OLR Bill Analysis

sHB 6321

AN ACT CONCERNING ADOPTION AND IMPLEMENTATION OF THE CONNECTICUT PARENTAGE ACT.

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SUMMARY

Adopts the Uniform Parentage Act (UPA), which may be cited as the Connecticut Parentage Act (CPA)

This bill adopts the Uniform Parentage Act (UPA), which may be

cited as the Connecticut Parentage Act (CPA) (§§ 1-86). The bill generally:

1. provides for equal treatment under the law for children born to same-sex couples by, among other things, removing certain gender-specific references (e.g., changing "maternity" and "paternity" to "parentage");

2. expands recognition of non-biological parents by (a) making marital or "hold-out" presumptions gender neutral and (b) establishing de facto parentage (i.e., the court adjudicates a person to be a parent under certain circumstances);

3. provides guidance on adjudicating parentage and adjudicating competing claims of parentage (e.g., creates best interest of the child factors that the court must consider);

4. provides the process for establishing acknowledged parentage through an acknowledgment agreement;

5. provides for adjudicating genetic parentage and updates the rules governing children born under a surrogacy agreement; and

6. establishes a procedure to enable children conceived through assisted reproduction to access medical and identifying information about any gamete donors.

The bill also makes conforming changes throughout the statutes addressing things such as (1) birth certificates; (2) human services, social services, and public health protocols and systems; (3) probate court matters; and (4) family relations matters (§§ 87-149).

EFFECTIVE DATE: January 1, 2022, except the provisions on adjudicating de facto parentage (§§ 38-39) are effective July 1, 2022.

§§ 4-16 — ADJUDICATING PARENTAGE

Establishes the court process to adjudicate parentage, including the necessary petitions; accompanying affidavits for children on public assistance; parties' standing and notice; and court jurisdiction, venue, access, timeline, fees, records, and parentage order

The bill requires the court, when determining parentage, to apply Connecticut law, regardless of the child's place of birth or past or present residence. It also specifies that there is no right to a jury trial in an action to adjudicate parentage.

Under the bill, an "adjudicated parent" is a person who has been adjudicated to be a parent of a child by a court of competent jurisdiction (§ 2).

Petitions (§ 5)

Under the bill, petitions to adjudicate parentage must generally be filed in the Superior Court's Family Division. However, the following petitions must be filed in the Probate Court:

1. petitions by an alleged genetic parent seeking to establish the alleged genetic parent's parentage (see § 48),

2. petitions to determine parentage after the death of the child or the person whose parentage is to be determined,

3. petitions for certain parentage orders under the CPA involving assisted reproduction or gestational surrogacy, and

4. petitions to validate a genetic surrogacy agreement under CPA.

Additionally, petitions by the Department of Social Services (DSS) Office of Child Support Services (i.e., the Title IV-D agency) in (1) support cases involving public assistance recipients (i.e., IV-D cases) and (2) petitions brought under the Uniform Interstate Family Support Act, must be filed with the clerk for the Family Support Magistrate Division.

Affidavit in IV-D Cases (§ 5)

If the IV-D agency files the petition, the petition must be accompanied by an affidavit of the parent whose rights have been assigned. If the assignor refuses to provide an affidavit, the IV-D agency may submit the affidavit, however the affidavit alone cannot support a default judgment on the issue of parentage.

Standing (§§ 6 & 11)

Under the bill, a proceeding to adjudicate parentage may be maintained by:

1. a child age 18 or older or, if the child is a minor, through the child's representative;

2. the person who gave birth to the child, including still birth, unless a court has adjudicated that the person is not a parent;

3. a person who is a parent of the child under the CPA (i.e., a parent who has established a parent-child relationship, see § 19);

4. a person looking to be adjudicated a parent under the CPA;

5. DSS or the town welfare administrator;

6. the Department of Children and Families (DCF);

7. a person the court deems to have a sufficient interest to file a claim for parentage on a deceased parent's behalf; or

8. a representative authorized under state law, excluding the CPA, to act for a person who otherwise would be entitled to maintain a proceeding but is deceased, incapacitated, or a minor.

A minor child is a permissive, but not a necessary, party to a proceeding under the CPA, except for certain proceedings in the Superior Court, such as neglect and abuse cases.

Time Limit (§ 5)

A petition filed in the Superior Court or Family Support Magistrate Court to adjudicate parentage may be brought any time before the child turns age 18. However, liability for child support must be limited to the three years before the petition filing date.

Notice in Superior Court and Probate Court (§ 7)

The bill requires that notice of a proceeding to adjudicate parentage

be given, by the petitioner for proceedings in the Superior Court and by the court for proceedings in the Probate Court, to the following people:

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

2. a presumed (§§ 36-37), acknowledged (§§ 24-35), or adjudicated (§§ 4-16) parent of the child;

3. a person whose parentage of the child is to be adjudicated;

4. a representative authorized by state law to act for a person who otherwise would be entitled to maintain a proceeding but is deceased, incapacitated, or a minor;

5. the fiduciary of an estate of deceased persons otherwise entitled to notice;

6. in proceedings involving a public assistance recipient, the Attorney General, who must be and remain a party to any parentage proceeding and to any proceedings after judgment in the action; and

7. the DCF commissioner, in proceedings involving a child for whom a petition related to abuse and neglect has been filed and who is under DCF's care and custody or guardianship.

Under the bill, a person entitled to this notice has a right to intervene in the proceeding. Failure to provide the required notice must not render a judgment void or preclude a person entitled to notice from bringing a proceeding under the CPA.

Court Jurisdiction and Venue (§§ 8 & 9)

Under the bill, a court may adjudicate a person's parentage of a child only if it has personal jurisdiction over that person. A Connecticut court with jurisdiction to adjudicate parentage may exercise personal jurisdiction over a nonresident or the person's guardian or conservator consistent with Connecticut laws.

Generally, the venue for a proceeding to adjudicate parentage is in the judicial district (1) where the child resides or (2) if the child is not a Connecticut resident, where the petitioner or respondent resides.

However, the petitions filed in Probate Court must be filed in the probate district:

1. where the child or birth parent resides, for petitions by an alleged genetic parent seeking to establish parentage;

2. where the child, petitioner, or person whose parentage is to be determined resides or resided at the time of death, for petitions to determine parentage after the death of the child or the person whose parentage is to be determined; and

3. where the child or a party to the proceeding resides, for petitions for certain parentage orders under the CPA involving assisted reproduction or gestational surrogacy or petitions to validate a genetic surrogacy agreement.

Additionally, in IV-D cases, the petition must be filed in the Family Support Magistrate Division serving the judicial district where the parent who gave birth or the alleged parent resides.

Temporary Child Support Orders (§ 10)

In a proceeding under the CPA, a court may issue a temporary order for child support if the order is consistent with state law, other than the CPA, and the person ordered to pay support is:

1. the child's presumed parent;

2. petitioning to be adjudicated a parent;

3. identified as a genetic parent through genetic testing;

4. an alleged genetic parent who has declined to submit to genetic testing;

5. shown by clear and convincing evidence to be the child's

parent; or

6. a parent under the CPA.

A temporary order may include custody and visitation provisions under state law other than the CPA.

Court Access, Records, Dismissal, and Fees (§§ 12-14)

Superior Court – Family Relations. For proceedings in the Superior Court on family relations matters, there must be a presumption that courtroom proceedings are open to the public and documents filed with the court are available to the public. In family relations cases, the Connecticut Practice Book governs courtroom closure, the sealing of files, and limited disclosure of documents.

Juvenile Court. For proceedings in Juvenile Court, access to records is governed by existing law on confidentiality of juvenile records.

Probate Court. Members of the public may observe Probate Court proceedings and may view court records, unless otherwise provided by law or directed by the court.

Order Dismissal. The court may dismiss a proceeding under the CPA for want of prosecution only without prejudice. An order of dismissal for want of prosecution purportedly with prejudice is void and has only the effect of a dismissal without prejudice.

Fees. Generally, the court may assess filing fees, reasonable attorney's fees, fees for genetic testing, other costs and necessary travel, and other reasonable expenses incurred in a proceeding under the CPA. Attorney's fees awarded may be paid directly to the attorney, and the attorney may enforce the order in the attorney's own name.

However, the court may not assess fees, costs, or expenses against a child support agency in this state or another state, except as provided by existing law other than the CPA.

Medical Bills. In a proceeding under the CPA, a copy of a bill for

genetic testing or prenatal or postnatal health care for the person who gave birth to the child or for the child, which is provided to the adverse party not later than 10 days before the date of a hearing, is admissible to establish (1) the amount of the charge billed and (2) that the charge is reasonable and necessary.

Order Adjudicating Parentage (§§ 14-16)

Binding Order. An order adjudicating parentage must identify the child in a manner provided by state law other than the CPA. A party to an adjudication of parentage by a court with jurisdiction under existing law and the CPA, and any person who received notice of the proceeding, is bound by the adjudication.

Divorce, Annulment, and Legal Separation. In a proceeding for dissolution of marriage, annulment, or legal separation, the court is deemed to have made an adjudication of a child's parentage if the court has jurisdiction under applicable state laws, including the CPA. Additionally, the final order must (1) expressly identify the child as a "child of the marriage" or "issue of the marriage" or include similar words indicating that both spouses are parents of the child or (2) provide for child support by a spouse unless that spouse's parentage is disclaimed specifically in the order.

Child's Name Change. Upon the request of a party and for good cause, the court in a proceeding under the CPA may order the child's name to be changed. If the order varies the child's name from the name on the child's birth certificate, the court must order the Department of Public Health (DPH) to issue an amended birth certificate.

Affirmative Defense. A determination of parentage may be asserted as a defense in a subsequent proceeding seeking to adjudicate parentage of a person who was not a party to the earlier proceeding.

§§ 16 & 17 — CHALLENGING THE ADJUDICATION OF PARENTAGE

Provides the processes for challenging adjudicated parentage depending on whether a party had standing or received required notice

Under the bill, a party to an adjudication of parentage may

challenge the adjudication only under state law (other than provisions of the CPA) relating to appeal, opening or setting aside judgments, or other judicial review.

Person Was Party to the Adjudication or Received Notice

If a child has an adjudicated parent, a proceeding to challenge the adjudication, brought by a person who was a party to the adjudication or received notice, is governed by the Connecticut Practice Book and other statutory provisions on the opening or setting aside of judgments.

Person Has Standing but Was Not a Party nor Received Notice

If a child has an adjudicated parent, a proceeding to challenge the adjudication of parentage brought by a person, other than the child, who has standing and was not a party to the adjudication and did not receive notice, must abide by the following rules:

1. The person must start the proceeding within two years after the adjudication's effective date, unless the person did not know and could not reasonably have known of his or her potential parentage due to a material misrepresentation or concealment, in which case the proceeding must begin within one year after discovering the potential parentage.

2. The court may allow the proceeding only if it finds doing so is in the best interest of the child.

3. If the court allows the proceeding, the court must adjudicate parentage based on certain factors, such as best interest of the child (see § 23).

§ 18 — GOVERNING LAW

Generally applies state law to proceedings under the CPA

A proceeding under the CPA is subject to state laws (other than the bill) on the health, safety, privacy, and liberty of a child or other person who could be affected by the disclosure of identifying information.

§§ 19-23 — PARENT-CHILD RELATIONSHIP

Establishes specific criteria to determine if a parent-child relationship exist and applies them to relationships regardless of the parent's marital status or gender or the circumstances of the child's birth

Establishing the Parent-Child Relationship (§ 19)

Under the bill, a parent-child relationship is established between a person and a child if the person:

1. gave birth to the child, except as otherwise provided in cases involving surrogacy;

2. is the child's presumed parent because the child was born during the marriage or within 300 days after the marriage ended, unless the presumption is overcome in a judicial proceeding;

3. is the child's presumed parent because the person, with another person, openly held out the child to be their own for at least 2 years, and the person is adjudicated a parent of the child or acknowledges parentage;

4. is adjudicated a de facto parent of the child;

5. is adjudicated a parent of the child through genetic testing;

6. adopts the child;

7. acknowledges parentage of the child, unless the acknowledgment is rescinded or successfully challenged;

8. established parentage through consent to assisted reproduction;

9. established parentage under a surrogacy agreement; or

10. has been adjudicated a parent by the court as it relates to divorce, annulment, legal separation, or support cases.

Applicability (§§ 20-22)

Under the bill, a parent-child relationship extends equally to every child and parent, regardless of the parent's marital status or gender or the circumstances of the child's birth. Unless parental rights are

terminated, a parent-child relationship established under the CPA applies for all purposes.

To the extent practicable, any provision of the bill applicable to a father-child or mother-child relationship must apply to any parent-child relationship, regardless of the parent's gender.

§ 23 — COMPETING CLAIMS OF PARENTAGE

Creates (1) best interest of the child factors that the court must consider in resolving claims of parentage by two or more individuals and (2) additional factors in cases involving genetic testing

Best Interest of the Child Factors

Except as provided in the bill, in a proceeding to adjudicate competing claims of parentage of a child by two or more persons, the court must adjudicate parentage in the child's best interest, based on the following factors:

1. the child's age;

2. the length of time during which each person assumed the role of the child's parent;

3. the nature of the relationship between the child and each person;

4. the harm to the child if the relationship between the child and each person is not recognized;

5. the basis for each person's claim to the child's parentage;

6. other equitable factors arising from the disruption of the relationship between the child and each person, or the likelihood of other harm to the child; and

7. any other factor the court deems relevant to the child's best interests.

Additional Factors in Cases Involving Genetic Testing

If a person challenges parentage based on the results of genetic

testing, in addition to the factors listed above, the court also must consider:

1. the facts surrounding the discovery that the person might not be the child's genetic parent and

2. the length of time between the (a) time the person received notice that he or she might not be a genetic parent and (b) start of the proceeding.

Finding of Detriment to the Child

The court may adjudicate a child to have more than two parents if it finds that failure to recognize more than two parents would be detrimental to the child. A finding of detriment to the child does not require a finding of unfitness of any parent or person seeking an adjudication of parentage.

In determining detriment to the child, the court must consider all relevant factors, including the harm if the child is removed from a stable placement with a person who has (1) fulfilled the child's physical and psychological needs for care and affection and (2) assumed the role for a substantial period.

Child Support Guidelines

If a court has adjudicated a child to have more than two parents, state law (other than the CPA) applies to determinations of legal and physical custody of, or visitation with, the child, and to child support obligations. The child support guidelines established under existing law must not apply until they have been revised to address the circumstances when a child has more than two parents. Until such revision is effective, a court must consider the child support guidelines and the criteria for awards established under certain existing laws when making or modifying child support orders.

§§ 24-32 — ACKNOWLEDGMENT OF PARENTAGE

Creates a process by which a person who has established a parent-child relationship may become the child's parent through a signed acknowledgment of parentage

Acknowledged Parent (§ 2)

Under the bill, an "acknowledged parent" is a person who has established a parent-child relationship through an acknowledgement agreement.

Signed Record (§§ 24 & 25)

A person who gave birth to a child and an alleged genetic parent of the child, a presumed parent (see § 36), or an intended parent (i.e., a person with intent to be legally bound as a parent of a child conceived by assisted reproduction, see §§ 51-59) may sign an acknowledgment of parentage to establish the child's parentage.

Witnessed Statement. The acknowledgment must be in a record signed by the person who gave birth to the child and by the person seeking to establish a parent-child relationship, and the signatures must be attested by a notary or witnessed. The acknowledgement must state that:

1. the child whose parentage is being acknowledged must not have another acknowledged or adjudicated parent or person who is a parent of the child through assisted reproduction other than the person who gave birth to the child;

2. the child whose parentage is being acknowledged must not, at the time of signing, have a birth certificate identifying as a parent a person other than the person who gave birth to the child or the person acknowledging parentage;

3. no action is pending in which the child's parentage is at issue, unless all parties to the action agree to establishing the signatory's parentage pursuant to the acknowledgment; and

4. the signatories understand that the acknowledgment is the equivalent of an adjudication of the child's parentage and that a challenge to the acknowledgment is permitted only under limited circumstances.

Oral and Written Notice. Under the bill, an acknowledgment of parentage is not binding unless, prior to the signing, the signatories are

given oral and written notice of the alternatives to, the legal consequences of, and the rights and responsibilities that arise from signing the acknowledgment. The notice must explain the following:

1. the right to rescind the acknowledgment, including the address where a rescission notice should be sent;

2. that the acknowledgment cannot be challenged after 60 days, except in court or before a family support magistrate upon a showing of fraud, duress, or material mistake of fact;

3. that the acknowledgment may result in custody and visitation rights for the acknowledged parent, as well as a financial support duty from the acknowledged parent;

4. that, if the person acknowledging parentage is acknowledging that they are the child's genetic parent, genetic testing is available to establish parentage with a high degree of accuracy and, under certain circumstances, at state expense; and

5. if either person is not certain of the child's genetic parentage as it pertains to the acknowledgment of parentage, neither person should sign the form.

Content. The notice to the person acknowledging parentage also must include notice that (1) the person will be liable for the child's financial and medical support at least until the child's 18th birthday and (2) if the person acknowledging parentage is acknowledging that they are the child's genetic parent, that person has the right to contest parentage.

Void. An acknowledgment of parentage is void if, at the time of signing:

1. a person, other than the person who gave birth to the child or the person seeking to establish parentage, is an acknowledged or adjudicated parent or a parent through assisted reproduction;

2. the child whose parentage is being acknowledged has a birth

certificate identifying as a parent a person other than the person who gave birth to the child or the person acknowledging parentage; or

3. an action is pending in which the child's parentage is at issue, unless all parties to the action agree to establish the signatory's parentage under the acknowledgment.

Acknowledgement Protocols and Effect (§§ 26-32)

Timing. An acknowledgment of parentage (1) may be signed before or after the child's birth, except that an acknowledgment signed by a presumed parent may be signed only after the presumption is satisfied and (2) takes effect on the birth of the child or filing of the document with DPH, whichever occurs later. Additionally, an acknowledgement of parentage signed by a minor is valid if it complies with the CPA.

Legal Effect. Generally, an acknowledgment of parentage that is filed with DPH is equivalent to an adjudication of the child's parentage by the Superior Court and confers on the acknowledged parent all parental rights and duties. The bill prohibits DPH from charging a fee for this filing.

A court conducting a judicial proceeding or an administrative agency conducting an administrative proceeding is not required or permitted to ratify an unchallenged acknowledgment of parentage.

Rescission. A signatory may rescind an acknowledgment of parentage by filing a rescission with DPH in a signed record that is attested by a notary or witnessed. The signatory must file a rescission before the earlier of (1) 60 days after the acknowledgement's effective date or (2) the date of the first hearing before a court in a proceeding, to which the signatory is a party, to adjudicate an issue relating to the child, including one that establishes support.

If an acknowledgment of parentage is rescinded, DPH must notify the person who gave birth to the child of this rescission. Failure to give the required notice does not affect the rescission's validity.

Fraud, Duress, or Material Mistake of Fact. After the period for rescission expires, an acknowledgment of parentage may be challenged only on the basis of fraud, duress, or material mistake of fact. In cases in which the acknowledgment has been signed by the birth parent and an alleged genetic parent, a material mistake of fact may include evidence that the alleged genetic parent is not the genetic parent. A party challenging an acknowledgment of parentage has the burden of proof.

Court Proceedings. Every signatory to an acknowledgment of parentage is a party to a proceeding to challenge the acknowledgment. By signing an acknowledgment of parentage, a signatory submits to personal jurisdiction in Connecticut in a proceeding to challenge the acknowledgment, effective on the date the acknowledgment is filed with DPH. While the challenge is pending, any responsibilities arising from the acknowledgment must continue except for good cause shown.

Set Aside Acknowledgement. If the court or family support magistrate determines that the challenger has met the burden of proof to support a finding of fraud, duress, or material mistake of fact, the acknowledgment of parentage must be set aside, but only if the court or magistrate determines that doing so is in the child's best interest, based on the relevant factors described above (see § 23).

Amended Birth Certificate. If the court or family support magistrate sets aside the acknowledgement, the court or magistrate must order DPH to amend the child's birth record to reflect the child's legal parentage.

Support Refund in IV-D Cases. In cases involving a child who is or has been supported by the state, whenever the court or family support magistrate finds that the person challenging the acknowledgment of parentage is not a parent because the person has met the burden of proof, DSS must refund any money the person paid to the state during any period the state supported the child.

Full Faith and Credit (§ 32)

The bill requires the state to give full faith and credit to an acknowledgment of parentage effective in another state if the acknowledgment was in a signed record and otherwise complies with the other state's law.

§§ 33-35 — DPH AUTHORITY AND RESPONSIBILITIES

Authorizes DPH to develop an acknowledgment of parentage form, release information to certain individuals and entities, and develop implementing regulations

Acknowledgement of Parentage Form (§ 33)

Under the bill, DPH must prescribe forms for an acknowledgment of parentage. The forms must (1) include the minimum requirements specified by the U.S. Department of Health and Human Services secretary and (2) comply with the CPA. Executed acknowledgments and rescissions must be filed in DPH's parentage registry established under existing law.

Information Release (§ 34)

Under the bill, DPH may release information relating to an acknowledgment of parentage to a signatory, the child if he or she is at least age 18, a guardian of the person whose parentage is acknowledged, an attorney representing a person to whom the information may be released, a court, a federal agency, an authorized representative of DSS, the state child support agency, any agency acting under a cooperative or purchase of service agreement with Connecticut's child support agency, and another state's child support agency.

Implementing Regulations (§ 35)

The bill authorizes the DPH commissioner to adopt regulations to implement these acknowledgement of parentage provisions (§§ 24-34).

§§ 36 & 37 — ADJUDICATING PRESUMPTIVE PARENTAGE

Provides the (1) conditions under which someone may be presumed a child's parent and (2) means by which someone may overcome the presumption in a judicial proceeding

Presumed Parent (§ 2)

Under the bill, a "presumed parent" is a person who is presumed to be a parent of a child, unless the presumption is overcome in a judicial

proceeding (see below).

Conditions for Presumed Parentage (§ 36)

Generally, a person is presumed to be a child's parent under three scenarios, as follows:

1. if the person and the person who gave birth to the child are married to each other and the child is born during the marriage, whether the marriage is or could be declared invalid;

2. if the person and the person who gave birth to the child were married to each other and the child is born within 300 days after the date on which the marriage is terminated by death, dissolution, or annulment, or after a separation decree; or

3. the person and another parent jointly resided in the same household with the child and openly held out the child as the person's own child for at least two years from the time the child was born or adopted, including any period of temporary absence.

For the third scenario, the presumed parent's parentage must be established by a court adjudication or signing of a valid acknowledgment of parentage under the bill (i.e., determination of parentage).

Overcoming the Presumption. A presumption of parentage may be overcome only by court order and competing claims to parentage must be resolved considering the child's best interest (see § 23).

Probate Court's Jurisdiction. The Probate Court has jurisdiction over the presumed parent's parentage determination in certain probate court matters (e.g., the child's best interest, guardianship, custody, removal of parent, appointment of counsel, and DCF investigations) if notice is given to the presumed parent and there has not been a determination of parentage.

Juvenile Court's Jurisdiction. In a proceeding pending in juvenile

court regarding a child for whom certain petitions have been filed (e.g., commitment, neglect or abuse, temporary custody, permanency plan review, and guardianship), a presumed parent in the third scenario above, identified as such by an existing parent or by the child and not having a parentage determination, must be given notice of the proceeding but must not be treated as a parent until the determination. The juvenile court in which the petition is pending has jurisdiction over the person's parentage determination and DCF has standing to request the determination.

Presumptive Parentage Adjudication Proceeding (§ 37)

Timing. A proceeding to determine whether a presumed parent is a parent of a child may begin (1) before the child reaches age 18 or (2) after the child reaches age 18, but only if the child initiates the proceeding.

Overcoming Presumption After Child Turns Two. A presumption of parentage cannot be overcome after the child reaches age two unless the court determines the:

1. presumed parent is not a genetic parent, never resided with the child, and never held out the child as his or her child;

2. child has more than one presumed parent; or

3. alleged genetic parent did not know of the child's potential genetic parentage and could not reasonably have known because of material misrepresentation or concealment, and the alleged genetic parent starts a proceeding to challenge a presumption of parentage within one year after the date of discovering the potential genetic parentage.

If the person is adjudicated to be the child's genetic parent, the court may not disestablish a presumed parent.

Person Who Gave Birth Claims Parentage. Under the bill, the following rules apply in a proceeding to adjudicate a presumed parent's parentage of a child if the person who gave birth to the child is

the only other person with a claim to parentage of the child:

1. If no party to the proceeding challenges the presumed parent's parentage of the child, the court must adjudicate the presumed parent to be a parent of the child.

2. If the presumed parent is identified as a genetic parent of the child and that identification is not successfully challenged, the court must adjudicate the presumed parent to be a parent of the child.

3. If the presumed parent is not identified as a genetic parent of the child and the presumed parent or the person who gave birth to the child challenges the presumed parent's parentage of the child, the court must adjudicate the parentage of the child based on the child's best interest (see § 23).

Additional Person Claims Parentage. In a proceeding to adjudicate a presumed parent's parentage of a child, if another person in addition to the person who gave birth to the child asserts a parentage claim, the court must adjudicate parentage based on the child's best interest (see § 23).

Challenging Presumed Parentage in Hold-Out Cases (§ 37)

A presumption of parentage where the person, jointly with another parent, openly held out the child as his or her own (see § 36(a)(3)) can be challenged if the other parent did so due to duress, coercion, or threat of harm.

Evidence of duress, coercion, or threat of harm may include:

1. whether, within the 10-year period before the proceeding, the presumed parent (a) was convicted of domestic assault, sexual assault, sexual exploitation of the child or the child's parent, or a family violence crime; (b) is or has been subject to a protection order; (c) committed child abuse or abused the child's parent; or (d) was substantiated for abuse against the child or a parent of the child;

2. a sworn affidavit from a domestic violence counselor or sexual assault counselor who received a confidentiality waiver; or

3. other credible evidence of abuse.

§§ 38 & 39 — ADJUDICATING DE FACTO PARENTAGE

Creates a court process for someone who claims to be a de facto parent to be adjudicated as such; Establishes the qualifying criteria and the evidence necessary to support the claim

Qualifying Criteria (§ 38)

In a proceeding to adjudicate parentage of a person who claims to be a de facto parent of the child, if there is only one other person who is a parent or has a claim to the child's parentage, the court must adjudicate the person claiming de facto parentage to be a parent of the child if the person demonstrates the following by clear and convincing evidence:

1. the person resided with the child as a regular member of the child's household for at least one year, unless the court finds good cause to accept a shorter period of household residence;

2. the person engaged in consistent caretaking of the child, which may include regularly caring for the child's needs and making day-to-day decisions regarding the child individually or with another legal parent;

3. the person undertook full and permanent parental responsibilities without expectation of financial compensation;

4. the person held out the child as his or her child;

5. the person established a bonded and dependent relationship with the child that is parental in nature;

6. another parent of the child fostered or supported the bonded and dependent relationship; and

7. continuing the relationship between the person and the child is in the child's best interest.

Contesting Claims About Fostering and Supporting a Relationship (§ 38)

A child's parent may use evidence of duress, coercion, or threat of harm to contest an allegation that he or she fostered or supported a bonded and dependent relationship. Evidence may include the same types of evidence needed to challenge a presumption of parentage in a hold-out case (see § 37).

In a proceeding to adjudicate parentage of a person who claims to be a de facto parent of the child, if there is more than one other person who is a parent or has a claim to the child's parentage and the court determines that the requirements are satisfied, the court must adjudicate parentage based on the child's best interest (see § 23). However, the adjudication of a person as a de facto parent must not disestablish the parentage of any other parent, nor limit any other parent's rights under state law.

De Facto Parentage Adjudication Proceeding (§ 39)

Person Filing the Petition. A proceeding to establish de facto parentage of a child may be started only by a person who (1) is alive when the proceeding begins and (2) claims to be a de facto parent of the child.

Petition and Affidavit. A person seeking to be adjudicated a de facto parent of a child must file a petition with the court before the child reaches age 18. The child must be alive at the time of the filing. The petition must include a verified affidavit alleging facts to support the existence of a de facto parent relationship with the child. The petition and affidavit must be served on the child's parents and legal guardians and any other party to the proceeding.

Pleading. In response to the petition, an adverse party, parent, or legal guardian may file a pleading and verified affidavit that must be served on all parties to the proceeding.

Hearing to Dispute Standing. The court must determine on the basis of the pleadings and affidavits whether the person seeking to be adjudicated a de facto parent has presented prima facie evidence of the

criteria for de facto parentage. The court, in its sole discretion, may hold a hearing to determine disputed facts that are necessary and material to the issue of standing.

Interfering With Pending Litigation. If the child for whom the person is seeking to be adjudicated a de facto parent has two parents at the time the petition is filed and there is litigation pending between the parents regarding custody or visitation with respect to the child, a parent may use evidence that the de facto parent action is being brought to interfere improperly in the pending litigation in order to show that allowing the action to proceed would not be in the child's best interests. In which case, the court may dismiss the petition without prejudice.

Interim Order. The court may enter an interim order concerning contact between the child and a person with standing seeking adjudication as a de facto parent of the child.

§§ 40-50 — ADJUDICATING GENETIC PARENTAGE

Establishes requirements for genetic testing in proceedings to adjudicate genetic parentage, whether the person voluntarily submits to testing or is tested under a court or a child support agency order; provides for challenging results and testing lab reporting

Applicability (§ 41)

The bill establishes requirements for genetic testing in proceedings to adjudicate parentage, whether the person voluntarily submits to testing or is tested under a court or a child support agency order (§§ 41-50). It prohibits genetic testing from being used to (1) challenge the parentage of a person who is a parent due to assisted reproduction (see §§ 51-77) or (2) establish the parentage of a person who is a donor.

Under the bill, "genetic testing" means an analysis of genetic markers to identify or exclude a genetic relationship (§ 2).

Ordering Genetic Testing (§ 42)

Court of Family Support Magistrate. Except as provided in the provisions establishing the genetic testing requirements, in any proceeding under the CPA to adjudicate parentage, the court or a family support magistrate must order the child and any other person

to submit to genetic testing if a request for testing is supported by a party's sworn statement. The sworn statement must (1) allege a reasonable possibility that the person is the child's genetic parent or (2) deny genetic parentage of the child.

Child Support Agency. A child support agency must require genetic testing only if there is no presumed, acknowledged, or adjudicated parent of a child other than the person who gave birth to the child.

In-Utero Genetic Testing. The court, a family support magistrate, or child support agency are prohibited from ordering in-utero genetic testing.

Concurrent or Sequential Testing. If two or more persons are subject to court-ordered genetic testing, the court may order that testing be completed concurrently or sequentially.

Person Unavailable or Unwilling to Test. If the person whose genetic parentage is being determined is unavailable or declines to submit to genetic testing, the court may order genetic testing of the child and each person whose genetic parentage is being adjudicated. Genetic testing of the person who gave birth to a child is not a prerequisite for testing the child or others.

A default judgment may be ordered against a person who refuses to submit to court-mandated genetic testing under the CPA and the existing law, as amended by the bill, that allows a default judgment against nonresident alleged parents.

Presumed and De Facto Parents. In a proceeding to adjudicate the parentage of a child having a presumed parent or a person who claims to be a de facto parent, the court may deny a motion for genetic testing of the child and any other person after considering the child's best interest and additional factors used when parentage is challenged based on genetic testing (see § 23(a) & (b)).

If a person requesting genetic testing is barred under the CPA from

establishing his or her parentage, the court must deny the request for genetic testing.

Types of Genetic Testing (§§ 40 & 43)

Genetic testing must be of a type reasonably relied on by experts in the field of genetic testing and performed in a testing laboratory accredited by (1) the AABB, formerly known as the American Association of Blood Banks, or its successor, or (2) an accrediting body designated by the U.S. HHS secretary.

Frequencies Database. Based on the ethnic or racial group of the person undergoing genetic testing, a testing laboratory must determine the databases from which to select frequencies for use in calculating a relationship index. Under the bill, for the purpose of genetic testing, "ethnic or racial group" means a recognized group that a person identifies as his or her ancestry or part of the ancestry or that is identified by other information (§ 40). A "relationship index" is a likelihood ratio that compares the probability of a genetic marker given a hypothesized genetic relationship and the probability of the genetic marker given a genetic relationship between the child and a random person of the ethnic or racial group used in the hypothesized genetic relationship. A "hypothesized genetic relationship" means an asserted genetic relationship between a person and a child (§ 40).

Objection to Laboratory Choice. The bill establishes rules that apply if a person or a child support agency objects to the laboratory's choice of databases. For example, within 30 thirty days after the date the test report is received, the objecting person or child support agency may request the court to require the laboratory to recalculate the relationship index using an ethnic or racial group different from that used by the laboratory.

Testing Laboratory Reporting (§ 44)

A genetic testing report must be in a record and signed under penalty of perjury by a designee of the testing laboratory. A report complying with the bill's genetic testing requirements is self-authenticating.

Documentation from a testing laboratory of the following information is sufficient to establish a reliable chain of custody and allow the test results to be admissible without testimony:

1. name and photograph of each person whose specimen has been taken,

2. name of the person who collected each specimen,

3. place and date each specimen was collected,

4. name of the person who received each specimen in the testing laboratory, and

5. date each specimen was received.

Test Results and Challenges to the Results (§ 45)

A person is identified under the bill as a genetic parent of a child if genetic testing complies with the bill and the results of the testing show (1) that the person has at least a 99% probability of parentage, using a prior probability of 0.50, as calculated by using the combined relationship index obtained in the testing; and (2) a combined relationship index of at least 101. A "combined relationship index" means the product of all tested relationship indices (§ 40).

A person identified as the child's genetic parent may challenge the results only by other genetic testing satisfying the bill's requirements.

If more than one person other than the person who gave birth is identified by genetic testing as a possible genetic parent of the child, the court must order each person to submit to further genetic testing to identify a genetic parent.

Assessment of Testing Cost (§ 46)

As is the case under current law for genetic testing to determine paternity, the cost of the initial genetic testing to determine genetic parentage under the bill must be charged to (1) the party who filed the motion or (2) the state, if the court finds that the person is low-income

based on the state's child support guidelines or is otherwise indigent and unable to pay the costs.

Contesting Genetic Test Result (§ 47)

The court or the DSS Office of Child Support Services must require additional genetic testing if a person who contests the initial test result requests it. If the initial test identified a person as the child's genetic parent, the court or agency may not require additional testing unless the contesting person pays for the testing in advance.

Adjudicating an Alleged Genetic Parent to be a Parent (§ 48)

The bill establishes conditions under which the court must adjudicate an alleged genetic parent to be a parent of the child in certain proceedings. Under the bill, in a proceeding to determine whether an alleged genetic parent (who is not a presumed parent) is a parent of a child and the person who gave birth to the child is the only other person with a claim to the child's parentage, the court must adjudicate the alleged genetic parent to be the child's parent if he or she, among other things:

1. is identified under the bill's test result standard (as described in § 45 above) as a genetic parent and the identification is not successfully challenged;

2. admits parentage in a pleading and the court accepts the admission; or

3. is neither identified nor excluded as a genetic parent by genetic testing, but based on other evidence, the court determines him or her to be the child's parent.

In a proceeding involving an alleged genetic parent where at least one other person in addition to the person who gave birth to the child has a claim the child's parentage, the court must adjudicate parentage in the child's best interest, subject to the limitations established in the bill's provisions on parent-child relationship (see § 23).

In a proceeding involving an alleged genetic parent where another

person other than the person who gave birth is a parent of the child, the alleged genetic parent can seek a determination that he or she is the child's parent on the basis of a parent-child relationship under the CPA, in addition to the existing parents. An adjudication of parentage under these circumstances does not disestablish the other parent's parentage.

Penalty for Unauthorized Release of Genetic Testing Reports (§ 49)

Under the bill, a genetic testing report's release is controlled by state law other than the CPA. A person who intentionally releases an identifiable specimen of another person collected for genetic testing under the bill for a purpose not relevant to a parentage proceeding, without a court order or written permission of the person who furnished the specimen, is subject to a fine of up to $200, up to six months in prison, or both.

Genetic Testing Report as Evidence (§ 50)

Except as provided under the bill, the court must admit a court-ordered genetic testing report as evidence of the truth of the facts asserted in the report. But a report's admissibility is not affected by whether the testing was performed (1) voluntarily or under a court or child support agency's order or (2) before, on, or after the proceeding's commencement.

A party may object to a court-ordered genetic testing report's admission within 14 days after receiving the report and must cite the specific grounds for the objection. The party may also call a genetic-testing expert to testify. Unless the court orders otherwise, the party offering the testimony must pay for the expert testifying.

§§ 51-59 — CONSENT TO INTENDED PARENTAGE

Establishes a process for an intended parent to consent to parentage for a child, other than for a child conceived by sexual intercourse or assisted reproduction under a surrogacy agreement

Applicability (§ 51)

The following provisions (§§ 51-59) do not apply to the birth of a child conceived by sexual intercourse or assisted reproduction under a

surrogacy agreement.

Donor (§§ 2 & 52)

A donor is not a parent of a child conceived by assisted reproduction by virtue of the donor's genetic connection. Also, a donor may not establish parentage by signing an acknowledgment of parentage.

Under the bill, a "donor" is a person who provides gametes or embryos intended for use in assisted reproduction. A donor does not include (1) a person who gives birth to a child conceived by assisted reproduction, except those based on a surrogacy agreement under the CPA, or an intended parent under such agreement or (2) a parent established through consent to assisted reproduction by another person.

Consent Record (§§ 53, 54 & 57)

A person who consents to assisted reproduction by another person with the intent to be a parent of a child conceived by the assisted reproduction is a parent of the child.

Signed Record. This consent must generally be in a record signed by (1) a person giving birth to a child conceived by assisted reproduction and (2) a person who intends to be a parent of the child. However, if the parties fail to consent in a record before, on, or after the date of birth of the child, this must not preclude the court from finding consent to parentage if the parties prove by clear and convincing evidence the existence of an agreement that they intended they both would be parents of the child.

Consent Withdrawal. A person may withdraw consent at any time before a transfer that results in a pregnancy. The person must give notice in a record of the consent withdrawal to (1) the person who agreed to give birth to a child conceived by assisted reproduction and (2) any clinic or health care provider facilitating the assisted reproduction. Failure to give notice to the clinic or health care provider does not affect a determination of parentage under the CPA. A person

who withdraws consent is not a parent of the child.

Spouse's Dispute of Parentage of a Child Born by Assisted Reproduction (§ 55)

These provisions apply to a spouse's dispute of parentage even if the spouse's marriage is declared invalid after assisted reproduction occurs.

Standing. Someone who, at the time of a child's birth, is the spouse of the person who gave birth to the child by assisted reproduction may not challenge the parentage of the person who gave birth to the child unless (1) within two years after the child's birth, the spouse commences a proceeding to adjudicate his or her parentage of the child and (2) the court finds the spouse did not consent to the assisted reproduction, before, on, or after the child's birth date or withdrew the consent.

Proceeding. A proceeding to adjudicate a spouse's parentage of a child born by assisted reproduction may begin at any time if the court determines the following:

1. the spouse neither provided a gamete for, nor consented to, the assisted reproduction;

2. the spouse and the person who gave birth to the child have not cohabited since the probable time of assisted reproduction; and

3. the spouse never openly held out the child as the spouse's child.

Former Spouse's Parentage of a Child Born by Assisted Reproduction (§ 56)

In a case involving divorce, annulment, or legal separation occurring before the transfer of gametes or embryos to the person giving birth, a former spouse of the person giving birth is not a parent of the child unless the former spouse (1) consented in a record that he or she would be a parent of the child if assisted reproduction were to occur after a dissolution of marriage, annulment, or legal separation, and (2) did not withdraw consent.

Death of the Intended Parent (§ 58)

If a person who intends to be a parent of a child conceived by assisted reproduction dies during the period between the transfer of a gamete or embryo and the child's birth (i.e., the gestational period), the person's death does not preclude the establishment of the person's parentage if the person would otherwise be the child's parent under the CPA.

If the death occurs before the transfer of the gamete or embryo, the deceased person is a parent of a child conceived by the assisted reproduction only if it is specified in a written document and the embryo is in utero within one year after the date of the person's death. The written document must satisfy the following conditions:

1. specifically state that the person's gametes may be used for posthumous conception;

2. specifically provide the person who agreed to give birth with the authority to exercise custody, control, and use of the gametes should the person die; and

3. be signed and dated by the person and the person who agreed to give birth.

Declaration of Intended Parentage (§ 59)

A party consenting to assisted reproduction, a parent (under §§ 53-55), an intended parent or parents, or the person giving birth may commence a proceeding to obtain an order:

1. declaring that the intended parent or parents are the parent or parents of the resulting child immediately upon birth of the child and ordering that parental rights and responsibilities vest exclusively in the intended parent or parents immediately upon the child's birth and

2. designating the contents of the birth certificate and directing DPH to designate the intended parent or parents as the parent or parents of the resulting child.

The bill allows the proceeding to begin before or after the child's birth date; however, an order issued before the child's birth does not take effect unless and until his or her birth. Neither the state nor DPH is a necessary party to the proceeding.

Additionally, the bill specifies that the above provisions do not limit the court's authority to issue other orders under any other provision in state law.

§§ 60-77 — PARENTAGE THROUGH SURROGACY

Provides for the adjudication of parentage under gestational and genetic surrogate agreements for children born through assisted reproduction, including requirements for the execution, termination, and enforcement of any such agreement

Surrogacy Agreement (§§ 60-62)

Under the bill, a "surrogacy agreement" is an agreement between one or more intended parents and a person who is not an intended parent in which (1) that person agrees to become pregnant through assisted reproduction and (2) each intended parent is a parent of a child conceived under the agreement. Unless the context requires otherwise, surrogacy agreement includes an agreement with a gestational surrogate (i.e., the person uses another person's gametes) and an agreement with a genetic surrogate (i.e., the person uses their own gametes).

Requirements. To execute an agreement to act as a gestational or genetic surrogate, a person must:

1. be at least age 21 and have previously given birth at least once;

2. complete a medical evaluation by a licensed physician and a mental health evaluation by a licensed mental health professional;

3. have independent legal representation of the surrogate's choice throughout the surrogacy agreement regarding the agreement's terms and potential legal consequences; and

4. have or obtain a health insurance policy or other coverage for major medical treatment and hospitalization that extends

throughout the duration of the expected pregnancy and for eight weeks after the resulting child's birth.

Each intended parent must be at least age 21, complete a mental health evaluation by a licensed mental health professional, and have independent legal representation throughout the surrogacy agreement.

Execution. The bill lays out the requirements to execute a surrogacy agreement, including that all the requirements above must be met and that it is in writing, signed by each party, witnessed by two people, and notarized. Among other requirements, at least one party must be a Connecticut resident. Also, if an intended parent is married, the intended parent's spouse must also be an intended parent and a party to the agreement, unless the intended parent and the spouse are legally separated. The parties must have independent legal representation throughout the surrogacy agreement and the intended parent or parents must pay for independent legal representation of the surrogate and any spouse.

Under the bill, the agreement must be executed before any medical procedures occur. If the surrogate is to be compensated, the bill requires the compensation to escrowed before any medical procedure (other than the medical and mental health evaluations) starts.

Terms and Conditions of a Surrogacy Agreement (§§ 63-65)

The bill requires that the surrogacy agreement comply with the following terms and conditions:

1. the surrogate agrees to attempt to become pregnant by means of assisted reproduction;

2. the surrogate, and spouse or former spouse, have no claim to parentage of a child conceived by assisted reproduction under the surrogacy agreement (except in certain cases under §§ 70, 74 & 75 involving adjudication under gestational or genetic surrogacy agreements or through court-ordered genetic-testing);

3. the intended parent or parents, each one jointly and separately, immediately upon the child's birth generally are the exclusive parent or parents of the resulting child and must assume his or her financial support, regardless of the gender, mental or physical condition, or number of children born (except in certain cases under §§ 68, 71, 74 & 75 involving adjudication under gestational or genetic surrogacy agreements or through court-ordered genetic-testing);

4. the surrogacy agreement must provide for payment by the intended parent or parents of reasonable legal, medical and ancillary expenses, including for health and life insurance premiums and all uncovered medical expenses, among other things;

5. the intended parent or parents are liable for the surrogacy-related expenses of the surrogate;

6. the surrogacy agreement must not infringe on the surrogate's rights to make all their health and welfare decisions; and

7. the agreement must inform each party about the right to terminate the surrogacy agreement (see below).

Compensation. A surrogacy agreement may reasonably compensate the surrogate.

Non-Assignable Rights. A right created under a surrogacy agreement is not assignable and there is no third-party beneficiary of the agreement other than the resulting child.

Marriage, Divorce, Annulment and Legal Separation After the Agreement (§§ 64 & 65)

Unless a surrogacy agreement expressly says otherwise, the:

1. marriage of any party after the surrogacy agreement is signed does not affect its validity, the spouse's consent is not required, and the spouse is not a presumed parent of the child; and

2. divorce, annulment, and legal separation of any party after the surrogacy agreement has been signed by all parties must not affect the validity of the surrogacy agreement and the intended parents are the parents of the child.

Termination of a Surrogacy Agreement (§§ 66 & 67)

During the period after the surrogacy agreement is executed until the earlier of its termination or 90 days after the resulting child's birth, a court with a case under the CPA has exclusive, continuing jurisdiction over all matters arising out of the agreement, except in child custody or support proceedings where jurisdiction is not otherwise authorized by state law other than the CPA.

Surrogacy Agreement With a Gestational Surrogate (§§ 60 & 67-71)

Gestational Surrogate. Under the bill, a "gestational surrogate" is a person who is not an intended parent and who agrees to become pregnant through assisted reproduction using gametes that are not that person's own, under a gestational surrogacy agreement (i.e., a surrogacy agreement with a gestational surrogate).

Termination. A party to a gestational surrogacy agreement may terminate the agreement, at any time before an embryo transfer, by giving notice of termination in a record to all other parties. If an embryo transfer does not result in a pregnancy, a party may terminate the agreement at any time before a subsequent embryo transfer. However, no party may terminate the agreement after an embryo transfer but prior to a pregnancy test at a time to be determined by a qualified healthcare provider.

If a gestational surrogacy agreement is terminated, unless it states otherwise, each intended parent is responsible for expenses (1) reimbursable under the agreement and (2) incurred by the gestational surrogate through the agreement's termination. Unless the case involves fraud, a gestational surrogate and spouse or former spouse are not liable to the intended parents for a penalty, including incurred costs.

Parentage Under Gestational Surrogacy. Generally, upon the birth of a child conceived by assisted reproduction under a gestational surrogacy agreement, each intended parent is, by operation of law, a parent of the resulting child. The gestational surrogate or spouse or former spouse is not a parent of the resulting child.

If the child is alleged to be the gestational surrogate's genetic child, the court must, upon finding sufficient evidence, order genetic testing of the child. If the child is the gestational surrogate's genetic child, parentage must be determined in accordance with the adjudication of parentage provisions described above. Regarding gestational surrogacy, the bill also provides for scenarios involving certain laboratory and clinical errors that result in the resulting child not being genetically related to the intended parents or the donor. In such case, the bill makes the intended parents the resulting child's parents.

Death of Intended Parent. These provisions apply even if the intended parent died during the period between the transfer of a gamete or embryo and the resulting child's birth. But a deceased intended parent is not the parent unless (1) posthumous conception is specifically authorized in a written document and (2) the embryo is in utero within one year after the intended parent's death.

Proceeding for a Judgment. With some exceptions, the bill allows a party to a gestational surrogacy agreement to initiate a proceeding for a judgment of parentage of a child conceived in accordance with the agreement at any time after the agreement's execution.

Under the bill, the petition for a judgment of parentage must be submitted under penalty of false statement and include (1) certification from the parties' attorneys representing that the surrogacy requirements have been met and (2) a statement from each party that he or she entered the agreement knowingly and voluntarily.

Upon a finding that the petition satisfies the requirements above for initiating these proceedings, the court must issue a judgment declaring the (1) child's intended parent and ordering that parental rights, duties, and custody vest immediately on the child's birth exclusively in

any intended parent and (2) gestational surrogate and spouse or former spouse are not the child's parents. The bill deems that this order satisfies existing law's birth certificate requirements.

Enforcement and Remedies. A gestational surrogacy agreement that complies with the CPA is enforceable. If the gestational surrogacy agreement does not comply with the CPA the court must determine the rights and duties of the parties to the agreement, considering evidence of the parties' intent at the time of the agreement's execution. Each party to the agreement and their spouse has standing to maintain a proceeding to adjudicate an issue related to its enforcement.

A gestational surrogacy agreement that complies with the CPA's applicable sections is enforceable. However, if the agreement is breached by a gestational surrogate or one or more intended parents, the nonbreaching party is entitled to the remedies available at law or in equity. Under certain circumstances, specific performance is a remedy for an intended parent determined to be the resulting child's parent.

Genetic Surrogate Agreement (§§ 60, 72-77 & 99)

Genetic Surrogate. Under the bill, a "genetic surrogate" means a person who is not an intended parent and who agrees to become pregnant through assisted reproduction using that person's own gamete, under a genetic surrogacy agreement.

Probate Court Validation. A genetic surrogacy agreement must generally be validated by a Probate Court and the proceeding must begin before the assisted reproduction related to the surrogacy agreement. The court must validate a genetic surrogacy agreement if it finds that (1) the requirements for surrogacy agreements are satisfied and (2) all parties entered the agreement voluntarily and understand its terms. The Probate Court cost to validate a genetic surrogacy agreement is $225 (§ 99).

A person who terminates a genetic surrogacy agreement must notify the court or be subject to unspecified sanctions. Upon receipt of the notice, the court must vacate any order it issued validating the

agreement.

Termination of a Genetic Surrogacy Agreement. A party may terminate a genetic surrogacy agreement at any time before a gamete or embryo transfer by giving notice of termination in a record to all other parties. If a gamete or embryo transfer does not result in a pregnancy, a party may terminate the agreement at any time before a subsequent gamete or embryo transfer. However, no party may terminate the agreement after a gamete or embryo transfer but prior to a pregnancy test at a time to be determined by a qualified healthcare provider. The notice of termination must be witnessed or notarized. Termination notices must also be filed by the intended parent with the court when the genetic surrogate agreement terminates after the court has validated the agreement but before the surrogate becomes pregnant by assisted reproduction means.

The parties are released from all obligations under the agreement when it terminates, except for allowed expenses. Unless the agreement provides otherwise, the person acting as surrogate is not entitled to any compensation paid for serving as a surrogate, except for surrogacy-related expenses.

Unless the case involves fraud, a genetic surrogate, or spouse or former spouse, is not liable to the intended parent or parents for a penalty or liquidated damages, for terminating a genetic surrogacy agreement.

Parentage Under a Genetic Surrogacy Agreement. Upon the birth of a child conceived by assisted reproduction under a court validated genetic surrogacy agreement, each intended parent is, by operation of law, a parent of the resulting child.

The intended parent or parents must file a notice with the court that a child has been born as a result of assisted reproduction. Upon receiving the notice, the court must, issue an order as soon as practicable, without notice and hearing, that:

1. declares (a) any intended parent is a parent of the resulting

child and that parental rights and duties vest exclusively in any intended parent or parents and (b) the intended parents have responsibility for the child's maintenance and support upon the child's birth;

2. declares genetic surrogates and their spouse or former spouse are not parents of the resulting child;

3. designates the contents of the certificate of birth; and

4. if necessary, orders that the child be surrendered to the intended parent or parents.

If a child born to a genetic surrogate is alleged not to have been conceived by assisted reproduction, the court may order genetic testing to determine the child's genetic parentage, in accordance with the adjudication of parentage provisions described above.

Enforcement and Remedies. A genetic surrogacy agreement, whether or not in a record, that is not validated under the probate validation provision (§ 72) is enforceable only to the extent provided under the bill's provisions on the validity of such agreements and the remedies available at law or in equity for breach (§§ 75 & 77).

If a genetic surrogacy agreement is breached by a genetic surrogate or one or more intended parents, the nonbreaching party is entitled to the remedies available at law or in equity. Under certain circumstances, specific performance is a remedy for an intended parent under an agreement breached by the genetic surrogate and another intended parent.

Proceeding for a Judgment. If all parties agree, a court may validate a genetic surrogacy agreement after assisted reproduction has occurred but before the child's birth if, upon examination of the parties, the court finds that (1) the requirements for surrogacy agreements have been satisfied and (2) all parties entered into the agreement voluntarily and understand its terms.

A person who terminates a genetic surrogacy agreement must file

notice of the termination with the court, but that person may not terminate a validated genetic surrogacy agreement if a gamete or embryo transfer has resulted in a pregnancy. On receipt of the notice, the court must vacate the order validating the agreement. A person who is required to notify the court of the termination of the agreement must be subject to unspecified sanctions.

The genetic surrogate is not automatically a parent when the resulting child is conceived and born under a nonvalidated genetic surrogacy agreement. In this case, the court must adjudicate parentage of the child based on the child's best interest (§ 23) and the parties' intent at the time of the agreement's execution.

The parties to a genetic surrogacy agreement have standing to maintain a proceeding to adjudicate parentage.

Intended Parent's Death. Generally, upon the birth of a child conceived by assisted reproduction under a genetic surrogacy agreement, each intended parent is, by operation of law, a parent of the child whether the surviving parent is the genetic parent or not, regardless of whether the intended parent died during the period between the transfer of a gamete or embryo and the child's birth.

These provisions apply even if the intended parent died during the period between the transfer of a gamete or embryo and the birth of the resulting child. But the intended parent is not the parent if he or she dies before the transfer of the gamete or embryo, unless (1) posthumous conception is specified in a written document and (2) the embryo is in utero within one year after the person's death.

§§ 2 & 78-83 — COLLECTION OF GAMETES AND DISCLOSURE OF INFORMATION ON OR AFTER JANUARY 1, 2022

Establishes requirements pertaining to donated gametes collected on or after January 1, 2022, including the collection and disclosure of donor's information and gamete banks and fertility clinics record retention

Applicability (§ 79)

The bill specifies that the following provisions (§§ 78-83) apply only to gametes collected on or after January 1, 2022. They do not apply to

gametes collected from a donor whose identity is known to the recipient at the time of the donation. A "gamete" is a sperm or egg and includes any part of a sperm or egg (§ 2).

Donor (§ 2)

Under the bill, a "donor" is a person who provides gametes or embryos intended for use in assisted reproduction. Donors do not include a:

1. person who gives birth to a child conceived by assisted reproduction based on a surrogacy agreement, or an intended parent under such agreement, or

2. parent established through consent to assisted reproduction by another person.

Information Collection and Disclosure Declaration (§§ 80 & 81)

Information Collection and Disclosure. The bill requires a gamete bank or fertility clinic operating in Connecticut to (1) collect identifying information and medical history from a donor at the time of the donation and (2) disclose the collected information upon request of a resulting child who is age 18 or older.

Gametes From Another Bank or Fertilization Clinic. A gamete bank or fertility clinic operating in the state that receives a donor's gametes collected by another gamete bank or fertility clinic, must collect the name, address, telephone number, and email address of the gamete bank or fertility clinic from which it receives the gametes.

Gametes From a Donor. A gamete bank or fertility clinic operating in the state that collects gametes from a donor must (1) provide the donor with information in a record about the donor's choice regarding identity disclosure and (2) obtain a declaration from the donor regarding identity disclosure.

Donor's Disclosure Declaration. A gamete bank or fertility clinic operating in Connecticut must give a donor the choice to sign a declaration, witnessed and notarized, that either states that the donor

(1) agrees to disclose his or her identity to a child conceived by assisted reproduction with the donor's gametes upon request once the child reaches age 18 or (2) states that the donor must not presently agree to disclose the donor's identity to the child.

A gamete bank or fertility clinic operating in the state must allow a donor who has signed a declaration to withdraw the declaration at any time by signing a declaration not presently agreeing to the disclosure.

Disclosure of a Donor's Information Upon the Request of an Adult Child or a Minor Child's Parent or Guardian (§§ 78, 82 & 83)

Donor's Identifying Information. Upon the request of a child conceived by assisted reproduction who is age 18 or older, a gamete bank or fertility clinic operating in Connecticut that collected the gametes used in the assisted reproduction must make a good faith effort to provide the child with identifying information of the gamete's donor, unless the donor signed and did not withdraw a declaration not agreeing to the disclosure. If the donor signed and did not withdraw such declaration, the gamete bank or fertility clinic must make a good faith effort to notify the donor, who may elect to withdraw the declaration. Under the bill, "identifying information" means the donor's full name; date of birth; and permanent and, if different, current address at the time of the donation.

Donor's Medical History. Upon the request of a child conceived by assisted reproduction who is age 18 or older, or, if the child is a minor, by his or her parent or guardian, a gamete bank or fertility clinic operating in the state that collected the gametes used in the assisted reproduction must make a good faith effort to provide the child or a minor child's parent or guardian access to the donor's nonidentifying medical history. "Medical history" means information regarding the donor's past or present illness and the social, genetic, and family history pertaining to the donor's health.

Other Bank or Fertility Clinic Information. Upon the request of a child conceived by assisted reproduction who is age 18 or older, a gamete bank or fertility clinic operating in this state that received the

gametes used in the assisted reproduction from another gamete bank or fertility clinic must disclose the name, address, telephone number and email address of the gamete bank or fertility clinic from which it received the gametes.

Records Retention and Reporting Requirements. A gamete bank or fertility clinic operating in Connecticut that collects gametes for use in assisted reproduction must maintain identifying information and medical history about each gamete donor. The gamete bank or fertility clinic must maintain records of gamete screening and testing and comply with federal and state reporting requirements, other than the CPA.

A gamete bank or fertility clinic operating in Connecticut that receives gametes from another gamete bank or fertility clinic operating in Connecticut must maintain the name, address, telephone number, and email address of the gamete bank or fertility clinic from which it received the gametes.

§§ 3 & 84-86 — MISCELLANEOUS PROVISIONS

Specifies that it (1) does not change the equitable powers of the courts or parental rights or duties; (2) has retroactive effect only on cases without judgment before January 1, 2022; (3) should be applied and construed in a manner to promote uniformity of law; and (4) does not affect certain federal laws related to disclosures and court notice

The bill specifies that:

1. it does not create, affect, enlarge, or diminish the equitable powers of the Connecticut's courts or parental rights or duties under state law other than this bill (§ 3);

2. it applies retroactively to proceedings in which a person's parentage has not been adjudicated or determined by operation of law and no judgment has been rendered before January 1, 2022 (§ 86);

3. in applying and construing its provisions, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it (§ 84); and

4. its provisions generally do not modify, limit, or supersede provisions related to consumer disclosures and court notices under the federal Electronic Signatures in Global and National Commerce Act (§ 85).

§§ 103, 104, 117 & 124 — CHANGES TO UNRELATED PROVISIONS

Makes changes, made necessary by the CPA, to certain provisions on a nonmarital child's inheritance, temporary custody hearings, and DSS exceptions for someone to refuse to cooperate with parentage determination

Nonmarital Child's Inheritance (§§ 103 & 104)

Under the bill, a child and his or her legal representatives must qualify for inheritance from or through the parent if parentage is established in accordance with the CPA or by adoption. If parentage is based on presumed parentage (§ 36(a)(3)) or genetic parentage (§§ 40-50), parentage must be established by a voluntary acknowledgment (§§ 24-35) or court adjudication. Under current law, a child born out of wedlock and his or her legal representatives must qualify for inheritance from or through the father if the father's paternity (1) was established by a written acknowledgment of paternity or (2) has been adjudicated by a court of competent jurisdiction.

The bill makes a similar change to current law that applies to a father or his kindred qualifying for inheritance from a child born out of wedlock.

Temporary Custody Hearing (§ 117)

Existing law requires a preliminary hearing for the court to carry out certain functions, including identifying anyone related to the child or youth residing in Connecticut who might serve as licensed foster parents or temporary custodians. Under existing law, the person may be related to the child by blood or marriage. The bill also adds persons related to the child by law.

Exceptions for Refusing to Cooperate With Determining an IV-D Child's Parentage (§ 124)

Existing law requires the DSS commissioner to adopt regulations to establish criteria to determine good cause or other exceptions for a

person to refuse to cooperate with genetic testing to determine paternity, considering the child's best interest. The bill updates terminology to conform with the CPA. Additionally, under the bill the DSS commissioner's criteria must apply to establish good cause or other exceptions for unmarried parents of a child who is a public assistance recipient to refuse to cooperate with requirements to determine the alleged genetic parent as established by the CPA.

§§ 87-148 — CONFORMING CHANGES AND GENDER-SPECIFIC AND OTHER TERMINOLOGY CHANGES

Makes conforming changes throughout the statutes by removing certain gender-specific references and other changes in statutes that address things such as (a) birth certificates; (b) human services, social services, and public health protocols and systems; (c) probate court matters; and (d) family relations matters

The bill makes conforming changes, including by replacing terms the CPA makes obsolete. It does so in statutes affecting:

1. municipal registrars of vital statistics (e.g., birth certificates);
2. standing to participate in a DCF reunification hearing;
3. social services (e.g., child support enforcement);
4. public health (e.g., amendment of birth certificates and disclosure of paternity to IV-D agency);
5. Probate Court and procedures (e.g., regional children courts, paternity determinations, and inheritance issues);
6. family relations matters (e.g., divorce, annulment, legal separation, custody, paternity, and support);
7. process in certain civil actions (e.g. paternity, support, costs and fees related to wills and trusts);
8. post judgment procedures (e.g., child support withholding); and
9. criminal nonsupport.

The bill eliminates provisions under current law that address acknowledgement of paternity (§ 46b-172) and correspondingly

replaces internal references to that section with the sections of the CPA that address acknowledgment of parentage (§§ 24-35). The bill similarly removes current provisions that apply to proceedings to establish paternity of a child born or conceived out of lawful wedlock (§ 46b-160) and genetic testing for paternity (§ 46b-168) and replaces them with references to the applicable sections of the CPA. Additionally, the bill repeals a provision of current law that provides for the establishment of paternity in certain cases in which the child is found to not be an issue of the marriage (§ 112).

The bill provides for the scenario where there may be more than two parents by removing words such as "both" or "either" under current law in reference to parents. It also provides for equal treatment under the law for children born to same-sex couples and to married or unmarried parents by, among other things, removing certain gender-specific references (e.g., "maternity" and "paternity") and other terms (e.g., "legitimate child" and "illegitimate child").

§ 149 — REPEALER

Repeals statutes that address a putative father's paternity case, the doctrine that a child born in wedlock is legitimate, and other provisions related to children conceived through artificial insemination

The bill also repeals laws addressing (1) a putative father's testimony and evidence of good character in paternity cases; (2) the doctrine that a child born in wedlock is legitimate, including a child conceived through artificial insemination; and (3) other provisions that apply to children conceived through artificial insemination, including confidentiality, Probate Court filings, rights of sperm or egg donors, determining the jurisdiction of the child's birth, and the child's inheritance.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute
Yea 36 Nay 0 (03/29/2021)