

HOUSE BILL 1267

State of Washington

62nd Legislature

2011 Regular Session

By Representatives Pedersen, Walsh, Jinkins, Eddy, Roberts, Kagi, Sullivan, Van De Wege, Hurst, Goodman, Orwall, Moeller, Kirby, Frockt, Carlyle, Lias, 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 01/18/11. Referred to Committee on Judiciary.

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

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

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

18 The definitions in this section apply throughout this chapter
19 unless the context clearly requires otherwise.

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

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

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

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

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

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

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

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

18 (b) Donation of eggs;

19 (c) Donation of embryos;

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

21 (e) Intracytoplasmic sperm injection.

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

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

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

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

33 (~~(+8)~~) (9) "Domestic partner" means a state registered domestic
34 partner as defined in chapter 26.60 RCW.

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

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

5 (b) ~~((A woman who gives birth to a child by means of assisted~~
6 ~~reproduction, except as otherwise provided in RCW 26.26.210 through~~
7 ~~26.26.260 or 26.26.735.))~~ An intended parent under sections 55 through
8 66 of this act.

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

13 ~~((+10))~~ (12) "Gamete" means either a sperm or an egg.

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

18 (a) Deoxyribonucleic acid; and

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

21 ~~((+11))~~ (14) "Gestational surrogacy" means the process by which a
22 woman attempts, through assisted reproduction, to carry and give birth
23 to a child to which the woman acting as a surrogate has made no genetic
24 contribution and the woman acting as a surrogate does not intend to be
25 the parent of the child.

26 (15) "Surrogacy contract" means a written agreement regarding
27 gestational or traditional surrogacy as provided under sections 54
28 through 65 of this act.

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

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

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

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

37 (18) "Intended parent" means a person or persons who enters into a
38 surrogacy contract with a woman acting as a surrogate pursuant to which

1 he or she will be the legal parent upon the birth of the resulting
2 child. In the case of a married couple or a couple in a domestic
3 partnership, any reference to an intended parent includes both spouses
4 or both domestic partners for all purposes of this chapter. This term
5 includes the intended mother, intended father, or both.

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

7 ((+12)) (20) "Medical evaluation" means an evaluation and
8 consultation with a physician meeting the requirements of section 64 of
9 this act.

10 (21) "Mental health evaluation" means an evaluation and
11 consultation with a mental health professional meeting the requirements
12 of section 64 of this act.

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

15 ((+13)) (23) "Parent-child relationship" means the legal
16 relationship between a child and a parent of the child. The term
17 includes the mother-child relationship and the father-child
18 relationship.

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

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

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

32 ((+15)) (25) "Physician" means a person licensed to practice
33 medicine in a state.

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

1 ~~((+16+))~~ (27) "Probability of ~~((paternity))~~ parentage" means the
2 measure, for the ethnic or racial group to which the alleged ~~((father))~~
3 parent belongs, of the probability that the individual in question is
4 the ~~((father))~~ parent of the child, compared with a random, unrelated
5 ~~((man))~~ person of the same ethnic or racial group, expressed as a
6 percentage incorporating the ~~((paternity))~~ parentage index and a prior
7 probability.

8 ~~((+17+))~~ (28) "Record" means information that is inscribed on a
9 tangible medium or that is stored in an electronic or other medium and
10 is retrievable in perceivable form.

11 ~~((+18+))~~ (29) "Signatory" means an individual who authenticates a
12 record and is bound by its terms.

13 ~~((+19+))~~ (30) "State" means a state of the United States, the
14 District of Columbia, Puerto Rico, the United States Virgin Islands,
15 any territory or insular possession subject to the jurisdiction of the
16 United States, or an Indian tribe or band, or Alaskan native village,
17 that is recognized by federal law or formally acknowledged by state
18 law.

19 ~~((+20+))~~ (31) "Support enforcement agency" means a public official
20 or agency authorized to seek:

21 (a) Enforcement of support orders or laws relating to the duty of
22 support;

23 (b) Establishment or modification of child support;

24 (c) Determination of parentage; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 (1) The provisions relating to determination of ((paternity may be
26 applied)) parentage apply to ((a)) determinations of maternity and
27 paternity.

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

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

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

3 ~~((a))~~ (1) The woman's having given birth to the child, except as
4 otherwise provided in ~~((RCW 26.26.210 through 26.26.260))~~ sections 54
5 through 67 of this act;

6 ~~((b))~~ (2) An adjudication of the ~~((woman's maternity))~~ person's
7 parentage;

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

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

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

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

21 ~~(a))~~);

22 (5) An adjudication confirming the person as a parent of a child
23 born pursuant to a surrogacy contract if the contract was validated
24 under sections 54 through 65 of this act or is enforceable under other
25 law;

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

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

31 ~~((c) An adjudication of the man's paternity;~~
32 ~~(d) Adoption of the child by the man;~~

33 ~~(e))~~ or

34 (8) The ~~((man's))~~ person's having consented to assisted
35 reproduction by his ~~((wife))~~ or her spouse or domestic partner under
36 RCW 26.26.700 through 26.26.730 that resulted in the birth of the
37 child(~~-~~or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 continuing restraining order or injunction. In issuing the order, the
2 court shall consider the provisions of RCW 9.41.800.

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

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

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

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

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

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

35 (8) In any dispute between the (~~natural parents~~) persons claiming
36 parentage of a child and a person or persons who have (a) commenced
37 adoption proceedings or who have been granted an order of adoption, and
38 (b) pursuant to a court order, or placement by the department of social

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22 (3) The presumed father has not previously:

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

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

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

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

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

35 (3) Subject to subsection (1) of this section, an acknowledgment

1 and denial of paternity, if any, take effect on the birth of the child
2 or the filing of the document with the state registrar of vital
3 statistics, whichever occurs later.

4 (4) An acknowledgment or denial of paternity signed by a minor is
5 valid if it is otherwise in compliance with this chapter.

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

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

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

19 **Sec. 16.** RCW 26.26.335 and 2002 c 302 s 308 are each amended to
20 read as follows:

21 (1) After the period for rescission under RCW 26.26.330 has
22 (~~elapsed~~) expired, a signatory of an acknowledgment or denial of
23 paternity may commence a proceeding to challenge the acknowledgment or
24 denial only:

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

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

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

32 **Sec. 17.** RCW 26.26.340 and 2002 c 302 s 309 are each amended to
33 read as follows:

34 (1) Every signatory to an acknowledgment (~~of~~) of paternity and

1 any related denial of paternity must be made a party to a proceeding to
2 rescind or challenge the acknowledgment or denial.

3 (2) For the purpose of rescission of, or challenge to, an
4 acknowledgment or denial of paternity, a signatory submits to personal
5 jurisdiction of this state by signing the acknowledgment or denial,
6 effective upon the filing of the document with the state registrar of
7 vital statistics.

8 (3) Except for good cause shown, during the pendency of a
9 proceeding to rescind or challenge an acknowledgment or denial of
10 paternity, the court may not suspend the legal responsibilities of a
11 signatory arising from ~~((an))~~ the acknowledgment, including the duty to
12 pay child support.

13 (4) A proceeding to rescind or to challenge an acknowledgment or
14 denial of paternity must be conducted in the same manner as a
15 proceeding to adjudicate parentage under RCW 26.26.500 through
16 26.26.630.

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

21 **Sec. 18.** RCW 26.26.360 and 2002 c 302 s 313 are each amended to
22 read as follows:

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

32 **Sec. 19.** RCW 26.26.375 and 2002 c 302 s 316 are each amended to
33 read as follows:

34 (1) After the period for rescission of an acknowledgment of
35 paternity provided in RCW 26.26.330 has passed, a parent executing an

1 acknowledgment of paternity of the child named therein may commence a
2 judicial proceeding for:

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

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

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

11 (3) Before the period for a challenge to the acknowledgment or
12 denial of paternity has elapsed under RCW 26.26.335, the petitioner
13 must specifically allege under penalty of perjury, to the best of the
14 petitioner's knowledge, that: (a) No man other than the man who
15 executed the acknowledgment of paternity is the father of the child;
16 (b) there is not currently pending a proceeding to adjudicate the
17 parentage of the child or that another man is adjudicated the child's
18 father; and (c) the petitioner has provided notice of the proceeding to
19 any other men who have claimed parentage of the child. Should the
20 respondent or any other person appearing in the action deny the
21 allegations, a permanent parenting plan or residential schedule may not
22 be entered for the child without the matter being converted to a
23 proceeding to challenge the acknowledgment of paternity under RCW
24 26.26.335 and 26.26.340. A copy of the acknowledgment of paternity or
25 the birth certificate issued by the state in which the child was born
26 must be filed with the petition or response. The court may convert the
27 matter to a proceeding to challenge the acknowledgment on its own
28 motion.

29 **Sec. 20.** RCW 26.26.400 and 2002 c 302 s 401 are each amended to
30 read as follows:

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

33 (1) Voluntarily submits to testing; or

34 (2) Is tested pursuant to an order of the court or a support
35 enforcement agency.

1 **Sec. 21.** RCW 26.26.405 and 2002 c 302 s 402 are each amended to
2 read as follows:

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

7 (a) Alleging paternity and stating facts establishing a reasonable
8 probability of the requisite sexual contact between the individuals; or

9 (b) Denying paternity and stating facts establishing a possibility
10 that sexual contact between the individuals, if any, did not result in
11 the conception of the child.

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

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

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

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

23 **Sec. 22.** RCW 26.26.410 and 2002 c 302 s 403 are each amended to
24 read as follows:

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

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

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

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

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

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

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

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

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

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

16 (c) The testing laboratory may use its own statistical estimate if
17 there is a question regarding which ethnic or racial group is
18 appropriate. If available, the testing laboratory shall calculate the
19 frequencies using statistics for any other ethnic or racial group
20 requested.

21 (4) If, after recalculation using a different ethnic or racial
22 group, genetic testing does not rebuttably identify a ~~((man))~~ person as
23 the ~~((father))~~ parent of a child under RCW 26.26.420, an individual who
24 has been tested may be required to submit to additional genetic
25 testing.

26 **Sec. 23.** RCW 26.26.420 and 2002 c 302 s 405 are each amended to
27 read as follows:

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

32 (a) The ~~((man))~~ person has at least a ninety-nine percent
33 probability of ~~((paternity))~~ parentage, using a prior probability of
34 0.50, as calculated by using the combined ~~((paternity))~~ parentage index
35 obtained in the testing; and

36 (b) A combined ~~((paternity))~~ parentage index of at least one
37 hundred to one.

1 (2) A ((~~man~~)) person identified under subsection (1) of this
2 section as the ((~~father~~)) parent of the child may rebut the genetic
3 testing results only by other genetic testing satisfying the
4 requirements of this section and RCW 26.26.400 through 26.26.415 and
5 26.26.425 through 26.26.450 which:

6 (a) Excludes the ((~~man~~)) person as a genetic ((~~father~~)) parent of
7 the child; or

8 (b) Identifies another ((~~man~~)) person as the ((~~father~~)) parent of
9 the child.

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

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

16 **Sec. 24.** RCW 26.26.425 and 2002 c 302 s 406 are each amended to
17 read as follows:

18 (1) Subject to assessment of costs under RCW 26.26.500 through
19 26.26.630, the cost of initial genetic testing must be advanced:

20 (a) By a support enforcement agency in a proceeding in which the
21 support enforcement agency is providing services;

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

23 (c) As agreed by the parties; or

24 (d) As ordered by the court.

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

28 **Sec. 25.** RCW 26.26.430 and 2002 c 302 s 407 are each amended to
29 read as follows:

30 (1) The court or the support enforcement agency shall order
31 additional genetic testing upon the request of a party who contests the
32 result of the original testing. If the previous genetic testing
33 identified a ((~~man~~)) person as the ((~~father~~)) parent of the child under
34 RCW 26.26.420, the court or agency may not order additional testing
35 unless the party provides advance payment for the testing.

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

3 **Sec. 26.** RCW 26.26.435 and 2002 c 302 s 408 are each amended to
4 read as follows:

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

9 (a) The parents of the man;

10 (b) Brothers and sisters of the man;

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

12 (d) Other relatives of the man necessary to complete genetic
13 testing.

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

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

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

22 **Sec. 27.** RCW 26.26.445 and 2002 c 302 s 410 are each amended to
23 read as follows:

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

28 (2) If (~~genetic testing excludes none of the brothers as the~~
29 ~~genetic father, and~~) each brother satisfies the requirements as the
30 identified father of the child under RCW 26.26.420 without
31 consideration of another identical brother being identified as the
32 father of the child, the court may rely on nongenetic evidence to
33 adjudicate which brother is the father of the child.

34 **Sec. 28.** RCW 26.26.505 and 2002 c 302 s 502 are each amended to
35 read as follows:

1 Subject to RCW 26.26.300 through 26.26.375, 26.26.530, and
2 26.26.540, a proceeding to adjudicate parentage may be maintained by:

3 (1) The child;

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

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

8 (4) The division of child support;

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

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

13 (7) An intended parent under a ~~((surrogate parentage contract, as~~
14 ~~provided in RCW 26.26.210 through 26.26.260))~~ surrogacy contract
15 provided in sections 54 through 67 of this act.

16 **Sec. 29.** RCW 26.26.510 and 2002 c 302 s 503 are each amended to
17 read as follows:

18 The following individuals must be joined as parties in a proceeding
19 to adjudicate parentage:

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

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

24 (3) An intended parent under a ~~((surrogate parentage contract, as~~
25 ~~provided in RCW 26.26.210 through 26.26.260))~~ surrogacy contract as
26 provided in sections 54 through 67 of this act.

27 **Sec. 30.** RCW 26.26.525 and 2002 c 302 s 506 are each amended to
28 read as follows:

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

33 (1) The child becomes an adult; or

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

1 **Sec. 31.** RCW 26.26.530 and 2002 c 302 s 507 are each amended to
2 read as follows:

3 (1) Except as otherwise provided in subsection (2) of this section,
4 a proceeding brought by a presumed ~~((father))~~ parent, the ~~((mother))~~
5 person with a parent-child relationship with the child, or another
6 individual to adjudicate the parentage of a child having a presumed
7 ~~((father))~~ parent must be commenced not later than ~~((two))~~ four years
8 after the birth of the child. If an action is commenced more than two
9 years after the birth of the child, the child must be made a party to
10 the action.

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

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

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

20 **Sec. 32.** RCW 26.26.535 and 2002 c 302 s 508 are each amended to
21 read as follows:

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

27 (a)(i) The conduct of the mother or father or the presumed
28 ~~((father))~~ or acknowledged parent estops that party from denying
29 parentage; and

30 ~~((+b))~~ (ii) It would be inequitable to disprove the ~~((father-~~
31 ~~child))~~ parent-child relationship between the child and the presumed
32 ~~((father))~~ or acknowledged parent; or

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

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

1 (a) The length of time between the proceeding to adjudicate
2 parentage and the time that the presumed ((father)) or acknowledged
3 parent was placed on notice that he or she might not be the genetic
4 ((father)) parent;

5 (b) The length of time during which the presumed ((father)) or
6 acknowledged parent has assumed the role of ((father)) parent of the
7 child;

8 (c) The facts surrounding the presumed ((father's)) or acknowledged
9 parent's discovery of his or her possible ((nonpaternity))
10 nonparentage;

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

13 (e) The age of the child;

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

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

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

21 (i) Other factors that may affect the equities arising from the
22 disruption of the ((father-child)) parent-child relationship between
23 the child and the presumed ((father)) or acknowledged parent or the
24 chance of other harm to the child.

25 (3) In a proceeding involving the application of this section,
26 ((the)) a minor or incapacitated child must be represented by a
27 guardian ad litem.

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

31 (5) If the court denies a motion seeking an order for genetic
32 testing under subsection (1)(a) of this section, it shall issue an
33 order adjudicating the presumed ((father)) or acknowledged parent to be
34 the ((father)) parent of the child.

35 **Sec. 33.** RCW 26.26.540 and 2002 c 302 s 509 are each amended to
36 read as follows:

37 (1) If a child has an acknowledged father, a signatory to the

1 acknowledgment or denial of paternity must commence any proceeding
2 seeking to rescind the acknowledgment or denial or challenge the
3 paternity of ~~((that))~~ the child only within the time allowed under RCW
4 26.26.330 or 26.26.335.

5 (2) If a child has an acknowledged father or an adjudicated
6 ~~((father))~~ parent, an individual, other than the child, who is neither
7 a signatory to the acknowledgment nor a party to the adjudication and
8 who seeks an adjudication of ~~((paternity))~~ parentage of the child must
9 commence a proceeding not later than ~~((two))~~ four years after the
10 effective date of the acknowledgment or adjudication. If an action is
11 commenced more than two years after the birth of the child, the child
12 must be made a party to the action.

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

14 **Sec. 34.** RCW 26.26.545 and 2002 c 302 s 510 are each amended to
15 read as follows:

16 (1) Except as otherwise provided in subsection (2) of this section,
17 a proceeding to adjudicate parentage may be joined with a proceeding
18 for: Adoption or termination of parental rights under chapter 26.33
19 RCW; determination of a parenting plan, child support, annulment,
20 dissolution of marriage, dissolution of a domestic partnership, or
21 legal separation under chapter 26.09 or 26.19 RCW; or probate or
22 administration of an estate under chapter 11.48 or 11.54 RCW, or other
23 appropriate proceeding.

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

27 **Sec. 35.** RCW 26.26.550 and 2002 c 302 s 511 are each amended to
28 read as follows:

29 ~~((Although))~~ Except as otherwise provided in section 59 of this
30 act, a proceeding to ~~((determine))~~ adjudicate parentage may be
31 commenced before the birth of the child, ~~((the proceeding))~~ but may not
32 be concluded until after the birth of the child. The following actions
33 may be taken before the birth of the child:

- 34 (1) Service of process;
- 35 (2) Discovery;

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

3 (4) Temporary orders authorized under RCW 26.26.590.

4 **Sec. 36.** RCW 26.26.555 and 2002 c 302 s 512 are each amended to
5 read as follows:

6 (1) A minor child is a permissible party, but is not a necessary
7 party to a proceeding under RCW 26.26.500 through 26.26.630.

8 (2) If ~~((the))~~ a minor or incapacitated child is a party, or if the
9 court finds that the interests of ~~((a minor child or incapacitated))~~
10 the child are not adequately represented, the court shall appoint a
11 guardian ad litem to represent the child, subject to RCW 74.20.310
12 ~~((neither the child's mother or father)).~~ A parent of the child may
13 not represent the child as guardian or ~~((otherwise))~~ in any other
14 capacity.

15 **Sec. 37.** RCW 26.26.570 and 2002 c 302 s 521 are each amended to
16 read as follows:

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

23 (a) Voluntarily or under an order of the court or a support
24 enforcement agency; or

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

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

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

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

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

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

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

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

8 **Sec. 38.** RCW 26.26.575 and 2002 c 302 s 522 are each amended to
9 read as follows:

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

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

15 (3) Genetic testing of the mother of a child is not a condition
16 precedent to testing the child and a man whose paternity is being
17 determined. If the mother is unavailable or declines to submit to
18 genetic testing, the court may order the testing of the child and every
19 man whose paternity is being adjudicated.

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

22 **Sec. 39.** RCW 26.26.585 and 2002 c 302 s 523 are each amended to
23 read as follows:

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

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

32 **Sec. 40.** RCW 26.26.590 and 2002 c 302 s 524 are each amended to
33 read as follows:

34 This section applies to any proceeding under RCW 26.26.500 through
35 26.26.630.

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

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

4 (b) Is petitioning to have his (~~(paternity)~~) or her parentage
5 adjudicated or has admitted (~~(paternity)~~) parentage in pleadings filed
6 with the court;

7 (c) Is identified as the father through genetic testing under RCW
8 26.26.420;

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

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

13 (2) A temporary order may, on the same basis as provided in chapter
14 26.09 RCW, make residential provisions with regard to minor children of
15 the parties, except that a parenting plan is not required unless
16 requested by a parent.

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

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

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

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

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

26 (4) Either party may request a domestic violence protection order
27 under chapter 26.50 RCW or an antiharassment protection order under
28 chapter 10.14 RCW on a temporary basis. The court may grant any of the
29 relief provided in RCW 26.50.060 except relief pertaining to
30 residential provisions for the children which provisions shall be
31 provided for under this chapter, and any of the relief provided in RCW
32 10.14.080. Ex parte orders issued under this subsection shall be
33 effective for a fixed period not to exceed fourteen days, or upon court
34 order, not to exceed twenty-four days if necessary to ensure that all
35 temporary motions in the case can be heard at the same time.

36 (5) Restraining orders issued under this section restraining or
37 enjoining the person from molesting or disturbing another party, or
38 from going onto the grounds of or entering the home, workplace, or

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

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

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

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

28 (9) The court may issue a temporary restraining order or
29 preliminary injunction and an order for temporary support in such
30 amounts and on such terms as are just and proper in the circumstances.
31 In issuing the order, the court shall consider the provisions of RCW
32 9.41.800.

33 (10) A temporary order, temporary restraining order, or preliminary
34 injunction:

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

37 (b) May be revoked or modified;

1 (c) Terminates when the final order is entered or when the petition
2 is dismissed; and

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

5 (11) A support debt owed to the state for public assistance
6 expenditures which has been charged against a party pursuant to RCW
7 74.20A.040 and/or 74.20A.055 shall not be merged in, or otherwise
8 extinguished by, the final decree or order, unless the office of
9 support enforcement has been given notice of the final proceeding and
10 an opportunity to present its claim for the support debt to the court
11 and has failed to file an affidavit as provided in this subsection.
12 Notice of the proceeding shall be served upon the office of support
13 enforcement personally, or by certified mail, and shall be given no
14 fewer than thirty days prior to the date of the final proceeding. An
15 original copy of the notice shall be filed with the court either before
16 service or within a reasonable time thereafter. The office of support
17 enforcement may present its claim, and thereby preserve the support
18 debt, by filing an affidavit setting forth the amount of the debt with
19 the court, and by mailing a copy of the affidavit to the parties or
20 their attorney prior to the date of the final proceeding.

21 **Sec. 41.** RCW 26.26.600 and 2002 c 302 s 531 are each amended to
22 read as follows:

23 The court shall apply the following rules to adjudicate the
24 ((paternity)) parentage of a child:

25 (1) Except as provided in subsection (5) of this section, the
26 ((paternity)) parentage of a child having a presumed((, acknowledged,))
27 or adjudicated ((father)) parent or an acknowledged father may be
28 disproved only by admissible results of genetic testing excluding that
29 ((man)) person as the ((father)) parent of the child or identifying
30 another man ((to be)) as the father of the child.

31 (2) Unless the results of genetic testing are admitted to rebut
32 other results of genetic testing, the man identified as the father of
33 the child under RCW 26.26.420 must be adjudicated the father of the
34 child.

35 (3) If the court finds that genetic testing under RCW 26.26.420
36 neither identifies nor excludes a man as the father of a child, the

1 court may not dismiss the proceeding. In that event, the results of
2 genetic testing, (~~along with~~) and other evidence, are admissible to
3 adjudicate the issue of paternity.

4 (4) Unless the results of genetic testing are admitted to rebut
5 other results of genetic testing, a man excluded as the father of a
6 child by genetic testing must be adjudicated not to be the father of
7 the child.

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

13 **Sec. 42.** RCW 26.26.620 and 2002 c 302 s 535 are each amended to
14 read as follows:

15 The court may issue an order dismissing a proceeding commenced
16 under this chapter for want of prosecution only without prejudice. An
17 order of dismissal for want of prosecution purportedly with prejudice
18 is void and (~~may be challenged in another judicial or an~~
19 ~~administrative proceeding~~) has only the effect of a dismissal without
20 prejudice.

21 **Sec. 43.** RCW 26.26.625 and 2002 c 302 s 536 are each amended to
22 read as follows:

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

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

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

35 (4) The court may not assess fees, costs, or expenses against the

1 support enforcement agency of this state or another state, except as
2 provided by other law.

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

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

8 **Sec. 44.** RCW 26.26.630 and 2002 c 302 s 537 are each amended to
9 read as follows:

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

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

14 (b) All parties to an adjudication by a court acting under
15 circumstances that satisfy the jurisdictional requirements of RCW
16 ((~~26.21.075~~)) 26.21A.100.

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

19 (a) The determination was based on an unrescinded acknowledgment of
20 paternity and the acknowledgment of paternity is consistent with the
21 results of the genetic testing;

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

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

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

34 (a) Expressly identifies a child as a "child of the marriage,"
35 "issue of the marriage," "child of the domestic partnership," "issue of
36 the domestic partnership," or similar words indicating that the

1 ~~((husband is the father))~~ spouses in the marriage or domestic partners
2 in the domestic partnership are the parents of the child; or

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

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

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

13 **Sec. 45.** RCW 26.26.700 and 2002 c 302 s 601 are each amended to
14 read as follows:

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

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

20 A donor is not a parent of a child conceived by means of assisted
21 reproduction, unless otherwise agreed in a signed record by the donor
22 and the person or persons intending to be parents of a child conceived
23 through assisted reproduction.

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

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

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

34 (1) ~~((A consent to assisted reproduction by a married woman must be~~

1 ~~in a record signed by the woman and her husband.))~~ Consent by a couple
2 who intend to be parents of a child conceived by assisted reproduction
3 must be in a record signed by both persons. This requirement does not
4 apply to ~~((the donation of eggs for assisted reproduction by another~~
5 ~~woman))~~ a donor.

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

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

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

20 (a) Within ~~((two))~~ four years after learning of the birth of the
21 child ~~((he))~~ the person commences a proceeding to adjudicate his
22 ~~((paternity))~~ or her parentage. In actions commenced more than two
23 years after the birth of the child, the child must be made a party to
24 the action; and

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

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

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

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

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

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

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

5 (1) If a marriage or domestic partnership is dissolved before
6 placement of eggs, sperm, or an embryo, the former spouse or former
7 domestic partner is not a parent of the resulting child unless the
8 former spouse or former domestic partner consented in a signed record
9 that if assisted reproduction were to occur after a ~~((divorce))~~
10 dissolution, the former spouse or former domestic partner would be a
11 parent of the child.

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

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

19 If ~~((a spouse))~~ an individual who consented in a record to be a
20 parent by assisted reproduction dies before placement of eggs, sperm,
21 or an embryo, the deceased ~~((spouse))~~ individual is not a parent of the
22 resulting child unless the deceased ~~((spouse))~~ individual consented in
23 a signed record that if assisted reproduction were to occur after
24 death, the deceased ~~((spouse))~~ individual would be a parent of the
25 child.

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

28 ~~((The donor of ovum provided to a licensed physician for use in the~~
29 ~~alternative reproductive medical technology process of attempting to~~
30 ~~achieve a pregnancy in a woman other than the donor is treated in law~~
31 ~~as if she were not the natural mother of a child thereafter conceived~~
32 ~~and born unless the donor and the woman who gives birth to a child as~~
33 ~~a result of the alternative reproductive medical technology procedures~~
34 ~~agree in writing that the donor is to be a parent. RCW 26.26.705 does~~
35 ~~not apply in such case. A woman who gives birth to a child conceived~~

1 through alternative reproductive medical technology procedures under
2 the supervision and with the assistance of a licensed physician is
3 treated in law as if she were the natural mother of the child unless an
4 agreement in writing signed by an ovum donor and the woman giving birth
5 to the child states otherwise. An agreement pursuant to this section
6 must be in writing and signed by the ovum donor and the woman who gives
7 birth to the child and any other intended parent of the child. The
8 physician shall certify the parties' signatures and the date of the
9 ovum harvest, identify the subsequent medical procedures undertaken,
10 and identify the intended parents.)) (1) An affidavit and physician's
11 certificate may be used by intended parents to establish parentage if:

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

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

16 (2) The ((agreement, including the)) affidavit and certification
17 ((referenced in RCW 26.26.030,)) must be filed with the registrar of
18 vital statistics, where it must be kept confidential and in a sealed
19 file.

20 NEW SECTION. Sec. 53. (1) A person who donates gametes to a
21 fertility clinic in Washington to be used in assisted reproduction
22 shall provide, at a minimum, his or her identifying information and
23 medical history to the fertility clinic. The fertility clinic shall
24 keep the identifying information and medical history of its donors and
25 shall disclose the information as provided under subsection (2) of this
26 section.

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

33 (b) Regardless of whether the donor signed an affidavit of
34 nondisclosure, a child conceived through assisted reproduction who is
35 at least eighteen years old shall be provided, upon his or her request,
36 access to the nonidentifying medical history of the donor who provided

1 gametes for the assisted reproduction that resulted in the birth of the
2 child.

3 NEW SECTION. **Sec. 54.** The purpose of sections 55 through 67 of
4 this act is to establish consistent standards and procedural safeguards
5 for the protection of all parties involved in a surrogacy contract in
6 this state and to confirm the legal status of children born as a result
7 of these contracts. These standards and safeguards are meant to
8 facilitate the use of this type of reproductive contract in accord with
9 the public policy of this state.

10 NEW SECTION. **Sec. 55.** (1) Except as provided in this chapter, the
11 woman who gives birth to a child is presumed to be the mother of that
12 child for purposes of state law.

13 (2) In the case of a surrogacy contract satisfying the requirements
14 set forth in section 57 of this act:

15 (a) The intended parent or parents is the parent or are parents of
16 the child for purposes of state law immediately upon the birth of the
17 child;

18 (b) The child is considered the child of the intended parent or
19 parents for purposes of state law immediately upon the birth of the
20 child; and

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

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

26 (a) The woman acting as a surrogate satisfies the eligibility
27 requirements set forth in section 56(1) of this act;

28 (b) The intended parent or parents satisfy the eligibility
29 requirements set forth in section 56(2) of this act; and

30 (c) The birth as a result of surrogacy occurs pursuant to a
31 surrogacy contract meeting the requirements set forth in section 57 of
32 this act.

33 (4) In the case of a surrogacy contract meeting the requirements
34 set forth in section 57 of this act, the intended parents are the
35 parents of the child for purposes of state law unless otherwise

1 determined by a court of competent jurisdiction, even in the event of
2 a laboratory error in which the resulting child is not genetically
3 related to either of the intended parents.

4 NEW SECTION. **Sec. 56.** (1) A woman acting as a surrogate is deemed
5 to have satisfied the requirements of this chapter if she has met the
6 following requirements at the time the surrogacy contract is executed:

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

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

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

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

15 (e) In the case of a surrogacy involving in vitro fertilization or
16 similar technology involving fertilization outside the uterus, the
17 woman acting as a surrogate has indicated in a writing her informed
18 consent to the medical procedures associated with the establishment of
19 a pregnancy through embryo transfer. She must have provided the
20 written consent after being informed by a licensed physician of the
21 risks of the procedures, including the risks that attend implantation
22 of more than one embryo, and the information received was in accord
23 with the provision of information recommended by the society for
24 assisted reproductive technology, the American college of obstetricians
25 and gynecologists, or the American society of reproductive medicine or
26 their successor organizations;

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

29 (g) She has undergone legal consultation with independent legal
30 counsel regarding the terms of the surrogacy contract and the potential
31 legal consequences of the surrogacy;

32 (h) She has obtained a health insurance policy that covers major
33 medical treatments and hospitalization and the health insurance policy
34 has a term that extends throughout the duration of the expected
35 pregnancy and for eight weeks after the birth of the child. The policy
36 may be procured by the intended parents on behalf of the woman acting
37 as a surrogate pursuant to the surrogacy contract. The health

1 insurance coverage may not be financed through Medicaid, under Title
2 XIX of the federal social security act, or the children's health
3 insurance program under Title XXI of the federal social security act;
4 and

5 (i) She has obtained both: (A) A term life insurance policy on her
6 life of at least two hundred fifty thousand dollars, or a lower amount
7 if she is not approved by the insurance carrier for that amount; and
8 (B) a long-term disability policy for herself with weekly benefits
9 equal to at least one hundred fifty percent of the state minimum wage
10 multiplied by forty hours per week. Both policies must remain in
11 effect until the earlier of the termination of the agreement for any
12 reason or three months after the birth of a child pursuant to the
13 agreement. The intended parents may pay for the policies on behalf of
14 the woman acting as a surrogate.

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

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

23 (b) He, she, or they have completed a mental health evaluation by
24 a mental health provider licensed under chapter 18.71, 18.79, 18.83, or
25 18.225 RCW; and

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

29 NEW SECTION. **Sec. 57.** (1) A surrogacy contract is presumed
30 enforceable for purposes of state law only if:

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

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

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

36 (a) It must be in writing;

1 (b) It must be executed prior to the commencement of any medical
2 procedures, other than medical or mental health evaluations necessary
3 to determine eligibility of the parties pursuant to section 56 of this
4 act, in furtherance of the surrogacy:

5 (i) By the woman acting as a surrogate meeting the eligibility
6 requirements of section 56(1) of this act and, if married or in a
7 domestic partnership, the spouse or domestic partner of the woman
8 acting as a surrogate; and

9 (ii) By the intended parent or parents meeting the eligibility
10 requirements of section 56(2) of this act. In the event an intended
11 parent is married or in a domestic partnership, both spouses or both
12 domestic partners must execute the surrogacy contract;

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

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

21 (e) If the surrogacy contract provides for the payment of
22 compensation to the woman acting as a surrogate, the compensation must
23 have been placed in escrow with an independent escrow agent prior to
24 the commencement of any medical procedure, other than medical or mental
25 health evaluations necessary to determine the eligibility of a woman to
26 act as a surrogate pursuant to section 56(1) of this act; and

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

28 (3) A surrogacy contract must provide for:

29 (a) The express written agreement of the woman acting as a
30 surrogate to:

31 (i) If embryo transfer is applicable, undergo the transfer of one
32 or more embryos, not to exceed the number recommended by guidelines
33 from the society for assisted reproductive technology, the American
34 college of obstetricians and gynecologists, or the American society of
35 reproductive medicine or their successor organizations;

36 (ii) Undergo embryo transfer after having given her informed
37 consent to the procedure as provided in section 56(1)(e) of this act,

1 or undergo artificial insemination certified by a physician, and
2 attempt to carry and give birth to a child; and

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

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

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

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

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

15 (d) The express written agreement of the intended parent or parents
16 to:

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

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

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

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

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

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

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

37 (b) The woman acting as a surrogate may not be held liable in any

1 tort action for her decisions or actions regarding the health and
2 welfare of herself and her pregnancy.

3 (c) Surrogacy contract provisions, if any, that conflict with the
4 aforementioned rights are severable from the remainder of the contract
5 and are unenforceable.

6 NEW SECTION. **Sec. 58.** (1) Any person who is considered to be the
7 parent of a child pursuant to section 57 of this act is obligated to
8 support the child.

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

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

18 NEW SECTION. **Sec. 59.** (1) A parent-child relationship is
19 established effective immediately upon the birth of a child born
20 pursuant to a surrogacy contract if, in addition to satisfying the
21 provisions of the surrogacy laws in this chapter, the attorneys
22 representing both the woman acting as a surrogate and the intended
23 parent or parents certify that the parties entered into a surrogacy
24 contract intended to satisfy the requirements of section 57 of this act
25 with respect to the child.

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

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

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

1 (b) The estimated delivery date of the child;
2 (c) The planned place of birth of the child;
3 (d) The full name and date of birth of the woman acting as the
4 surrogate;
5 (e) That immediately upon the birth of the child, the intended
6 parents are the parents of the child for the purposes of state law and
7 shall be listed on the child's birth certificate as the parents;
8 (f) That immediately upon the birth of the child, neither the woman
9 acting as a surrogate and her spouse or domestic partner, if any, are
10 the parents of the child for purposes of state law;
11 (g) That immediately upon the birth of the child, the woman acting
12 as a surrogate and her spouse or domestic partner, if any, shall
13 surrender the child to the intended parents; and
14 (h) That immediately upon the birth of the child, the intended
15 parents shall assume sole responsibility for the support of the child.
16 (4) If the attorneys' certifications are filed after the birth of
17 the child, the court shall issue an order upon the filing of the
18 certifications. The order shall state, at a minimum, the following:
19 (a) The full original name of the child, as listed on the birth
20 record when the birth record was filed;
21 (b) The full new name of the child, if the child will be given a
22 new name;
23 (c) The child's date of birth;
24 (d) The child's place of birth;
25 (e) The full name, date of birth, and state or country of birth of
26 the intended parent or parents;
27 (f) The full name and date of birth of the woman acting as the
28 surrogate;
29 (g) That intended parents are the parents of the child for the
30 purposes of state law and shall be listed on the child's birth
31 certificate as the parents;
32 (h) That neither the woman acting as a surrogate and her spouse or
33 domestic partner, if any, are the parents of the child for purposes of
34 state law;
35 (i) That the woman acting as a surrogate and her spouse or domestic
36 partner, if any, surrender the child to the intended parents; and
37 (j) That the intended parents shall assume sole responsibility for
38 the support of the child.

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

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

9 (7) Notwithstanding subsection (6) of this section, a child born
10 under a surrogacy contract who is at least eighteen years old shall be
11 provided, upon his or her request, access to identifying information of
12 the woman acting as a surrogate, unless the woman acting as a surrogate
13 has filed an affidavit of nondisclosure with the court. Regardless of
14 whether the woman acting as a surrogate has filed an affidavit of
15 nondisclosure, the child shall be provided, upon his or her request,
16 access to nonidentifying medical history of the woman acting as a
17 surrogate.

18 NEW SECTION. **Sec. 60.** Except as provided in this chapter, a
19 person is not civilly or criminally liable for nonnegligent actions
20 taken pursuant to the requirements of sections 54 through 65 of this
21 act.

22 NEW SECTION. **Sec. 61.** Noncompliance by the woman acting as a
23 surrogate or the intended parent or parents occurs when that party
24 breaches a legally enforceable provision of the surrogacy contract.

25 NEW SECTION. **Sec. 62.** (1) Except as otherwise provided in this
26 chapter, in the event of noncompliance with the requirements of section
27 55(3) of this act, a court of competent jurisdiction shall determine
28 the respective rights and obligations of the parties.

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

32 NEW SECTION. **Sec. 63.** (1) Except as expressly provided in the
33 surrogacy contract or in this chapter, the intended parent or parents
34 are entitled to all remedies available at law or equity.

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

4 NEW SECTION. **Sec. 64.** The department of health may adopt rules
5 pertaining to the required medical and mental health evaluations and
6 informed consent requirements for a surrogacy contract. Until the
7 department adopts these rules, medical and mental health evaluations
8 and procedures and informed consent must be conducted in accordance
9 with the recommended guidelines published as of the effective date of
10 this section by the American society for reproductive medicine, the
11 society for assisted reproductive technologists, or the American
12 college of obstetricians and gynecologists. The rules may adopt these
13 guidelines or others by reference.

14 NEW SECTION. **Sec. 65.** No action to invalidate a surrogacy
15 contract meeting the requirements of this chapter or to challenge the
16 rights of parentage established pursuant to section 55 of this act may
17 be commenced after twelve months from the date of birth of the child.

18 NEW SECTION. **Sec. 66.** (1) Sections 1 through 51 of this act apply
19 to causes of action filed on or after the effective date of this
20 section.

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

23 **Sec. 67.** RCW 26.26.740 and 2002 c 302 s 609 are each amended to
24 read as follows:

25 The department of health shall, upon request, issue a birth
26 certificate for any child born as a result of an alternative
27 reproductive medical technology procedure or surrogacy contract
28 indicating the legal parentage of such child as intended by any
29 agreement filed with the registrar of vital statistics pursuant to
30 ((RCW 26.26.735)) the parties' filed certification under section 59 of
31 this act.

32 **Sec. 68.** RCW 26.26.903 and 2002 c 302 s 709 are each amended to
33 read as follows:

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

7 **Sec. 69.** RCW 26.26.911 and 2002 c 302 s 101 are each amended to
8 read as follows:

9 This act may be known and cited as the uniform parentage act of
10 2002.

11 **Sec. 70.** RCW 9A.64.030 and 2003 c 53 s 81 are each amended to read
12 as follows:

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

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

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

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

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

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

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

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

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

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

30 NEW SECTION. **Sec. 71.** Any action taken by an agency to implement
31 the provisions of this act must be accomplished within existing
32 resources.

33 NEW SECTION. **Sec. 72.** The following acts or parts of acts are
34 each repealed:

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

3 (2) RCW 26.26.220 (Surrogate parenting--Persons excluded from
4 contracting) and 2010 c 94 s 7 & 1989 c 404 s 2;

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

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

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

11 (6) RCW 26.26.260 (Surrogate parenting--Custody of child) and 1989
12 c 404 s 6.

13 NEW SECTION. **Sec. 73.** If any provision of this act or its
14 application to any person or circumstance is held invalid, the
15 remainder of the act or the application of the provision to other
16 persons or circumstances is not affected.

17 NEW SECTION. **Sec. 74.** Sections 53 through 65 of this act are each
18 added to chapter 26.26 RCW.

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