under

1 RCW 26.26.700 through 26.26.730 that resulted in the birth of the
2 child(~~(i) or~~
3 ~~(f) A valid surrogate parentage contract, under which the father is~~
4 ~~an intended parent of the child, as provided in RCW 26.26.210 through~~
5 ~~26.26.260~~)).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 (1) An acknowledgment of paternity must:

26 (a) Be in a record;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 (3) The presumed father has not previously:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

35 (a) By a support enforcement agency in a proceeding in which the
36 support enforcement agency is providing services;

1 (b) By the individual who made the request;

2 (c) As agreed by the parties; or

3 (d) As ordered by the court.

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

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

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

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

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

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

23 (a) The parents of the man;

24 (b) Brothers and sisters of the man;

25 (c) Other children of the man and their mothers; and

26 (d) Other relatives of the man necessary to complete genetic
27 testing.

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

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

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

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

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

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

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

15 Subject to RCW 26.26.300 through 26.26.375, 26.26.530, and
16 26.26.540, a proceeding to adjudicate parentage may be maintained by:

17 (1) The child;

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

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

22 (4) The division of child support;

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

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

27 (7) An intended parent under a (~~surrogate parentage contract, as~~
28 ~~provided in RCW 26.26.210 through 26.26.260~~) surrogacy contract
29 provided in sections 55 through 68 of this act.

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

32 The following individuals must be joined as parties in a proceeding
33 to adjudicate parentage:

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

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

3 (3) An intended parent under a (~~surrogate parentage contract, as~~
4 ~~provided in RCW 26.26.210 through 26.26.260~~) surrogacy contract as
5 provided in sections 55 through 68 of this act; and

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

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

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

- 14 (1) The child becomes an adult; or
- 15 (2) An earlier proceeding to adjudicate (~~paternity~~) parentage has
16 been dismissed based on the application of a statute of limitation then
17 in effect.

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

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

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

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

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

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

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

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

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

14 **(b) The child was conceived through assisted reproduction.**

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

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

23 (b) The length of time during which the presumed ((father)) or
24 acknowledged parent has assumed the role of ((father)) parent of the
25 child;

26 (c) The facts surrounding the presumed ((father's)) or acknowledged
27 parent's discovery of his or her possible ((nonpaternity))
28 nonparentage;

29 (d) The nature of the ((father-child)) relationship between the
30 child and the presumed or acknowledged parent;

31 (e) The age of the child;

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

34 (g) The nature of the relationship ((of)) between the child ((to))
35 and any alleged ((father)) parent;

36 (h) The extent to which the passage of time reduces the chances of
37 establishing the ((paternity)) parentage of another ((man)) person and
38 a child support obligation in favor of the child; and

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

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

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

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

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

17 (1) If a child has an acknowledged father, a signatory to the
18 acknowledgment or denial of paternity must commence any proceeding
19 seeking to rescind the acknowledgment or denial or challenge the
20 paternity of (~~that~~) the child only within the time allowed under RCW
21 26.26.330 or 26.26.335.

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

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

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

33 (1) Except as otherwise provided in subsection (2) of this section,
34 a proceeding to adjudicate parentage may be joined with a proceeding
35 for: Adoption or termination of parental rights under chapter 26.33
36 RCW; determination of a parenting plan, child support, annulment,

1 dissolution of marriage, dissolution of a domestic partnership, or
2 legal separation under chapter 26.09 or 26.19 RCW; or probate or
3 administration of an estate under chapter 11.48 or 11.54 RCW, or other
4 appropriate proceeding.

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

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

10 ~~((Although))~~ Except as otherwise provided in section 60 of this
11 act, a proceeding to ~~((determine))~~ adjudicate parentage may be
12 commenced before the birth of the child, ~~((the proceeding))~~ but may not
13 be concluded until after the birth of the child. The following actions
14 may be taken before the birth of the child:

- 15 (1) Service of process;
- 16 (2) Discovery;
- 17 (3) Except as prohibited by RCW 26.26.405, collection of specimens
18 for genetic testing; and
- 19 (4) Temporary orders authorized under RCW 26.26.590.

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

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

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

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

34 (1) Except as otherwise provided in subsection (3) of this section,
35 a record of a genetic testing expert is admissible as evidence of the

1 truth of the facts asserted in the report unless a party objects to its
2 admission within fourteen days after its receipt by the objecting party
3 and cites specific grounds for exclusion. The admissibility of the
4 report is not affected by whether the testing was performed:

5 (a) Voluntarily or under an order of the court or a support
6 enforcement agency; or

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

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

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

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

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

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

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

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

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

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

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

33 (3) Genetic testing of the mother of a child is not a condition
34 precedent to testing the child and a man whose paternity is being
35 determined. If the mother is unavailable or declines to submit to
36 genetic testing, the court may order the testing of the child and every
37 man whose paternity is being adjudicated.

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

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

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

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

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

15 This section applies to any proceeding under RCW 26.26.500 through
16 26.26.630.

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

- 19 (a) Is a presumed (~~(father)~~) parent of the child;
- 20 (b) Is petitioning to have his (~~(paternity)~~) or her parentage
21 adjudicated or has admitted (~~(paternity)~~) parentage in pleadings filed
22 with the court;
- 23 (c) Is identified as the father through genetic testing under RCW
24 26.26.420;
- 25 (d) Has declined to submit to genetic testing but is shown by clear
26 and convincing evidence to be the father of the child; or
- 27 (e) Is (~~(the mother of)~~) a person who has established a parent-
28 child relationship with the child.

29 (2) A temporary order may, on the same basis as provided in chapter
30 26.09 RCW, make residential provisions with regard to minor children of
31 the parties, except that a parenting plan is not required unless
32 requested by a parent.

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

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

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

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

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

6 (4) Either party may request a domestic violence protection order
7 under chapter 26.50 RCW or an antiharassment protection order under
8 chapter 10.14 RCW on a temporary basis. The court may grant any of the
9 relief provided in RCW 26.50.060 except relief pertaining to
10 residential provisions for the children which provisions shall be
11 provided for under this chapter, and any of the relief provided in RCW
12 10.14.080. Ex parte orders issued under this subsection shall be
13 effective for a fixed period not to exceed fourteen days, or upon court
14 order, not to exceed twenty-four days if necessary to ensure that all
15 temporary motions in the case can be heard at the same time.

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

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

35 (7) If a restraining order issued pursuant to this section is
36 modified or terminated, the clerk of the court shall notify the law
37 enforcement agency specified in the order on or before the next

1 judicial day. Upon receipt of notice that an order has been
2 terminated, the law enforcement agency shall remove the order from any
3 computer-based criminal intelligence system.

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

9 (9) The court may issue a temporary restraining order or
10 preliminary injunction and an order for temporary support in such
11 amounts and on such terms as are just and proper in the circumstances.
12 In issuing the order, the court shall consider the provisions of RCW
13 9.41.800.

14 (10) A temporary order, temporary restraining order, or preliminary
15 injunction:

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

18 (b) May be revoked or modified;

19 (c) Terminates when the final order is entered or when the petition
20 is dismissed; and

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

23 (11) A support debt owed to the state for public assistance
24 expenditures which has been charged against a party pursuant to RCW
25 74.20A.040 and/or 74.20A.055 shall not be merged in, or otherwise
26 extinguished by, the final decree or order, unless the office of
27 support enforcement has been given notice of the final proceeding and
28 an opportunity to present its claim for the support debt to the court
29 and has failed to file an affidavit as provided in this subsection.
30 Notice of the proceeding shall be served upon the office of support
31 enforcement personally, or by certified mail, and shall be given no
32 fewer than thirty days prior to the date of the final proceeding. An
33 original copy of the notice shall be filed with the court either before
34 service or within a reasonable time thereafter. The office of support
35 enforcement may present its claim, and thereby preserve the support
36 debt, by filing an affidavit setting forth the amount of the debt with
37 the court, and by mailing a copy of the affidavit to the parties or
38 their attorney prior to the date of the final proceeding.

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

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

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

11 (2) Unless the results of genetic testing are admitted to rebut
12 other results of genetic testing, the man identified as the father of
13 the child under RCW 26.26.420 must be adjudicated the father of the
14 child.

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

20 (4) Unless the results of genetic testing are admitted to rebut
21 other results of genetic testing, a man excluded as the father of a
22 child by genetic testing must be adjudicated not to be the father of
23 the child.

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

29 **Sec. 43.** RCW 26.26.620 and 2002 c 302 s 535 are each amended to
30 read as follows:

31 The court may issue an order dismissing a proceeding commenced
32 under this chapter for want of prosecution only without prejudice. An
33 order of dismissal for want of prosecution purportedly with prejudice
34 is void and ~~((may be challenged in another judicial or an~~
35 ~~administrative proceeding))~~ has only the effect of a dismissal without
36 prejudice.

1 **Sec. 44.** RCW 26.26.625 and 2002 c 302 s 536 are each amended to
2 read as follows:

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

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

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

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

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

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

23 **Sec. 45.** RCW 26.26.630 and 2002 c 302 s 537 are each amended to
24 read as follows:

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

27 (a) All signatories to an acknowledgment or denial of paternity as
28 provided in RCW 26.26.300 through 26.26.375; and

29 (b) All parties to an adjudication by a court acting under
30 circumstances that satisfy the jurisdictional requirements of RCW
31 ((~~26.21.075~~)) 26.21A.100.

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

34 (a) The determination was based on an unrescinded acknowledgment of
35 paternity and the acknowledgment of paternity is consistent with the
36 results of the genetic testing;

1 (b) The adjudication of parentage was based on a finding consistent
2 with the results of genetic testing and the consistency is declared in
3 the determination or is otherwise shown, or in the case of a child
4 conceived through assisted reproduction, the adjudication of parentage
5 was based on evidence showing the intent of the parents; or

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

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

13 (a) Expressly identifies a child as a "child of the marriage,"
14 "issue of the marriage," "child of the domestic partnership," "issue of
15 the domestic partnership," or similar words indicating that the
16 ((~~husband is the father~~)) spouses in the marriage or domestic partners
17 in the domestic partnership are the parents of the child; or

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

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

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

28 **Sec. 46.** RCW 26.26.700 and 2002 c 302 s 601 are each amended to
29 read as follows:

30 RCW 26.26.705 through 26.26.740 do not apply to the birth of a
31 child conceived by means of sexual intercourse or as a result of a
32 surrogacy contract.

33 **Sec. 47.** RCW 26.26.705 and 2002 c 302 s 602 are each amended to
34 read as follows:

35 A donor is not a parent of a child conceived by means of assisted

1 reproduction, unless otherwise agreed in a signed record by the donor
2 and the person or persons intending to be parents of a child conceived
3 through assisted reproduction.

4 **Sec. 48.** RCW 26.26.710 and 2002 c 302 s 603 are each amended to
5 read as follows:

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

12 **Sec. 49.** RCW 26.26.715 and 2002 c 302 s 604 are each amended to
13 read as follows:

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

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

26 **Sec. 50.** RCW 26.26.720 and 2002 c 302 s 605 are each amended to
27 read as follows:

28 (1) Except as otherwise provided in subsection (2) of this section,
29 ~~((the husband of a wife))~~ a spouse or domestic partner of a woman who
30 gives birth to a child by means of assisted reproduction, or a spouse
31 or domestic partner of a man who has a child by means of assisted
32 reproduction, may not challenge his ~~((paternity))~~ or her parentage of
33 the child unless:

34 (a) Within ~~((two))~~ four years after learning of the birth of the
35 child ~~((he))~~ the person commences a proceeding to adjudicate his

1 (~~paternity~~) or her parentage. In actions commenced more than two
2 years after the birth of the child, the child must be made a party to
3 the action; and

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

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

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

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

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

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

19 **Sec. 51.** RCW 26.26.725 and 2002 c 302 s 606 are each amended to
20 read as follows:

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

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

33 **Sec. 52.** RCW 26.26.730 and 2002 c 302 s 607 are each amended to
34 read as follows:

35 If (~~a spouse~~) an individual who consented in a record to be a
36 parent by assisted reproduction dies before placement of eggs, sperm,

1 or an embryo, the deceased ((spouse)) individual is not a parent of the
2 resulting child unless the deceased ((spouse)) individual consented in
3 a signed record that if assisted reproduction were to occur after
4 death, the deceased ((spouse)) individual would be a parent of the
5 child.

6 **Sec. 53.** RCW 26.26.735 and 2002 c 302 s 608 are each amended to
7 read as follows:

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

27 (a) The two intended parents are both female intending to be the
28 parents of the child born through assisted reproduction; and

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

31 (2) The ((agreement, including the)) affidavit and certification
32 ((referenced in RCW 26.26.030,)) must be filed with the registrar of
33 vital statistics, where it must be kept confidential and in a sealed
34 file.

35 NEW SECTION. **Sec. 54.** (1) A person who donates gametes to a
36 fertility clinic in Washington to be used in assisted reproduction

1 shall provide, at a minimum, his or her identifying information and
2 medical history to the fertility clinic. The fertility clinic shall
3 keep the identifying information and medical history of its donors and
4 shall disclose the information as provided under subsection (2) of this
5 section.

6 (2)(a) A child conceived through assisted reproduction who is at
7 least eighteen years old shall be provided, upon his or her request,
8 access to identifying information of the donor who provided gametes for
9 the assisted reproduction that resulted in the birth of the child,
10 unless the donor has signed an affidavit of nondisclosure with the
11 fertility clinic that provided the gamete for assisted reproduction.

12 (b) Regardless of whether the donor signed an affidavit of
13 nondisclosure, a child conceived through assisted reproduction who is
14 at least eighteen years old shall be provided, upon his or her request,
15 access to the nonidentifying medical history of the donor who provided
16 gametes for the assisted reproduction that resulted in the birth of the
17 child.

18 NEW SECTION. **Sec. 55.** The purpose of sections 56 through 68 of
19 this act is to establish consistent standards and procedural safeguards
20 for the protection of all parties involved in a surrogacy contract in
21 this state and to confirm the legal status of children born as a result
22 of these contracts. These standards and safeguards are meant to
23 facilitate the use of this type of reproductive contract in accord with
24 the public policy of this state.

25 NEW SECTION. **Sec. 56.** (1) Except as provided in this chapter, the
26 woman who gives birth to a child is presumed to be the mother of that
27 child for purposes of state law.

28 (2) In the case of a surrogacy contract satisfying the requirements
29 set forth in section 58 of this act:

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

33 (b) The child is considered the child of the intended parent or
34 parents for purposes of state law immediately upon the birth of the
35 child; and

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

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

6 (a) The woman acting as a surrogate satisfies the eligibility
7 requirements set forth in section 57(1) of this act;

8 (b) The intended parent or parents satisfy the eligibility
9 requirements set forth in section 57(2) of this act; and

10 (c) The birth as a result of surrogacy occurs pursuant to a
11 surrogacy contract meeting the requirements set forth in section 58 of
12 this act.

13 (4) In the case of a surrogacy contract meeting the requirements
14 set forth in section 58 of this act, the intended parents are the
15 parents of the child for purposes of state law unless otherwise
16 determined by a court of competent jurisdiction, even in the event of
17 a laboratory error in which the resulting child is not genetically
18 related to either of the intended parents.

19 NEW SECTION. **Sec. 57.** (1) A woman acting as a surrogate is deemed
20 to have satisfied the requirements of this chapter if she has met the
21 following requirements at the time the surrogacy contract is executed:

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

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

24 (c) She has not previously acted as a surrogate for compensation
25 more than once;

26 (d) She has completed a medical evaluation and the evaluating
27 physician has determined that there is no known reason why she would
28 not be capable of carrying a child to term without endangering her
29 health or the health of the child;

30 (e) In the case of a surrogacy involving in vitro fertilization or
31 similar technology involving fertilization outside the uterus, the
32 woman acting as a surrogate has indicated in a writing her informed
33 consent to the medical procedures associated with the establishment of
34 a pregnancy through embryo transfer. She must have provided the
35 written consent after being informed by a licensed physician of the
36 risks of the procedures, including the risks that attend implantation
37 of more than one embryo, and the information received was in accord

1 with the provision of information recommended by the society for
2 assisted reproductive technology, the American college of obstetricians
3 and gynecologists, or the American society of reproductive medicine or
4 their successor organizations;

5 (f) She has completed a mental health evaluation by a mental health
6 provider licensed under chapter 18.71, 18.79, 18.83, or 18.225 RCW;

7 (g) She has undergone legal consultation with independent legal
8 counsel regarding the terms of the surrogacy contract and the potential
9 legal consequences of the surrogacy;

10 (h) She has executed a health care advance directive regarding the
11 withholding or withdrawal of life-sustaining treatment if he or she is
12 in a terminal condition or permanent unconscious state during the
13 surrogacy pregnancy and she has executed a durable power of attorney
14 for health care designating a person to make health care decisions if
15 she becomes incapacitated during the surrogacy pregnancy. Under no
16 circumstances shall the woman acting as a surrogate appoint an intended
17 parent as the attorney in fact under a durable power of attorney for
18 health care executed under this section;

19 (i) She has obtained a health insurance policy that covers major
20 medical treatments and hospitalization and the health insurance policy
21 has a term that extends throughout the duration of the expected
22 pregnancy and for eight weeks after the birth of the child. The policy
23 may be procured by the intended parents on behalf of the woman acting
24 as a surrogate pursuant to the surrogacy contract. The health
25 insurance coverage may not be financed through medicaid, under Title
26 XIX of the federal social security act, or the children's health
27 insurance program under Title XXI of the federal social security act;
28 and

29 (j) She has obtained both: (A) A term life insurance policy on her
30 life in effect until the earlier of the termination of the surrogacy
31 contract for any reason or three months after the birth of a child
32 pursuant to the surrogacy contract in the amount of at least two
33 hundred fifty thousand dollars, or a lower amount if she is not
34 approved by the insurance carrier for that amount; and (B) a long-term
35 disability insurance policy for herself with weekly benefits equal to
36 at least one hundred fifty percent of the state minimum wage multiplied
37 by forty hours per week for any physician ordered pregnancy related
38 disability, except that if such a policy is not available, then the

1 surrogacy contract must require the intended parents to pay weekly
2 benefits equal to at least one hundred fifty percent of the state
3 minimum wage multiplied by forty hours per week to the surrogate for
4 any physician ordered pregnancy related disability for at least twelve
5 months after the birth of a child. The intended parents may pay for
6 the policies or pay such disability payments to or on behalf of the
7 woman acting as a surrogate.

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

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

16 (b) He, she, or they have completed a mental health evaluation by
17 a mental health provider licensed under chapter 18.71, 18.79, 18.83, or
18 18.225 RCW; and

19 (c) He, she, or they have undergone legal consultation with
20 independent legal counsel regarding the terms of the surrogacy contract
21 and the potential legal consequences of the surrogacy.

22 NEW SECTION. **Sec. 58.** (1) A surrogacy contract is presumed
23 enforceable for purposes of state law only if:

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

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

28 (2) A surrogacy contract must meet the following requirements:

29 (a) It must be in writing;

30 (b) It must be executed prior to the commencement of any medical
31 procedures, other than medical or mental health evaluations necessary
32 to determine eligibility of the parties pursuant to section 57 of this
33 act, in furtherance of the surrogacy:

34 (i) By the woman acting as a surrogate meeting the eligibility
35 requirements of section 57(1) of this act and, if married or in a
36 domestic partnership, the spouse or domestic partner of the woman
37 acting as a surrogate; and

1 (ii) By the intended parent or parents meeting the eligibility
2 requirements of section 57(2) of this act. In the event an intended
3 parent is married or in a domestic partnership, both spouses or both
4 domestic partners must execute the surrogacy contract;

5 (c) Both the woman acting as a surrogate and the intended parent or
6 parents must have been represented by separate counsel in all matters
7 concerning the surrogacy and the surrogacy contract;

8 (d) Both the woman acting as a surrogate and the intended parent or
9 parents must have signed a written acknowledgment that he or she
10 received information about the legal, financial, and contractual
11 rights, expectations, penalties, and obligations of the surrogacy
12 contract;

13 (e) If the surrogacy contract provides for the payment of
14 compensation to the woman acting as a surrogate, the compensation must
15 have been placed in escrow with an independent escrow agent prior to
16 the commencement of any medical procedure, other than medical or mental
17 health evaluations necessary to determine the eligibility of a woman to
18 act as a surrogate pursuant to section 57(1) of this act; and

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

20 (3) A surrogacy contract must provide for:

21 (a) The express written agreement of the woman acting as a
22 surrogate to:

23 (i) If embryo transfer is applicable, undergo the transfer of one
24 or more embryos, not to exceed the number recommended by guidelines
25 from the society for assisted reproductive technology, the American
26 college of obstetricians and gynecologists, or the American society of
27 reproductive medicine or their successor organizations;

28 (ii) Undergo embryo transfer after having given her informed
29 consent to the procedure as provided in section 57(1)(e) of this act,
30 or undergo artificial insemination certified by a physician, and
31 attempt to carry and give birth to a child; and

32 (iii) Surrender the child to the intended parent or parents
33 immediately upon the birth of the child;

34 (b) If the woman acting as a surrogate is married or in a domestic
35 partnership, the express agreement of her spouse or her domestic
36 partner to:

37 (i) Undertake the obligations imposed on the woman acting as a
38 surrogate pursuant to the terms of the surrogacy contract;

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

3 (c) The right of the woman acting as a surrogate to utilize the
4 services of a health care provider of her choosing to provide her care
5 during the pregnancy; and

6 (d) The express written agreement of the intended parent or parents
7 to:

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

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

11 (4) A surrogacy contract is presumed enforceable for purposes of
12 state law even though it contains one or more of the following
13 provisions:

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

16 (b) The agreement of the intended parent or parents to pay for or
17 reimburse the woman acting as a surrogate for reasonable expenses,
18 including, without limitation, medical, legal, or other professional
19 expenses, related to the surrogacy and the surrogacy contract.

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

23 (6)(a) Nothing in this chapter may be construed to limit or
24 constrain the right of a woman acting as a surrogate to make all health
25 and welfare decisions regarding herself and her pregnancy, including
26 the right whether or not to terminate the pregnancy as protected by
27 law.

28 (b) The woman acting as a surrogate may not be held liable in any
29 tort action for her decisions or actions regarding the health and
30 welfare of herself and her pregnancy.

31 (c) Surrogacy contract provisions, if any, that conflict with the
32 aforementioned rights are severable from the remainder of the contract
33 and are unenforceable.

34 NEW SECTION. **Sec. 59.** (1) Any person who is considered to be the
35 parent of a child pursuant to section 58 of this act is obligated to
36 support the child.

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

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

10 NEW SECTION. **Sec. 60.** (1) A parent-child relationship is
11 established effective immediately upon the birth of a child born
12 pursuant to a surrogacy contract if, in addition to satisfying the
13 provisions of the surrogacy laws in this chapter, the attorneys
14 representing both the woman acting as a surrogate and the intended
15 parent or parents certify that the parties entered into a surrogacy
16 contract intended to satisfy the requirements of section 58 of this act
17 with respect to the child.

18 (2) The attorneys' certifications required by subsection (1) of
19 this section must be filed with the superior court of the county in
20 which the intended parents reside and may be filed either before or
21 after the birth of the child. When filing the certifications, the
22 attorneys shall also include for the court files a summary of medical
23 history information of the woman acting as a surrogate.

24 (3) If the attorneys' certifications are filed before the birth of
25 the child, the court shall issue an order upon the filing of the
26 certifications. The order shall state, at a minimum, the following:

27 (a) The full name, date of birth, and state or country of birth of
28 the intended parent or parents;

29 (b) The estimated delivery date of the child;

30 (c) The planned place of birth of the child;

31 (d) The full name and date of birth of the woman acting as the
32 surrogate;

33 (e) That immediately upon the birth of the child, the intended
34 parents are the parents of the child for the purposes of state law and
35 shall be listed on the child's birth certificate as the parents;

36 (f) That immediately upon the birth of the child, neither the woman

1 acting as a surrogate and her spouse or domestic partner, if any, are
2 the parents of the child for purposes of state law;

3 (g) That immediately upon the birth of the child, the woman acting
4 as a surrogate and her spouse or domestic partner, if any, shall
5 surrender the child to the intended parents; and

6 (h) That immediately upon the birth of the child, the intended
7 parents shall assume sole responsibility for the support of the child.

8 (4) If the attorneys' certifications are filed after the birth of
9 the child, the court shall issue an order upon the filing of the
10 certifications. The order shall state, at a minimum, the following:

11 (a) The full original name of the child, as listed on the birth
12 record when the birth record was filed;

13 (b) The full new name of the child, if the child will be given a
14 new name;

15 (c) The child's date of birth;

16 (d) The child's place of birth;

17 (e) The full name, date of birth, and state or country of birth of
18 the intended parent or parents;

19 (f) The full name and date of birth of the woman acting as the
20 surrogate;

21 (g) The intended parents are the parents of the child for the
22 purposes of state law and shall be listed on the child's birth
23 certificate as the parents;

24 (h) That neither the woman acting as a surrogate and her spouse or
25 domestic partner, if any, are the parents of the child for purposes of
26 state law;

27 (i) That the woman acting as a surrogate and her spouse or domestic
28 partner, if any, surrender the child to the intended parents; and

29 (j) That the intended parents shall assume sole responsibility for
30 the support of the child.

31 (5) Upon issuance of the court order, the attorneys shall provide
32 the department of health a certified copy of the court order. The
33 order shall be placed in a sealed file and may not be open to
34 inspection by any person except upon order of the court for good cause
35 shown.

36 (6) All court records related to the surrogacy contract must be
37 sealed and may not be thereafter open to inspection by any person
38 except upon order of the court for good cause shown.

1 (7) Notwithstanding subsection (6) of this section, a child born
2 under a surrogacy contract who is at least eighteen years old shall be
3 provided, upon his or her request, access to identifying information of
4 the woman acting as a surrogate, unless the woman acting as a surrogate
5 has filed an affidavit of nondisclosure with the court. Regardless of
6 whether the woman acting as a surrogate has filed an affidavit of
7 nondisclosure, the child shall be provided, upon his or her request,
8 access to nonidentifying medical history of the woman acting as a
9 surrogate.

10 NEW SECTION. **Sec. 61.** Except as provided in this chapter, a
11 person is not civilly or criminally liable for nonnegligent actions
12 taken pursuant to the requirements of sections 55 through 66 of this
13 act.

14 NEW SECTION. **Sec. 62.** Noncompliance by the woman acting as a
15 surrogate or the intended parent or parents occurs when that party
16 breaches a legally enforceable provision of the surrogacy contract.

17 NEW SECTION. **Sec. 63.** (1) Except as otherwise provided in this
18 chapter, in the event of noncompliance with the requirements of section
19 56(3) of this act, a court of competent jurisdiction shall determine
20 the respective rights and obligations of the parties.

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

24 NEW SECTION. **Sec. 64.** (1) Except as expressly provided in the
25 surrogacy contract or in this chapter, the intended parent or parents
26 are entitled to all remedies available at law or equity.

27 (2) Except as expressly provided in the surrogacy contract or in
28 this chapter, the woman acting as a surrogate is entitled to all
29 remedies available at law or equity.

30 NEW SECTION. **Sec. 65.** The department of health may adopt rules
31 pertaining to the required medical and mental health evaluations and
32 informed consent requirements for a surrogacy contract. Until the
33 department adopts these rules, medical and mental health evaluations

1 and procedures and informed consent must be conducted in accordance
2 with the recommended guidelines published as of the effective date of
3 this section by the American society for reproductive medicine, the
4 society for assisted reproductive technologists, or the American
5 college of obstetricians and gynecologists. The rules may adopt these
6 guidelines or others by reference.

7 NEW SECTION. **Sec. 66.** No action to invalidate a surrogacy
8 contract meeting the requirements of this chapter or to challenge the
9 rights of parentage established pursuant to section 56 of this act may
10 be commenced after twelve months from the date of birth of the child.

11 NEW SECTION. **Sec. 67.** (1) Sections 1 through 52 of this act apply
12 to causes of action filed on or after the effective date of this
13 section.

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

16 **Sec. 68.** RCW 26.26.740 and 2002 c 302 s 609 are each amended to
17 read as follows:

18 The department of health shall, upon request, issue a birth
19 certificate for any child born as a result of an alternative
20 reproductive medical technology procedure or surrogacy contract
21 indicating the legal parentage of such child as intended by any
22 agreement filed with the registrar of vital statistics pursuant to
23 ~~((RCW 26.26.735))~~ the parties' filed certification under section 60 of
24 this act.

25 **Sec. 69.** RCW 26.26.903 and 2002 c 302 s 709 are each amended to
26 read as follows:

27 In applying and construing this uniform act, consideration must be
28 given to the need to promote uniformity of the law with respect to its
29 subject matter among states that enact it and to the intent that the
30 act apply to persons of the same sex who have children together to the
31 same extent the act applies to persons of the opposite sex who have
32 children together.

1 **Sec. 70.** RCW 26.26.911 and 2002 c 302 s 101 are each amended to
2 read as follows:

3 This act may be known and cited as the uniform parentage act of
4 2002.

5 **Sec. 71.** RCW 9A.64.030 and 2003 c 53 s 81 are each amended to read
6 as follows:

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

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

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

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

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

16 (d) The transaction is pursuant to chapter 26.34 or 26.26 RCW; or

17 (e) The transaction is pursuant to court order; or

18 (f) The only consideration paid by the person receiving or to
19 receive the child is intended to pay for the prenatal hospital or
20 medical expenses involved in the birth of the child, or attorneys' fees
21 and court costs involved in effectuating transfer of child custody.

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

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

24 NEW SECTION. **Sec. 72.** Any action taken by an agency to implement
25 the provisions of this act must be accomplished within existing
26 resources. Any costs incurred by the administrative office of the
27 courts for modifications to the judicial information system as a result
28 of the provisions of this act shall be paid from the judicial
29 information system account.

30 NEW SECTION. **Sec. 73.** The following acts or parts of acts are
31 each repealed:

32 (1) RCW 26.26.210 (Surrogate parenting--Definitions) and 1989 c 404
33 s 1;

34 (2) RCW 26.26.230 (Surrogate parenting--Compensation prohibited)
35 and 1989 c 404 s 3;

1 (3) RCW 26.26.240 (Surrogate parenting--Contract for compensation
2 void) and 1989 c 404 s 4;
3 (4) RCW 26.26.250 (Surrogate parenting--Provisions violated--
4 Penalty) and 1989 c 404 s 5; and
5 (5) RCW 26.26.260 (Surrogate parenting--Custody of child) and 1989
6 c 404 s 6.

7 **Sec. 74.** RCW 26.26.220 and 2010 c 94 s 7 are each amended to read
8 as follows:

9 A person shall not enter into, induce, arrange, procure, or
10 otherwise assist in the formation of a (~~surrogate-parentage~~)
11 surrogacy contract under which an unemancipated minor female or a
12 female diagnosed as having an intellectual disability, a mental
13 illness, or developmental disability is (~~the-surrogate-mother~~) a
14 woman acting as a surrogate.

15 NEW SECTION. **Sec. 75.** If any provision of this act or its
16 application to any person or circumstance is held invalid, the
17 remainder of the act or the application of the provision to other
18 persons or circumstances is not affected.

19 NEW SECTION. **Sec. 76.** Sections 54 through 66 of this act are each
20 added to chapter 26.26 RCW.

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