

---

ENGROSSED SECOND SUBSTITUTE HOUSE BILL 2793

---

State of Washington

61st Legislature

2010 Regular Session

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

READ FIRST TIME 02/09/10.

1 AN ACT Relating to clarifying and expanding the rights and  
2 obligations of state registered domestic partners and other couples  
3 related to parentage; amending RCW 26.26.011, 26.26.021, 26.26.041,  
4 26.26.051, 26.26.101, 26.26.106, 26.26.111, 26.26.116, 26.26.130,  
5 26.26.150, 26.26.300, 26.26.305, 26.26.310, 26.26.315, 26.26.320,  
6 26.26.335, 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 certified by a  
18 physician;

19 (b) Donation of eggs;

20 (c) Donation of embryos;

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

22 (e) Intracytoplasmic sperm injection.

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

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

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

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

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

36 (10) "Donor" means an individual who (~~(produces eggs or sperm~~  
37 ~~used)) contributes a gamete or gametes for assisted reproduction,~~

1 whether or not for ~~((consideration))~~ compensation. The term does not  
2 include:

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

7 (b) ~~((A woman who gives birth to a child by means of assisted~~  
8 ~~reproduction, except as otherwise provided in RCW 26.26.210 through~~  
9 ~~26.26.260 or 26.26.735.))~~ An intended parent under sections 55 through  
10 66 of this act.

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

15 ~~((10))~~ (12) "Gamete" means either a sperm or an egg.

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

- 20 (a) Deoxyribonucleic acid; and
- 21 (b) Blood-group antigens, red-cell antigens, human-leukocyte  
22 antigens, serum enzymes, serum proteins, or red-cell enzymes.

23 ~~((11))~~ (14) "Gestational surrogacy" means the process by which a  
24 woman attempts to carry and give birth to a child created through in  
25 vitro fertilization to which the woman acting as a gestational  
26 surrogate has made no genetic contribution.

27 (15) "Gestational surrogacy contract" means a written agreement  
28 regarding gestational surrogacy as provided under sections 54 through  
29 65 of this act.

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

- 33 (a) The first and last name of the person; and
- 34 (b) The age of the person at the time of the donation or  
35 gestational surrogacy.

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

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

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

10       ~~((12))~~ (20) "Medical evaluation" means an evaluation and  
11 consultation with a physician meeting the requirements of section 64 of  
12 this act.

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

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

18       ~~((13))~~ (23) "Parent-child relationship" means the legal  
19 relationship between a child and a parent of the child. The term  
20 includes the mother-child relationship and the father-child  
21 relationship.

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

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

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

35       ~~((15))~~ (25) "Physician" means a person licensed to practice  
36 medicine in a state.

37       (26) "Presumed ~~((father))~~ parent" means a ~~((man))~~ person who, by

1 operation of law under RCW 26.26.116, is recognized ~~((to be))~~ as the  
2 ~~((father))~~ parent of a child until that status is rebutted or confirmed  
3 in a judicial proceeding.

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

11 ~~((17))~~ (28) "Record" means information that is inscribed on a  
12 tangible medium or that is stored in an electronic or other medium and  
13 is retrievable in perceivable form.

14 ~~((18))~~ (29) "Signatory" means an individual who authenticates a  
15 record and is bound by its terms.

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

22 ~~((20))~~ (31) "Support enforcement agency" means a public official  
23 or agency authorized to seek:

- 24 (a) Enforcement of support orders or laws relating to the duty of
- 25 support;
- 26 (b) Establishment or modification of child support;
- 27 (c) Determination of parentage; or
- 28 (d) Location of child support obligors and their income and assets.

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

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

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

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

- 37 (a) The place of birth of the child; or

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

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

4 (4) If a birth results under a (~~surrogate parentage~~) gestational  
5 surrogacy contract and the contract (~~that~~) is unenforceable under the  
6 law of this state, the parent-child relationship is determined as  
7 provided in RCW 26.26.101 through 26.26.116 or through applicable case  
8 law.

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

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

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

19 (1) The provisions relating to determination of (~~paternity may be~~  
20 ~~applied~~) parentage apply to ((a)) determinations of maternity and  
21 paternity.

22 (2) The provisions in this chapter apply to persons in a domestic  
23 partnership to the same extent they apply to persons in a marriage, and  
24 apply to persons of the same sex who have children together to the same  
25 extent they apply to persons of the opposite sex who have children  
26 together.

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

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

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

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

1       ~~((e))~~ (3) Adoption of the child by the ~~((woman))~~ person;

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

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

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

14       ~~(a))~~);

15       (5) An adjudication confirming the person as a parent of a child  
16 born pursuant to a gestational surrogacy contract if the contract was  
17 validated under sections 54 through 65 of this act or is enforceable  
18 under other law;

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

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

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

26       ~~(e))~~ or

27       (8) The ~~((man's))~~ person's having consented to assisted  
28 reproduction by his ~~((wife))~~ or her spouse or domestic partner under  
29 RCW 26.26.700 through 26.26.730 that resulted in the birth of the  
30 child(~~(; or~~

31       ~~(f) A valid surrogate parentage contract, under which the father is~~  
32 ~~an intended parent of the child, as provided in RCW 26.26.210 through~~  
33 ~~26.26.260)).~~

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

36       A child born to parents who are not married to each other or in a

1 domestic partnership with each other has the same rights under the law  
2 as a child born to parents who are married to each other or who are in  
3 a domestic partnership with each other.

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

35 (5) Support judgment and orders shall be for periodic payments  
36 which may vary in amount. The court may limit the (~~father's~~)  
37 parent's liability for the past support to the child to the proportion

1 of the expenses already incurred as the court deems just. The court  
2 shall not limit or affect in any manner the right of nonparties  
3 including the state of Washington to seek reimbursement for support and  
4 other services previously furnished to the child.

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

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

15 (a) By filing a motion and proposed parenting plan or residential  
16 schedule and providing notice to the other parent and other persons who  
17 have residential time with the child pursuant to a court order:  
18 PROVIDED, That at the time of filing the motion less than twenty-four  
19 months have passed since entry of the order establishing parentage and  
20 that the proposed parenting plan or residential schedule does not  
21 change the designation of the parent with whom the child spends the  
22 majority of time; or

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

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

36 (9) In entering an order under this chapter, the court may issue  
37 any necessary continuing restraining orders, including the restraint

1 provisions of domestic violence protection orders under chapter 26.50  
2 RCW or antiharassment protection orders under chapter 10.14 RCW.

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

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

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

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

30 (1) If existence of the ((~~father~~)) parent and child relationship is  
31 declared, or paternity or a duty of support has been acknowledged or  
32 adjudicated under this chapter or under prior law, the obligation of  
33 the ((~~father~~)) parent may be enforced in the same or other proceedings  
34 by the ((~~mother~~)) other parent, the child, the state of Washington, the  
35 public authority that has furnished or may furnish the reasonable  
36 expenses of pregnancy, ((~~confinement~~)) childbirth, education, support,

1 or funeral, or by any other person, including a private agency, to the  
2 extent he or she has furnished or is furnishing these expenses.

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

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

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

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

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

16 (1) An acknowledgment of paternity must:

17 (a) Be in a record;

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

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

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

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

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

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

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

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

35 (b) States that another man is an acknowledged or adjudicated  
36 father; or

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

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

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

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

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

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

12 (3) The presumed father has not previously:

13 (a) Acknowledged his paternity, unless the previous acknowledgment  
14 has been rescinded under RCW 26.26.330 or successfully challenged under  
15 RCW 26.26.335; or

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

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

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

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

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

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

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

33 (1) Except as otherwise provided in RCW 26.26.330 and 26.26.335, a  
34 valid acknowledgment of paternity filed with the state registrar of

1 vital statistics is equivalent to an adjudication of (~~paternity~~)  
2 parentage of a child and confers upon the acknowledged father all of of  
3 the rights and duties of a parent.

4 (2) Except as otherwise provided in RCW 26.26.330 and 26.26.335, a  
5 valid denial of paternity filed with the state registrar of vital  
6 statistics in conjunction with a valid acknowledgment of paternity is  
7 equivalent to an adjudication of the nonpaternity of the presumed  
8 father and discharges the presumed father from all of the rights and  
9 duties of a parent.

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

12 (1) After the period for rescission under RCW 26.26.330 has  
13 (~~elapsed~~) expired, a signatory of an acknowledgment or denial of  
14 paternity may commence a proceeding to challenge the acknowledgment or  
15 denial only:

- 16 (a) On the basis of fraud, duress, or material mistake of fact; and
- 17 (b) Within two years after the acknowledgment or denial is filed
- 18 with the state registrar of vital statistics.

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

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

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

26 (2) For the purpose of rescission of, or challenge to, an  
27 acknowledgment or denial of paternity, a signatory submits to personal  
28 jurisdiction of this state by signing the acknowledgment or denial,  
29 effective upon the filing of the document with the state registrar of  
30 vital statistics.

31 (3) Except for good cause shown, during the pendency of a  
32 proceeding to rescind or challenge an acknowledgment or denial of  
33 paternity, the court may not suspend the legal responsibilities of a  
34 signatory arising from (~~an~~) the acknowledgment, including the duty to  
35 pay child support.

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

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

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

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

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

22 (1) After the period for rescission of an acknowledgment of  
23 paternity provided in RCW 26.26.330 has passed, a parent executing an  
24 acknowledgment of paternity of the child named therein may commence a  
25 judicial proceeding for:

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

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

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

34 (3) Before the period for a challenge to the acknowledgment or  
35 denial of paternity has elapsed under RCW 26.26.335, the petitioner  
36 must specifically allege under penalty of perjury, to the best of the

1 petitioner's knowledge, that: (a) No man other than the man who  
2 executed the acknowledgment of paternity is the father of the child;  
3 (b) there is not currently pending a proceeding to adjudicate the  
4 parentage of the child or that another man is adjudicated the child's  
5 father; and (c) the petitioner has provided notice of the proceeding to  
6 any other men who have claimed parentage of the child. Should the  
7 respondent or any other person appearing in the action deny the  
8 allegations, a permanent parenting plan or residential schedule may not  
9 be entered for the child without the matter being converted to a  
10 proceeding to challenge the acknowledgment of paternity under RCW  
11 26.26.335 and 26.26.340. A copy of the acknowledgment of paternity or  
12 the birth certificate issued by the state in which the child was born  
13 must be filed with the petition or response. The court may convert the  
14 matter to a proceeding to challenge the acknowledgment on its own  
15 motion.

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

2 (c) The testing laboratory may use its own statistical estimate if  
3 there is a question regarding which ethnic or racial group is  
4 appropriate. If available, the testing laboratory shall calculate the  
5 frequencies using statistics for any other ethnic or racial group  
6 requested.

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

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

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

18 (a) The ~~((man))~~ person has at least a ninety-nine percent  
19 probability of ~~((paternity))~~ parentage, using a prior probability of  
20 0.50, as calculated by using the combined ~~((paternity))~~ parentage index  
21 obtained in the testing; and

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

24 (2) A ~~((man))~~ person identified under subsection (1) of this  
25 section as the ~~((father))~~ parent of the child may rebut the genetic  
26 testing results only by other genetic testing satisfying the  
27 requirements of this section and RCW 26.26.400 through 26.26.415 and  
28 26.26.425 through 26.26.450 which:

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

31 (b) Identifies another ~~((man))~~ person as the ~~((father))~~ parent of  
32 the child.

33 (3) Except as otherwise provided in RCW 26.26.445, if more than one  
34 man is identified by genetic testing as the possible father of the  
35 child, or more than one woman is identified by genetic testing as the  
36 possible mother of the child, the court shall order them to submit to  
37 further genetic testing to identify the genetic ~~((father))~~ parent.

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

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

5        (1) Subject to assessment of costs under RCW 26.26.500 through  
6 26.26.630, the cost of initial genetic testing must be advanced:

7        (a) By a support enforcement agency in a proceeding in which the  
8 support enforcement agency is providing services;

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

10       (c) As agreed by the parties; or

11       (d) As ordered by the court.

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

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

17       (1) The court or the support enforcement agency shall order  
18 additional genetic testing upon the request of a party who contests the  
19 result of the original testing. If the previous genetic testing  
20 identified a ((~~man~~)) person as the ((~~father~~)) parent of the child under  
21 RCW 26.26.420, the court or agency may not order additional testing  
22 unless the party provides advance payment for the testing.

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

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

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

31       (a) The parents of the man;

32       (b) Brothers and sisters of the man;

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

34       (d) Other relatives of the man necessary to complete genetic  
35 testing.

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

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

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

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

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

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

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

23 Subject to RCW 26.26.300 through 26.26.375, 26.26.530, and  
24 26.26.540, a proceeding to adjudicate parentage may be maintained by:

25 (1) The child;

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

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

30 (4) The division of child support;

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

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

35 (7) An intended parent under a (~~surrogate parentage contract, as~~

1 ~~provided in RCW 26.26.210 through 26.26.260~~) gestational surrogacy  
2 contract provided in sections 54 through 67 of this act.

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

5 The following individuals must be joined as parties in a proceeding  
6 to adjudicate parentage:

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

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

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

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

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

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

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

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

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

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

1       ~~(a))~~ the presumed ((father)) parent and the ~~((mother-of))~~ person  
2 who has a parent-child relationship with the child neither cohabited  
3 nor engaged in sexual intercourse with each other during the probable  
4 time of conception(~~;-and~~  
5       ~~(b) The presumed father never openly treated the child as his own)~~  
6 and the presumed parent never held out the child as his or her own.

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

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

- 13       (a)(i) The conduct of the mother or father or the presumed  
14 ~~((father))~~ parent estops that party from denying parentage; and
- 15       ~~((b))~~ (ii) It would be inequitable to disprove the ~~((father-~~  
16 ~~child))~~ parent-child relationship between the child and the presumed  
17 ~~((father))~~ parent; or
- 18       (b) The child was conceived through assisted reproduction.

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

- 23       (a) The length of time between the proceeding to adjudicate  
24 parentage and the time that the presumed ~~((father))~~ parent was placed  
25 on notice that he or she might not be the genetic ~~((father))~~ parent;
- 26       (b) The length of time during which the presumed ~~((father))~~ parent  
27 has assumed the role of ~~((father))~~ parent of the child;
- 28       (c) The facts surrounding the presumed ~~((father's))~~ parent's  
29 discovery of his or her possible ~~((nonpaternity))~~ nonparentage;
- 30       (d) The nature of the ~~((father-child))~~ relationship between the  
31 child and the presumed parent;
- 32       (e) The age of the child;
- 33       (f) The harm ~~((to the child which))~~ that may result to the child if  
34 presumed ~~((paternity))~~ parentage is successfully disproved;
- 35       (g) The nature of the relationship ~~((of))~~ between the child ~~((to))~~  
36 and any alleged ~~((father))~~ parent;

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

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

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

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

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

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

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

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

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

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

35 (1) Except as otherwise provided in subsection (2) of this section,  
36 a proceeding to adjudicate parentage may be joined with a proceeding

1 for: Adoption or termination of parental rights under chapter 26.33  
2 RCW; determination of a parenting plan, child support, annulment,  
3 dissolution of marriage, dissolution of a domestic partnership, or  
4 legal separation under chapter 26.09 or 26.19 RCW; or probate or  
5 administration of an estate under chapter 11.48 or 11.54 RCW, or other  
6 appropriate proceeding.

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

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

12 ~~((Although))~~ Except as otherwise provided in section 59 of this  
13 act, a proceeding to ~~((determine))~~ adjudicate parentage may be  
14 commenced before the birth of the child, ~~((the proceeding))~~ but may not  
15 be concluded until after the birth of the child. The following actions  
16 may be taken before the birth of the child:

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

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

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

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

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

35 (1) Except as otherwise provided in subsection (3) of this section,



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

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

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

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

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

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

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

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

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

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

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

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

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

34 (3) Genetic testing of the mother of a child is not a condition  
35 precedent to testing the child and a man whose paternity is being  
36 determined. If the mother is unavailable or declines to submit to

1 genetic testing, the court may order the testing of the child and every  
2 man whose paternity is being adjudicated.

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

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

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

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

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

17 This section applies to any proceeding under RCW 26.26.500 through  
18 26.26.630.

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

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

22 (b) Is petitioning to have his (~~paternity~~) or her parentage  
23 adjudicated or has admitted (~~paternity~~) parentage in pleadings filed  
24 with the court;

25 (c) Is identified as the father through genetic testing under RCW  
26 26.26.420;

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

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

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

35 (3) Any party may request the court to issue a temporary

1 restraining order or preliminary injunction, providing relief proper in  
2 the circumstances, and restraining or enjoining any party from:

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

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

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

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

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

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

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

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

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

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

17 (10) A temporary order, temporary restraining order, or preliminary  
18 injunction:

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

21 (b) May be revoked or modified;

22 (c) Terminates when the final order is entered or when the petition  
23 is dismissed; and

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

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

1 debt, by filing an affidavit setting forth the amount of the debt with  
2 the court, and by mailing a copy of the affidavit to the parties or  
3 their attorney prior to the date of the final proceeding.

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

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

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

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

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

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

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

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

34 The court may issue an order dismissing a proceeding commenced  
35 under this chapter for want of prosecution only without prejudice. An  
36 order of dismissal for want of prosecution purportedly with prejudice

1 is void and (~~may be challenged in another judicial or an~~  
2 ~~administrative proceeding~~) has only the effect of a dismissal without  
3 prejudice.

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

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

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

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

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

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

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

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

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

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

32 (b) All parties to an adjudication by a court acting under  
33 circumstances that satisfy the jurisdictional requirements of RCW  
34 (~~26.21.075~~) 26.21A.100.

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

1       (a) The determination was based on an unrescinded acknowledgment of  
2 paternity and the acknowledgment of paternity is consistent with the  
3 results of the genetic testing;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

31        (b) One of the intended parents contributed ovum; and

32        (c) One of the intended parents gives birth to the child.

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

1        NEW SECTION.    **Sec. 53.** (1) A person who donates gametes to a  
2 fertility clinic in Washington to be used in assisted reproduction  
3 shall provide, at a minimum, his or her identifying information and  
4 medical history to the fertility clinic. The fertility clinic shall  
5 keep the identifying information and medical history of its donors and  
6 shall disclose the information as provided under subsection (2) of this  
7 section.

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

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

20        NEW SECTION.    **Sec. 54.** The purpose of sections 55 through 67 of  
21 this act is to establish consistent standards and procedural safeguards  
22 for the protection of all parties involved in a gestational surrogacy  
23 contract in this state and to confirm the legal status of children born  
24 as a result of these contracts. These standards and safeguards are  
25 meant to facilitate the use of this type of reproductive contract in  
26 accord with the public policy of this state.

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

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

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

35        (b) The child is considered the child of the intended parent or

1 parents for purposes of state law immediately upon the birth of the  
2 child; and

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

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

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

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

12 (c) The birth as a result of gestational surrogacy occurs pursuant  
13 to a gestational surrogacy contract meeting the requirements set forth  
14 in section 57 of this act.

15 (4) In the case of a gestational surrogacy contract meeting the  
16 requirements set forth in section 57 of this act, the intended parents  
17 are the parents of the child for purposes of state law unless otherwise  
18 determined by a court of competent jurisdiction, even in the event of  
19 a laboratory error in which the resulting child is not genetically  
20 related to either of the intended parents.

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

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

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

27 (c) She has not previously acted as a gestational surrogate for  
28 compensation more than once;

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

33 (e) She has indicated in a writing her informed consent to the  
34 medical procedures associated with the establishment of a pregnancy  
35 through embryo transfer, after being informed by a licensed physician  
36 of the risks of the procedures, including the risks that attend  
37 implantation of more than one embryo, and the information received was

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

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

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

10 (h) She has obtained a health insurance policy that covers major  
11 medical treatments and hospitalization and the health insurance policy  
12 has a term that extends throughout the duration of the expected  
13 pregnancy and for eight weeks after the birth of the child. The policy  
14 may be procured by the intended parents on behalf of the woman acting  
15 as a gestational surrogate pursuant to the gestational surrogacy  
16 contract. The health insurance coverage may not be financed through  
17 Medicaid, under Title XIX of the federal social security act, or the  
18 children's health insurance program under Title XXI of the federal  
19 social security act.

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

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

29 (b) He, she, or they have completed a mental health evaluation by  
30 a mental health provider licensed under chapter 18.71, 18.79, 18.83, or  
31 18.225 RCW; and

32 (c) He, she, or they have undergone legal consultation with  
33 independent legal counsel regarding the terms of the gestational  
34 surrogacy contract and the potential legal consequences of the  
35 gestational surrogacy.

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

1 (a) It meets the contractual requirements set forth in subsection  
2 (2) of this section; and  
3 (b) It contains at a minimum each of the terms set forth in  
4 subsection (3) of this section.  
5 (2) A gestational surrogacy contract must meet the following  
6 requirements:  
7 (a) It must be in writing;  
8 (b) It must be executed prior to the commencement of any medical  
9 procedures, other than medical or mental health evaluations necessary  
10 to determine eligibility of the parties pursuant to section 56 of this  
11 act, in furtherance of the gestational surrogacy:  
12 (i) By the woman acting as a gestational surrogate meeting the  
13 eligibility requirements of section 56(1) of this act and, if married  
14 or in a domestic partnership, the spouse or domestic partner of the  
15 woman acting as a gestational surrogate; and  
16 (ii) By the intended parent or parents meeting the eligibility  
17 requirements of section 56(2) of this act. In the event an intended  
18 parent is married or in a domestic partnership, both spouses or both  
19 domestic partners must execute the gestational surrogacy contract;  
20 (c) Both the woman acting as a gestational surrogate and the  
21 intended parent or parents must have been represented by separate  
22 counsel in all matters concerning the gestational surrogacy and the  
23 gestational surrogacy contract;  
24 (d) Both the woman acting as a gestational surrogate and the  
25 intended parent or parents must have signed a written acknowledgment  
26 that he or she received information about the legal, financial, and  
27 contractual rights, expectations, penalties, and obligations of the  
28 gestational surrogacy contract;  
29 (e) If the gestational surrogacy contract provides for the payment  
30 of compensation to the woman acting as a gestational surrogate, the  
31 compensation must have been placed in escrow with an independent escrow  
32 agent prior to the commencement of any medical procedure, other than  
33 medical or mental health evaluations necessary to determine the  
34 eligibility of a woman to act as a gestational surrogate pursuant to  
35 section 56(1) of this act; and  
36 (f) It must be witnessed by two competent adults.  
37 (3) A gestational surrogacy contract must provide for:

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

3 (i) Undergo embryo transfer and attempt to carry and give birth to  
4 the child, and that she has given her informed consent to the procedure  
5 as provided in section 56(1)(e) of this act; and

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

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

11 (i) Undertake the obligations imposed on the woman acting as a  
12 gestational surrogate pursuant to the terms of the gestational  
13 surrogacy contract;

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

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

19 (d) The express written agreement of the intended parent or parents  
20 to:

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

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

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

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

29 (b) The agreement of the intended parent or parents to pay for or  
30 reimburse the woman acting as a gestational surrogate for reasonable  
31 expenses, including, without limitation, medical, legal, or other  
32 professional expenses, related to the gestational surrogacy and the  
33 gestational surrogacy contract.

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

37 (6) Nothing in this chapter may be construed to limit or constrain  
38 the right of a woman acting as a gestational surrogate to make all

1 health and welfare decisions regarding herself and her pregnancy,  
2 including the right whether or not to terminate the pregnancy as  
3 protected by law. Gestational surrogacy contract provisions, if any,  
4 that conflict with the aforementioned rights are severable from the  
5 remainder of the contract 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 gestational surrogacy contract by the  
10 intended parent or parents may not relieve such intended parent or  
11 parents of the support 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 gestational surrogacy contract if, in addition to  
21 satisfying the provisions of the gestational surrogacy laws in this  
22 chapter, the attorneys representing both the woman acting as a  
23 gestational surrogate and the intended parent or parents certify that  
24 the parties entered into a gestational surrogacy contract intended to  
25 satisfy the requirements of section 57 of this act with respect to the  
26 child.

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

33 (3) Upon the filing of the attorneys' certifications, the court  
34 shall issue an order stating, at a minimum, the following:

35 (a) The full name, date, and state or country of birth of the  
36 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 of the woman acting as the gestational surrogate;  
4 (e) That immediately upon the birth of the child, the intended  
5 parents are the parents of the child for the purposes of state law and  
6 shall be listed on the child's birth certificate as the parents;

7 (f) That immediately upon the birth of the child, neither the woman  
8 acting as a gestational surrogate and her spouse or domestic partner,  
9 if any, are the parents of the child for purposes of state law;

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

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

15 (4) The attorneys shall provide the department of health with the  
16 full name of the child and a certified copy of the court order. The  
17 order shall be placed in a sealed file and may not be open to  
18 inspection by any person except upon order of the court for good cause  
19 shown.

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

23 (6) Notwithstanding subsection (5) of this section, a child born  
24 under a gestational surrogacy contract who is at least eighteen years  
25 old shall be provided, upon his or her request, access to identifying  
26 information of the woman acting as a gestational surrogate, unless the  
27 woman acting as a gestational surrogate has filed an affidavit of  
28 nondisclosure with the court. Regardless of whether the woman acting  
29 as a gestational surrogate has filed an affidavit of nondisclosure, the  
30 child shall be provided, upon his or her request, access to  
31 nonidentifying medical history of the woman acting as a gestational  
32 surrogate.

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

1        NEW SECTION.    **Sec. 61.** Noncompliance by the woman acting as a  
2 gestational surrogate or the intended parent or parents occurs when  
3 that party breaches a legally enforceable provision of the gestational  
4 surrogacy contract.

5        NEW SECTION.    **Sec. 62.** (1) Except as otherwise provided in this  
6 chapter, in the event of noncompliance with the requirements of section  
7 55(3) of this act, a court of competent jurisdiction shall determine  
8 the respective rights and obligations of the parties.

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

12       NEW SECTION.    **Sec. 63.** (1) Except as expressly provided in the  
13 gestational surrogacy contract or in section 62 of this act, the  
14 intended parent or parents are entitled to all remedies available at  
15 law or equity.

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

19       NEW SECTION.    **Sec. 64.** The department of health may adopt rules  
20 pertaining to the required medical and mental health evaluations and  
21 informed consent requirements for a gestational surrogacy contract.  
22 Until the department adopts these rules, medical and mental health  
23 evaluations and procedures and informed consent must be conducted in  
24 accordance with the recommended guidelines published as of the  
25 effective date of this act by the American society for reproductive  
26 medicine, the society for assisted reproductive technologists, or the  
27 American college of obstetricians and gynecologists. The rules may  
28 adopt these guidelines or others by reference.

29       NEW SECTION.    **Sec. 65.** No action to invalidate a gestational  
30 surrogacy contract meeting the requirements of this chapter or to  
31 challenge the rights of parentage established pursuant to section 55 of  
32 this act may be commenced after twelve months from the date of birth of  
33 the child.

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

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

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

7        The department of health shall, upon request, issue a birth  
8 certificate for any child born as a result of an alternative  
9 reproductive medical technology procedure or gestational surrogacy  
10 contract indicating the legal parentage of such child as intended by  
11 any agreement filed with the registrar of vital statistics pursuant to  
12 ((RCW 26.26.735)) the parties' filed certification under section 59 of  
13 this act.

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

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

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

24        This act may be known and cited as the uniform parentage act of  
25 2002.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

28 NEW SECTION. **Sec. 73.** If any provision of this act or its  
29 application to any person or circumstance is held invalid, the  
30 remainder of the act or the application of the provision to other  
31 persons or circumstances is not affected.

32 NEW SECTION. **Sec. 74.** Sections 53 through 65 of this act are each

1 added to chapter 26.26 RCW.

--- END ---