

DRAFT

FOR DISCUSSION ONLY

## **REVISION OF UNIFORM PARENTAGE ACT**

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NATIONAL CONFERENCE OF COMMISSIONERS

ON UNIFORM STATE LAWS

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## **REVISION OF UNIFORM PARENTAGE ACT**

With Comments

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- 1 KEY TO TYPEFACE STYLES:
- 2 REGULAR ROMAN = UNIFORM PARENTAGE ACT (1973)
- 3 ITALICS = EITHER UPUFA OR USCACA AS MARKED
- 4 **BOLD** = NEW LANGUAGE FOR DISCUSSION

5

6 **ARTICLE 1. GENERAL PROVISIONS**

7

8 SECTION 101 [~~U.P.A. § 27~~]. SHORT TITLE.

9 This Act may be cited as the "Uniform Parentage Act 2000."

10

11 SECTION 102. [~~UPUFA SECTION 1.~~] DEFINITIONS. In this [Act]: [~~§ 1. PARENT AND~~  
12 ~~CHILD RELATIONSHIP DEFINED.~~]

13 [~~USCACA~~] (1) "Assisted reproduction [~~conception~~]" means a pregnancy resulting  
14 from:

15 - (i) fertilizing an egg of a woman with sperm of a man by means other than sexual  
16 intercourse; or

17 (ii) implanting an oocyte [~~embryo~~], but the term does not include the pregnancy of  
18 a wife resulting from fertilizing her egg with sperm of her husband.

19 [~~USCACA~~] (2) "Donor" means an individual [~~other than a surrogate~~] who produces  
20 egg or sperm used for assisted reproduction [~~conception~~], whether or not a payment is  
21 made for the egg or sperm used, but does not include a woman who gives birth to a  
22 resulting child.

23 [~~USCACA~~] (3) "~~Intended parents~~" means a man and woman, married to each other,  
24 who enter into an agreement under this [Act] providing that they will be the parents of a  
25 child born to a surrogate through assisted conception using egg or sperm of one or both of  
26 the intended parents.]

27 (3) [~~UPUFA § 1(1)~~](1) "Man" means a male individual of any age.

28 (4) [~~As used in this Act, p~~](2) "Parent-child relationship" means the legal  
29 relationship existing between a child and his biological [~~natural~~] or adoptive parents  
30 incident to which the law confers or imposes rights and [~~privileges,~~] duties [~~and~~  
31 obligations]. It includes the mother-child relationship and the father-child relationship.

1 (5) ~~[UPUFA § 1(2)] (3)~~ "Putative father" means a man who claims to be, or is  
2 named as, the biological father or a possible biological father of a child, and whose  
3 paternity of the child has not been judicially determined, excluding:

4 (i) a man whose parental rights with respect to the child have been previously  
5 judicially terminated or declared not to exist;

6 (ii) a donor of sperm~~[semen]~~ used in artificial insemination or in vitro  
7 fertilization ~~[whose identity is not known by the mother of the resulting child or whose~~  
8 ~~semen was]~~ donated under circumstances indicating that the donor did not anticipate  
9 having an interest in the resulting child;

10 (iii) a man presumed to be the father of a child under Section 203.

11 ~~[(iii) a man who is or was married to the mother of the child, and the child is born~~  
12 ~~during the marriage [or within 300 days after the marriage was terminated by death,~~  
13 ~~annulment, declaration of invalidity, divorce, or marital dissolution, or after a decree of~~  
14 ~~separation was entered by a court];~~

15 ~~———— (iv) a man who, before the birth of the child, attempted to marry the mother of the~~  
16 ~~child in apparent compliance with law, although the attempted marriage is, or could be~~  
17 ~~declared, invalid, and:~~

18 ~~———— (A) if the attempted marriage could be declared invalid only by a court, the~~  
19 ~~child is born during the attempted marriage [, or within 300 days after its termination by~~  
20 ~~death, annulment, declaration of invalidity, divorce, or marital dissolution]; or~~

21 ~~———— (B) if the attempted marriage is invalid without a court order declaring its~~  
22 ~~invalidity, the child is born during, or within 300 days after the termination of,~~  
23 ~~cohabitation; and~~

24 ~~———— (v) a man who, after the birth of the child, married or attempted to marry the~~  
25 ~~mother of the child in apparent compliance with law, although the attempted marriage is,~~  
26 ~~or could be declared, invalid, and:~~

27 ~~———— (A) has acknowledged his paternity of the child in a writing filed with the~~  
28 ~~[appropriate court or Vital Statistics Bureau];~~

29 ~~———— (B) with his consent, is named as the child's biological father on the child's~~  
30 ~~birth certificate; or~~

1 ~~\_\_\_\_\_ (C) is obligated to support the child under a written promise or by court~~  
2 ~~order.~~

3 ~~\_\_\_\_\_ [USCACA (4)] "Surrogate" means an adult woman who enters into an agreement to~~  
4 ~~bear a child conceived through assisted conception for intended parents.]~~

5 **(6) "Tribunal" means a court, administrative agency, or quasi-judicial entity**  
6 **authorized to determine parentage.**

7 (7) ~~[UPUFA § 1(3)]~~(4) "Unknown father" means a child's biological father whose  
8 identity is unascertained. However, the term does not include a donor of sperm[semen]  
9 used in artificial insemination or in vitro fertilization [~~whose identity is not known to the~~  
10 ~~mother of the resulting child or whose semen was~~] donated under circumstances indicating  
11 that the donor did not anticipate having any interest in the resulting child.

12

### 13 **SECTION 103. TRIBUNAL OF STATE.**

14 **The [court, administrative agency, quasi-judicial entity, or combination] [is the**  
15 **tribunal] [are the tribunals] of this State.**

16

## 17 **ARTICLE 2. THE PARENT-CHILD RELATIONSHIP**

18

### 19 **SECTION 201 [U.P.A. § 3]. HOW PARENT-CHILD [PARENT AND CHILD]**

20 **RELATIONSHIP ESTABLISHED.**

21 The parent-child [~~parent and child~~] relationship between a child and

22 (1) the biological [~~natural~~] mother may be established by proof of her having  
23 given birth to the child, or under this Act;

24 (2) the biological [~~natural~~] father may be established under this Act;

25 (3) an adoptive parent may be established by proof of adoption or under the  
26 [Revised Uniform Adoption Act].

27

### 28 **SECTION 202 [U.P.A. § 2]. RELATIONSHIP NOT DEPENDENT ON MARRIAGE.**

29 The parent-child [~~parent and child~~] relationship extends equally to every child and to  
30 every parent, regardless of the marital status of the parents.

31

1 SECTION 203 [~~U.P.A. § 4~~]. PRESUMPTION OF PATERNITY.

2 (a) A man is presumed to be the biological [~~natural~~] father of a child if:

3 (1) he and the child's biological [~~natural~~] mother are or have been married to each  
4 other and the child is born during the marriage, or within 300 days after the marriage is  
5 terminated by death, annulment, declaration of invalidity, or divorce, or after a decree of  
6 separation is entered by a tribunal [~~court~~];

7 (2) before the child's birth, he and the child's biological [~~natural~~] mother have  
8 attempted to marry each other by a marriage solemnized in apparent compliance with law,  
9 although the attempted marriage is or could be declared invalid, and,

10 (i) if the attempted marriage could be declared invalid only by a tribunal  
11 [~~court~~], the child is born during the attempted marriage, or within 300 days after its  
12 termination by death, annulment, declaration of invalidity, or divorce; or

13 (ii) if the attempted marriage is invalid without an order of the tribunal [~~a court~~  
14 order], the child is born within 300 days after the termination of cohabitation;

15 (3) after the child's birth, he and the child's biological [~~natural~~] mother have  
16 married, or attempted to marry, each other by a marriage solemnized in apparent  
17 compliance with law, although the attempted marriage is or could be declared invalid, and

18 (i) he has acknowledged his paternity of the child in writing filed with the  
19 [appropriate tribunal [~~court~~] or Vital Statistics Bureau].

20 (ii) with his consent, he is named as the child's father on the child's birth  
21 certificate, or

22 (iii) he is obligated to support the child under a written voluntary promise or  
23 by [~~court~~] order of the tribunal;

24 (4) while the child is under the age of majority, he receives the child into his home  
25 and openly holds out the child as his biological [~~natural~~] child; or

26 (5) he acknowledges his paternity of the child in a writing filed with the  
27 [appropriate tribunal [~~court~~] or Vital Statistics Bureau], which shall promptly inform the  
28 mother of the filing of the acknowledgment, and she does not dispute the acknowledgment  
29 within a reasonable time after being informed thereof, in a writing filed with the  
30 [appropriate tribunal [~~court~~] or Vital Statistics Bureau]. If another man is presumed under

1 this section to be the child's father, acknowledgment may be effected only with the written  
2 consent of the presumed father or after the presumption has been rebutted.

3 ~~[(b) A presumption under this section may be rebutted in an appropriate action only  
4 by clear and convincing evidence. If two or more presumptions arise which conflict with  
5 each other, the presumption which on the facts is founded on the weightier considerations  
6 of policy and logic controls. The presumption is rebutted by a court decree establishing  
7 paternity of the child by another man.]~~

8 **(b) A presumption established by this section may be rebutted as provided in**  
9 **Section 620.**

10  
11 **ARTICLE 3. ASSISTED REPRODUCTIVE TECHNIQUES**

12  
13 **SECTION 301. HUSBAND'S PATERNITY AFTER ASSISTED REPRODUCTION.**

14 ~~[USACA SECTION 3]. ASSISTED CONCEPTION BY MARRIED WOMAN. [Except~~  
15 ~~as provided in Sections 5 through 9,] the] The husband of a woman who bears a child  
16 through assisted reproduction [~~conception~~] shall be treated in law as if he is the biological  
17 father of the child, notwithstanding a declaration of invalidity or annulment of the  
18 marriage obtained after the assisted reproduction [~~conception~~], unless within two years  
19 after learning of the child's birth he commences a proceeding [~~an action~~] in which the  
20 mother and child are parties and in which it is determined that he did not consent to the  
21 assisted reproduction [~~conception~~].~~

22  
23 **SECTION 301A. OOCYTE DONATION.**

24 **(a) If a husband consents to provide sperm to fertilize a donor oocyte by in vitro**  
25 **fertilization or other assisted reproductive techniques and the wife consents to have a**  
26 **donor oocyte that has been fertilized with her husband's sperm, pursuant to his**  
27 **consent, placed in her uterus, a resulting child is the child of both of them. The**  
28 **consent of each must be in writing.**

29 **(b) If a donor oocyte that has been fertilized with her husband's sperm implants**  
30 **in a wife's uterus, a resulting child is not the child of the donor of the oocyte.**

1 **SECTION 301B. EMBRYO DONATION.**

2 **(a) If, with the consent of the husband and the wife, a donated preimplantation**  
3 **embryo implants in the uterus of the wife, a resulting child is the child of both of**  
4 **them. The consent must be in writing.**

5 **(b) If, with the consent of the husband and the wife, a donated preimplantation**  
6 **embryo implants in the uterus of the wife, a resulting child is not the child of the**  
7 **donor or donors of the preimplantation embryo.**

8 **(c) Subsections (a) and (b) apply whether the donated preimplantation embryo is the**  
9 **result of separate egg and sperm donations or the result of donation of an embryo**  
10 **created for the purpose of assisting the reproduction of the donating couple.**

11

12 **SECTION 302. CONSENT.**

13 **The husband's consent to assisted reproduction must be in writing and signed by**  
14 **the husband and the wife. Failure to comply with this subsection shall not preclude**  
15 **treating the husband as the biological father if the mother and her husband treat the**  
16 **child as their biological child and represent this to others.**

17

18 **SECTION 303. [~~USCACA SECTION 4~~]. PARENTAL STATUS OF DONORS AND**  
19 **DECEASED INDIVIDUALS. [~~Except as otherwise provided in Sections 5 through 9:~~]**

20 **(a) A donor is not a parent of a child conceived through assisted reproduction**  
21 **[conception] unless the mother is unmarried at the time of conception and the donor**  
22 **consents in writing to be treated in law as the father of the child, or the mother and**  
23 **the donor jointly treat the donor as the father of the child and jointly represent this to**  
24 **others.**

25 **(b) An individual who dies before implantation of an embryo, or before a child is**  
26 **conceived other than through sexual intercourse, using the individual's egg or sperm, is not**  
27 **a parent of the resulting child.**

28

Reporter's Note

29 Derived from Sections 3 and 4, Uniform Status of Children of Assisted Conception  
30 Act. The Uniform Parentage Act takes no position on surrogacy contracts for birth of  
31 children. Jurisdictions considering legalizing such contracts should consider Alternative A,



1 Uniform Status of Children of Assisted Conception Act, Sections 5-9. Jurisdictions  
2 considering prohibiting such contracts should consider Alternative B, Section 5. Either  
3 choice should be incorporated into Article 3 of this Act.  
4

5 ~~§ 5. ARTIFICIAL INSEMINATION.~~

6 ~~—— (a) If, under the supervision of a licensed physician and with the consent of her  
7 husband, a wife is inseminated artificially with semen donated by a man not her husband,  
8 the husband is treated in law as if he were the natural father of a child thereby conceived.  
9 The husband's consent must be in writing and signed by him and his wife. The physician  
10 shall certify their signatures and the date of the insemination, and file the husband's consent  
11 with the [State Department of Health], where it shall be kept confidential and in a sealed  
12 file. However, the physician's failure to do so does not affect the father and child  
13 relationship. All papers and records pertaining to the insemination, whether part of the  
14 permanent record of a court or of a file held by the supervising physician or elsewhere, are  
15 subject to inspection only upon an order of the court for good cause shown.~~

16 ~~—— (b) The donor of semen provided to a licensed physician for use in artificial  
17 insemination of a married woman other than the donor's wife is treated in law as if he were  
18 not the biological [natural] father of a child thereby conceived.~~

19  
20 **ARTICLE 4. VOLUNTARY ACKNOWLEDGMENT OF PATERNITY**

21  
22 **SECTION 401. ACKNOWLEDGMENT OF PATERNITY**

23 **The mother and the putative father of a child who has no presumed father, may sign**  
24 **an acknowledgment of paternity, provided that the mother and father have been given**  
25 **notice, orally, or through the use of video or audio equipment, and in writing, of the**  
26 **alternatives to, the legal consequences of and the rights (including if a parent is a minor,**  
27 **any rights afforded due to minority status) and responsibilities that arise from signing**  
28 **from the acknowledgment.**

Reporter's Note

Source: 42 U.S.C. Section 666(a)(5)(C)(i).

**SECTION 402. FORM OF ACKNOWLEDGMENT**

**(a) The [state agency responsible for maintaining birth records] in consultation with the [IV-D agency] and child support advocacy groups shall prepare a form of acknowledgment to comply with this article. The form must contain:**

**(1) current full name, social security number and date of birth of mother, father, and child;**

**(2) address of mother and father;**

**(3) birthplace of child;**

**(4) an explanation of the legal consequences of signing the affidavit;**

**(5) a statement indicating both parents understand the right, responsibilities, attention and consequences of signing the affidavit;**

**(6) the place the affidavit was completed;**

**(7) signatures lines for mother, father and witnesses or notaries;**

**(8) state that the mother and putative father acknowledge the putative father as the biological child of the father;**

**(9) state marital status of mother and putative father;**

**(10) state that the affidavit was signed after having been given notice, orally or through the use of video or audio equipment, and in writing, of the alternatives to, the legal consequences of, and the rights (including of a parent who is a minor any rights due to minority status) and responsibilities that arise from signing the acknowledgment;**

**(11) state that the acknowledgment is to considered a legal finding of paternity subject to the right of any signatory to rescind the agreement within the earlier of:**

**(A) 60 days; or**

**(B) the date of a tribunal proceeding relating to the child (including a proceeding the establish the support order) in which the signatory is a party; and**

**(12) state that after the 60 day period for recession, the voluntary acknowledgment of paternity may be challenged in a tribunal only on the basis of fraud,**

1 duress, material mistake of fact with the burden of proof upon the challenger and under  
2 which the legal responsibility (including child support obligation) of any signatory arising  
3 from the acknowledgment may not be suspended during the challenge, except for good  
4 cause shown.

5 (b) The form may contain other information [the state agency responsible for  
6 maintaining birth records] determines to be necessary for acknowledgment of its  
7 responsibilities under this article, including any additional requirements required under  
8 federal law.

9 (c) Failure of the acknowledgment to list all rights and duties of parents, the  
10 alternatives to parenthood, and consequences of signing the acknowledgment shall not  
11 be a basis for voiding the acknowledgment so long as the tribunal determines that the  
12 affidavit substantially informs the signer that the putative father by signing the affidavit  
13 with the consent of the mother, becomes the legal father of the child and is under a duty  
14 to support the child.

15 (d) The [the state agency responsible for maintaining birth records] shall distribute  
16 copies of the form prepared under Section (a) to all birthing facilities in this state and to  
17 such other persons as the agency determines to be in need of such forms.

18 (e) An acknowledgment of paternity that met the requirements of state law at the  
19 time that the acknowledgment was made in this state is not ineffective due to changes in  
20 the form the acknowledgment occurring after the date that the acknowledgment was  
21 made.

22 (f) An acknowledgment of paternity affidavit or form executed in another state  
23 meeting that state's legal requirements shall be considered in this state as if the affidavit  
24 or form was executed in compliance with this section.

25 (g) The acknowledgment may include a waiver of service of process in a  
26 proceeding to establish the parent-child relationship and may include a waiver of the  
27 right to notice of the proceedings.

28 (h) The acknowledgment may be signed before the birth of the child.

29 [(i) The acknowledgment must be executed before a person authorized to  
30 administer oaths under the laws of this state.]

Reporter's Note

Source: 42 U.S.C. Section 666 (a) (5) (C) (i); 42 U.S.C. Section 666 (a) (D) (ii).  
Alaska Statutes, Chapter 18.50. Vital Statistics Act; California Family Code Section 7574.  
Items (a)(1)-(7) are prescribed as the minimum requirements for an affidavit by the O.C.S.E.,  
Federal Register, July 22, 1997.

**SECTION 403. LEGAL EFFECT OF AFFIDAVIT**

**(a) An affidavit for the voluntary acknowledgment of paternity as provided in this article is considered a legal finding of paternity subject to the right of a signatory to rescind the acknowledgment within the earlier of:**

**(1) 60 days; or**

**(2) the date of a tribunal proceeding relating to the child (including a proceeding to establish a support order) in which the signatory is a party.**

**(b) After the 60 day period for rescission referred to in this section, a signed voluntary acknowledgment of paternity may be challenged in a tribunal only on the basis of fraud, duress, or material mistake of fact, with the burden of proof upon the challenger and under which the legal responsibilities (including child support obligations) of any signature arising from the acknowledgment may not be suspended during the challenge, except for good cause shown. A challenge under this subsection must be brought in a tribunal of competent jurisdiction and, any party that may be affected by the challenge, shall be entitled to notice as in other contested paternity proceedings.**

**(c) To rescind an affidavit for voluntary acknowledgment of paternity, a person who executed the affidavit must sign a statement of rescission before a person authorized to administer oaths under the laws of this state. A copy of the rescission shall be delivered to the other person who signed the affidavit, if feasible, and a copy of the rescission shall be filed with the [name of state agency responsible for maintaining birth records] within [five] days of signing.**

1 Reporter's Note  
2 Source: 42 U.S.C. Section 666(a)(5)(D)(ii).  
3

4 **SECTION 404. RATIFICATION PROCEEDINGS BARRED**

5 **A tribunal may not be required nor permitted to ratify an unchallenged affidavit**  
6 **of voluntary acknowledgment of paternity as provided for in this article.**

7 Reporter's Note  
8 Source: 42 U.S.C. Section 666(a)(5)(E).  
9

10 **SECTION 405. [AGENCY] TO PROVIDE SERVICES FOR PATERNITY**  
11 **ESTABLISHMENT**

12 **The [name of state agency responsible for maintaining birth records] shall offer**  
13 **services for the acknowledgment of paternity as provided in of this article in a hospital-**  
14 **based program focusing on the period immediately before or after the birth. Voluntary**  
15 **paternity establishment services may also be offered by hospitals and other entity as**  
16 **prescribed by the U.S. Secretary of Health and Human Services.**

17 Reporter's Note  
18 Source: 42 U.S.C. Section 666(a)(5)(C)(iii)(I),(II).

19 **SECTION 406. FULL FAITH AND CREDIT**

20 **An affidavit for the voluntary acknowledgment of paternity signed in another state**  
21 **shall be given full faith and credit in this state if the affidavit has been signed in apparent**  
22 **compliance with the provisions of that other state's law.**

23 Reporter's Note  
24 Source: 42 U.S.C. Section 666(a)(5)(C)(iv).  
25

26 **ARTICLE 5. PUTATIVE FATHER REGISTRY**

27  
28 **SECTION 501. PUTATIVE FATHER REGISTRY; PURPOSE.**

29 **(a) The [Bureau of Vital Statistics] shall establish a putative father registry.**

30 **(b) The [Bureau of Vital Statistics] shall administer the registry to:**

31 **(1) protect the parental rights of fathers who affirmatively assume**  
32 **responsibility for children they may have fathered; and**

33 **(2) expedite adoptions of children whose biological fathers are unwilling**

1           to assume responsibility for their children by registering with the registry or  
2           otherwise acknowledging their children.

3           (c) The existence of the putative father registry does not relieve a mother of the  
4           obligation to identify the known father of her child.

5  
6           **SECTION 502. MAN NOT REQUIRED TO REGISTER.**

7           A man is not required to register with the putative father registry if he:

8           (1) is presumed to be the biological father of a child under Section 203; or

9           (2) has been adjudicated to be the biological father of a child by a tribunal of  
10          competent jurisdiction.

11  
12          **SECTION 503. REQUIRED INFORMATION.**

13          A man registering with the putative father registry shall provide:

14          (1) the name, date of birth, last known address, driver's license number, and  
15          social security number, if known, of the mother of the child;

16          (2) the name of the child and the location and date of birth of the child, if known,  
17          or the probable month and year of the expected birth of the child;

18          (3) the man's name, date of birth, address, driver's license number, and social  
19          security number; and

20          (4) a statement in which the man claims to be the father of the child identified by  
21          the man.

22  
23          **SECTION 504. INFORMATION MAINTAINED BY REGISTRY.**

24          The putative father registry shall record the name, address, driver's license  
25          number, and social security number of a man who claims to be the father of a child  
26          whose paternity has not been adjudicated by a tribunal of competent jurisdiction by  
27          giving notice of intent to claim paternity, as provided by this article.

28  
29          **SECTION 505. KNOWLEDGE OF PREGNANCY.**

30          (a) A person who has sexual intercourse with a person of the opposite sex is

1 deemed to have knowledge that sexual intercourse can result in the woman's  
2 pregnancy.

3 (b) Except as provided by this article, a man who claims to be the father of a  
4 child shall file a notice of intent to assert as provided by this article his right to  
5 establish paternity of a child that may result from the sexual intercourse.

6 (c) Ignorance of a pregnancy is not a sufficient reason for failing to register with  
7 the registry to claim paternity of the child born of the pregnancy.

8

9 **SECTION 506. FURNISHING OF REGISTRY INFORMATION;**  
10 **CONFIDENTIALITY; OFFENSE.**

11 (a) If the mother's address has been provided, the registry shall send a copy of  
12 the notice of intent to claim paternity to the mother as notification that a man has  
13 registered with the putative father registry claiming to be the father of the mother's  
14 child.

15 (b) Information contained in the registry is confidential and may be released on  
16 request only to:

17 (1) a tribunal [;

18 (2) the mother of a child;

19 (3) an authorized agency;

20 (4) a licensed child-placing agency;

21 (5) an attorney at law in this state who is participating or assisting in a  
22 proceeding affecting the parent-child relationship, including termination of the  
23 parent-child relationship or a proceeding for the adoption of the child that the  
24 registrant claims to have fathered;

25 (6) the [Bureau of Vital Statistics] of another state; or

26 (7) any other person or entity the [Bureau of Vital Statistics] considers to  
27 have a legitimate interest in the information.

28 (c) The registry shall furnish registry information by electronic data exchange or  
29 any other means to the state's Title IV-D agency and the [appropriate agency].

30 (d) A person commits an offense if the person intentionally and unlawfully

1 releases information from the registry to the public or makes any other unlawful use  
2 of the information in violation of this article. An offense under this subsection is a  
3 [appropriate level] misdemeanor.

4

5 **SECTION 507. NOTICE OF INTENT TO CLAIM PATERNITY.**

6 (a) Except as provided by Subsection (d), a person may register as provided by  
7 this article by filing a notice of intent to claim paternity on a form provided by the  
8 bureau of vital statistics.

9 This form shall be signed and acknowledged before a notary public.

10 (b) The bureau shall make registration forms available to all:

11 (1) hospitals and other birthing places in this state;

12 (2) licensed child-placing agencies;

13 (3) county and district clerks;

14 (4) municipal clerks;

15 (5) justices of the peace;

16 (6) jails;

17 (7) prisons; and

18 (8) facilities [for the detention of juvenile offenders].

19 (c) A notice of intent to claim paternity may be filed before the birth of the child  
20 but may not be filed after the 30th day after the date of birth of the child.

21 (d) If the [Bureau of Vital Statistics] has received from the clerk of the tribunal  
22 notice of a decree terminating the parent-child relationship between the person  
23 applying to register and the child, the bureau shall notify the person that the person's  
24 parent-child relationship with the child has been terminated and may not enter into  
25 the registry a notice of intent to claim paternity filed by the person.

26

27 **SECTION 508. DENIAL OF REGISTRANT'S PATERNITY; NOTIFICATION.**

28 (a) Not later than the 30th day after the date of the receipt of notification from  
29 the [Bureau of Vital Statistics] that a notice of intent to claim paternity has been filed,  
30 the mother of the child may deny the registrant's claim of paternity on a form



1 provided by the bureau and signed and acknowledged before a notary public.

2 (b) If the mother denies that the registrant is the father of the child, the [Bureau  
3 of Vital Statistics] shall immediately notify the registrant of the denial and of the  
4 registrant's right to file a proceeding to establish paternity.

5  
6 **SECTION 509. EFFECT OF FAILURE TO FILE NOTICE OF INTENT.**

7 Except as otherwise provided by 502, a man who fails to file a notice of intent to  
8 claim paternity before the 30th day after the date of the birth of the child may not  
9 assert an interest in the child other than by filing a proceeding to establish paternity  
10 before the termination of the man's parental rights.

11  
12 **SECTION 510. CHANGE OR REVOCATION OF REGISTRY INFORMATION.**

13 (a) A man who files a notice of intent to claim paternity with the registry shall  
14 promptly notify the registry in writing of any change in the information, including a  
15 change of address.

16 (b) A man who files a notice of intent to claim paternity may at any time revoke  
17 the notice by sending the registry a written statement signed and acknowledged by the  
18 registrant before a notary public. The acknowledgment must include a declaration  
19 that, to the best of the registrant's knowledge and belief:

20 (1) the registrant is not the father of the named child; or

21 (2) a tribunal has adjudicated paternity and a person other than the registrant  
22 has been determined to be the father of the child.

1 **SECTION 511. FURNISHING OF CERTIFICATE OF REGISTRY SEARCH.**

2 **On request, the [Bureau of Vital Statistics] shall furnish a certificate, signed by**  
3 **the state registrar of vital statistics, attesting to the results of a search of the registry**  
4 **regarding a notice of intent to claim paternity to:**

5 **(1) a tribunal [;**

6 **(2) the mother of a child;**

7 **(3) an authorized agency;**

8 **(4) a licensed child-placing agency;**

9 **(5) an attorney licensed to practice law in this state who is participating or**  
10 **assisting in an adoption; or**

11 **(6) any other person or entity the [Bureau of Vital Statistics] considers to have a**  
12 **legitimate interest in the information.**

13  
14 **SECTION 512. REMOVAL OF REGISTRANT'S NAME.**

15 **If a tribunal determines that a registrant is not the father of the child, the**  
16 **tribunal shall order the [Bureau of Vital Statistics] to remove the registrant's name**  
17 **from the registry. On receipt of an order for the removal of a registrant's name, the**  
18 **[Bureau of Vital Statistics] shall remove the name from the registry.**

19  
20 **SECTION 513. REGISTRY FEES.**

21 **(a) A fee may not be charged for filing with the registry a notice of intent to**  
22 **claim paternity of a child or a denial of a registrant's paternity.**

23 **(b) Except as provided by Subsection (c), the [appropriate agency] may charge a**  
24 **fee for processing a search of the putative father registry and for furnishing a**  
25 **certificate.**

26 **(c) The [appropriate agency] and the Title IV-D agency are not required to pay a**  
27 **fee under Subsection (b).**

1 **SECTION 514. ADMISSIBILITY OF INFORMATION MAINTAINED BY**  
2 **REGISTRY.**

3 **Information maintained by the putative father registry is admissible in a**  
4 **proceeding in a tribunal of this State for any purpose, including for the establishment**  
5 **of the registrant's paternity or a proceeding to terminate parental rights.**

6

7 **ARTICLE 6. PROCEEDING TO DETERMINE PARENTAGE**

8 **PART I. NATURE OF PROCEEDING**

9

10 **SECTION 601. APPLICABILITY** [~~U.P.A. § 14. CIVIL ACTION; JURY.~~]

11 (a) A proceeding [~~An action~~] under this Act is a civil action governed by the rules of  
12 civil procedure. [~~The mother of the child and the alleged father are competent to testify and~~  
13 ~~may be compelled to testify. Subsections (b) and (c) of Section 10 and Sections 11 and 12~~  
14 ~~apply.~~]

15 **This article governs a proceeding affecting the parent-child relationship in which**  
16 **the parentage of the biological mother or biological father is sought to be adjudicated.**

17

18 **SECTION 602** [~~U.P.A. § 6]. DETERMINATION OF FATHER-CHILD~~

19 **RELATIONSHIP; WHO MAY BRING PROCEEDING** [~~ACTION~~]; **WHEN**  
20 **PROCEEDING** [~~ACTION~~] **MAY BE BROUGHT.**

21 (a) A child, his biological [~~natural~~] mother, or a man presumed to be his father under  
22 [~~Paragraph (1), (2), or (3) of~~] Section 203 [~~4(a)~~], may bring a proceeding [~~an action~~]

23 (1) at any time for the purpose of declaring the existence of the presumed father-  
24 child relationship [~~presumed under Paragraph (1), (2), or (3) of Section 4(a)~~]; or

25 (2) for the purpose of declaring the non-existence of the presumed father-child  
26 relationship [~~presumed under Paragraph (1), (2), or (3) of Section 4(a)~~] only if the  
27 proceeding [~~action~~] is brought within a reasonable time after obtaining knowledge of  
28 relevant facts, but in no event later than [~~five~~] years after the child's birth. After the  
29 presumption has been rebutted, paternity of the child by another man may be determined in  
30 the same proceeding [~~action~~], if he has been made a party.

31 (b) Any interested party may bring a proceeding [~~an action~~] at any time for the

1 purpose of determining the existence or non-existence of the presumed father-child  
2 relationship [~~presumed under Paragraph (4) or (5) of Section 4(a)~~].

3 (c) A proceeding [~~An action~~] to determine the existence of the father-child  
4 relationship with respect to a child who has no presumed father under Section 203[4] may  
5 be brought by the child, the mother or personal representative of the child, the [appropriate  
6 state agency], the personal representative or a parent of the mother if the mother has died, a  
7 man alleged or alleging himself to be the father, or the personal representative or a parent of  
8 the alleged father if the alleged father has died or is a minor.

9 (d) Regardless of its terms, an agreement, other than an agreement approved by the  
10 tribunal [~~court~~] in accordance with Section 609(b)[~~13(b)~~], between an alleged or presumed  
11 father and the mother or child, does not bar a proceeding [~~an action~~] under this section.

12 (e) If a proceeding [~~an action~~] under this section is brought before the birth of the  
13 child, all proceedings shall be stayed until after the birth, except service of process and the  
14 taking of depositions to perpetuate testimony.

15 Reporter's Note

16 Review of the structure of Subsection (a) must take into account holdings of  
17 unconstitutionally as exemplified by State of Arizona v. Sasse, 801 P.2d 598 (Mont. 1990).  
18

19 **SECTION 603** [~~U.P.A. § 21~~]. ACTION TO DECLARE MOTHER-CHILD  
20 RELATIONSHIP.

21 Any interested party may bring a proceeding [~~an action~~] to determine the existence or  
22 nonexistence of a mother-child relationship. Insofar as practicable, the provisions of this  
23 Act applicable to the father-child relationship apply.  
24

25 **SECTION 604** [~~U.P.A. § 7~~]. STATUTE OF LIMITATIONS.

26 (a) **A proceeding affecting the parent-child relationship to determine parentage**  
27 **under this article may be brought before the birth of the child, but must be brought**  
28 **on or before the second anniversary of the date the child becomes an adult, or the**  
29 **proceeding is barred.**

30 (b) **This section applies to a child for whom a parentage proceeding was brought**  
31 **but dismissed because a statute of limitations of less than 18 years was then in effect.**

1           **(c) A proceeding to establish paternity under Article 5 may be brought at any**  
2 **time.**

3           ~~[An action to determine the existence of the father-child relationship as to a child who~~  
4 ~~has no presumed father under Section 4 may not be brought later than [three] years after the~~  
5 ~~birth of the child, or later than [three] years after the effective date of this Act, whichever is~~  
6 ~~later. However, an action brought by or on behalf of a child whose paternity has not been~~  
7 ~~determined is not barred until [three] years after the child reaches the age of majority.~~  
8 ~~Sections 6 and 7 do not extend the time within which a right of inheritance or a right to a~~  
9 ~~succession may be asserted beyond the time provided by law relating to distribution and~~  
10 ~~closing of decedents' estates or to the determination of heirship, or otherwise.]~~

11

12 **SECTION 605. TRIBUNAL FOR PROCEEDING; JOINDER OF OTHER ACTIONS**

13 ~~[U.P.A. § 8. JURISDICTION; VENUE].~~

14           ~~[(a)] [Without limiting the jurisdiction of any other tribunal [court],] [The]~~  
15 ~~[appropriate] tribunal [court] has jurisdiction of a proceeding [an action] brought under this~~  
16 ~~Act. [The action may be joined with a proceeding [an action] for divorce, annulment,~~  
17 ~~separate maintenance or support.]~~

18           ~~— (b) A person who has sexual intercourse in this State thereby submits to the~~  
19 ~~jurisdiction of the courts of this State as to a proceeding [an action] brought under this Act~~  
20 ~~with respect to a child who may have been conceived by that act of intercourse. In addition~~  
21 ~~to any other method provided by [rule or] statute, including [cross reference to "long arm~~  
22 ~~statute"], personal jurisdiction may be acquired by [personal service of summons outside~~  
23 ~~this State or by registered mail with proof of actual receipt] [service in accordance with~~  
24 ~~(citation to "long arm statute")].~~

25

26 **SECTION 606. BASES FOR JURISDICTION OVER NONRESIDENT**

27           **In a proceeding to determine parentage, a tribunal of this state may exercise**  
28 **personal jurisdiction over a nonresident individual or the individual's guardian or**  
29 **conservator if:**

30           **(1) the individual is personally served with citation in this state;**

1 (2) the individual submits to the jurisdiction of this state by consent, by entering a general  
2 appearance, or by filing a responsive document having the effect of waiving any contest to  
3 personal jurisdiction;

4 (3) the individual resided with the child in this state;

5 (4) the individual resided in this state and provided prenatal expenses or support for the child;

6 (5) the child resides in this state as a result of the acts or directives of the individual;

7 (6) the individual engaged in sexual intercourse in this state and the child may have been  
8 conceived by that act of intercourse; [or]

9 (7) the individual asserted parentage in the putative father registry maintained in this state  
10 by the bureau of vital statistics; or

11 (8) there is any other basis consistent with the constitutions of this state and the United States  
12 for the exercise of personal jurisdiction.

13  
14 **SECTION 607.** [U.P.A. § 8(c)] VENUE.

15 [(c)] The action may be brought in the county:

16 (i) in which the child or the alleged father resides or is found; or,

17 (ii) if the father is deceased, in which proceedings for probate of his estate have  
18 been or could be commenced.

19  
20 **SECTION 608** [U.P.A. § 9]. PARTIES.

21 [The child shall be made a party to the action. If he is a minor he shall be represented  
22 by his general guardian or a guardian ad litem appointed by the court. The child's mother or  
23 father may not represent the child as guardian or otherwise. The court may appoint the  
24 [appropriate state agency] as guardian ad litem for the child.]

25 The biological [natural] mother, each man presumed to be the father under Section  
26 203[4], and each man alleged to be the biological [natural] father, shall be made parties or,  
27 if not subject to the jurisdiction of the tribunal [court], shall be given notice of the action in  
28 a manner prescribed by the tribunal [court] and an opportunity to be heard. The tribunal  
29 [court] may align the parties.

30  
31 **SECTION 609. REPRESENTATION OF CHILD.**

1 (a) The child is not a necessary party to a proceeding under this article.

2 (b) It is rebuttably presumed in a final hearing trial on the merits to determine  
3 parentage that the interests of the child will be adequately represented by the party  
4 bringing a proceeding to determine parentage of the child. If the tribunal finds that  
5 the interests of the child will not be adequately represented by a party to the  
6 proceeding or are adverse to that party, the tribunal shall appoint an attorney ad  
7 litem to represent the child.

8 (c) The child shall be represented in a settlement agreement, dismissal, or  
9 nonsuit by a guardian ad litem or an attorney ad litem appointed by the tribunal,  
10 unless the tribunal finds on the record that the interests of the child will be adequately  
11 represented by a party to the proceeding or are not adverse to that party, and that the  
12 tribunal approves the settlement agreement, dismissal, or nonsuit.

13  
14 **SECTION 610. DENIAL OF PATERNITY**

15 (a) The presumption that a man is the biological father of a child under Section  
16 203 may be contested by:

17 (1) the biological mother of the child;

18 (2) a man presumed to be the father of the child, who may contest his own or  
19 another man's presumed paternity;

20 (3) a man alleging himself to be the biological father of the child; or

21 (4) a governmental entity, authorized agency, or a licensed child-placing  
22 agency.

23 (b) A contest of paternity must be raised by an express statement denying  
24 paternity of the child in a party's pleadings in the proceeding, without regard to  
25 whether the presumed father or biological mother is a petitioner or respondent.

26 (c) In a proceeding in which a question of paternity is raised, the tribunal shall  
27 conduct the preliminary [pretrial] proceedings and order scientifically accepted  
28 paternity testing as provided by this article.

29  
30 **SECTION 611. PROCEEDING BARRED.**

1           **(a) Except as provided by Subsection (b), a proceeding under this article with**  
2 **respect to a child is barred if final order has been rendered by a tribunal of competent**  
3 **jurisdiction:**

- 4           **(1) adjudicating a named individual to be the biological father of the child; or**  
5           **(2) terminating the parent-child relationship between the child and each**  
6 **living parent of the child; or**  
7           **(3) granting a petition for the adoption of the child.**

8           **(b) During the pendency of an appeal or direct attack on a final order described**  
9 **by Subsection (a), a proceeding under this article may be filed but shall, on motion of**  
10 **a party, be stayed pending the final disposition of the appeal or direct attack on the**  
11 **final order.**

12

13 **SECTION 612** [U.P.A. § 20]. HEARINGS AND RECORDS; CONFIDENTIALITY.

14           Notwithstanding any other law concerning public hearings and records, any hearing or  
15 final hearing [~~trial~~] held under this Act shall be held in closed session [~~court~~] without  
16 admittance of any person other than those necessary to the action or proceeding. All papers  
17 and records, other than the final order [~~judgment~~], pertaining to the action or proceeding,  
18 whether part of the permanent record of the tribunal [~~court~~] or of a file in the [appropriate  
19 state agency] or elsewhere, are subject to inspection only upon consent of the tribunal  
20 [~~court~~] and all interested persons, or in exceptional cases only upon an order of the tribunal  
21 [~~court~~] for good cause shown.



1 **SECTION 613. CUSTODY, VISITATION, AND CHILD SUPPORT.**

2 (a) In a proceeding in which a determination of parentage is sought, the tribunal  
3 may provide for the [custody of, visitation, and support of] the child.

4 (b) On a finding of parentage, the tribunal may order support retroactive to the  
5 time of the birth of the child and, on a proper showing, may order a party to pay an  
6 equitable portion of all prenatal and postnatal health care expenses of the mother and  
7 child.

8 (c) In making an order for retroactive child support under this section, the  
9 tribunal shall use the child support guidelines [provided by applicable statute of rule]  
10 together with any relevant factors.

11  
12 **SECTION 614** [~~SECTION § 19. [ ] RIGHT TO COUNSEL [; FREE TRANSCRIPT ON~~  
13 ~~APPEAL].~~

14 [(a)] At the pre-trial hearing and in further proceedings, any party may be represented by  
15 counsel. The court shall appoint counsel for a party who is financially unable to obtain counsel.

16 [(b) If a party is financially unable to pay the cost of a transcript, the court shall furnish on  
17 request a transcript for purposes of appeal.]

18 Reporter's Note  
19 Committee should consider whether to retain this section.

20  
21 [Sections 615-620 reserved for expansion]

22  
23 **PART 2. UNCONTESTED ADMISSION OF PATERNITY**

24  
25 **SECTION 621. ADMISSION OF PATERNITY**

26 A putative father of a child who has no presumed father may sign an admission  
27 of paternity for use before a tribunal in a proceeding to adjudicate parentage.

28 Reporter's Note  
29 Source: 42 U.S.C. 666 (a)(5)(D)(i)(II)

1 **SECTION 622. CONTENTS OF ADMISSION**

2 **(a) A voluntary admission of paternity under this article must:**

3 **(1) be in writing;**

4 **(2) state whether the putative father is a minor;**

5 **(3) state that the putative father admits the child as his biological child;**

6 **(4) state the marital status of the mother and father;**

7 **(5) include the social security number of the putative father;**

8 **(6) state that the admission creates a presumption of paternity that is**  
9 **sufficient for the tribunal to render an order determining parentage in accordance with**  
10 **the admission; and**

11 **(7) be signed by the putative father before a person authorized to**  
12 **administer oaths on the laws of this state.**

13 **(b) The admission may include a waiver of citation in a suit to establish the parent-**  
14 **child relationship, and may also include a waiver of the right to notice of further**  
15 **proceedings in the tribunal.**

16 **(c) The admission may be signed before the birth of the child.**

17 Reporter's Note

18 Source: 42 U.S.C. 666 (a)(5)(D)(i)(II)

19  
20 **SECTION 623. LEGAL EFFECT OF ADMISSION**

21 **The voluntary admission of paternity under this article is prima facie evidence**  
22 **that the named child is the biological child of the putative father executing the admission**  
23 **and that the person executing the admission may be adjudicated to be the biological**  
24 **father of the child.**

25  
26 **SECTION 624. USE OF ADMISSION BEFORE TRIBUNAL**

27 **(a) The voluntary admission of paternity must be attached or filed with any**  
28 **petition filed with a tribunal seeking an adjudication of the biological father of the child;**

29 **(b) The petition may be filed by the putative father, the mother of the child, or the**  
30 **child through a representative authorized by the tribunal or a governmental entity.**

31 **(c) The tribunal shall render an order adjudicating the child to be the biological**

1 **child of the putative father if the tribunal finds that the admission of paternity was**  
2 **executed as provided by this article and that the facts stated therein are true.**

3 **(d) A suit for paternity under this article may be joined with a suit for termination**  
4 **of parental rights.**

5 **SECTION 625. VALIDATION OF OTHER ADMISSIONS OF PARENTAGE**

6 **A tribunal may determine that a statement admitting paternity or an obligation**  
7 **to support a child signed by the putative father that fails to meet all of the requirements**  
8 **of this article is binding and valid for determining parentage of the putative father if the**  
9 **tribunal determines the admission is genuine, was signed voluntarily and is the truth.**

10  
11 **SECTION 626. CHALLENGE TO ADMISSION**

12 **If the affidavit for voluntary admission of paternity is challenged by the mother**  
13 **of the child, another man, or the child through a representative authorized by the**  
14 **tribunal or governmental entity, the provisions of Parts 1 and 3-7 of this article apply.**

15 [Sections 627-630 reserved for expansion.]

16  
17 **PART 3. PARENTAGE TESTING**

18  
19 **SECTION 631. ORDER FOR PARENTAGE TESTING.**

20 **(a) When the respondent appears in a contested parentage case, upon request of**  
21 **a party, the tribunal shall order the mother, a putative father of the child, a presumed**  
22 **father of the child and the child to submit to the taking of blood, body fluid, or tissue**  
23 **samples for the purpose of scientifically accepted parentage testing if the request is**  
24 **supported by a sworn statement by a party:**

25 **(1) alleging paternity and setting forth facts establishing a reasonable**  
26 **possibility of the requisite sexual contact between the parties; or**

27 **(2) denying paternity, and setting forth facts establishing a reasonable**  
28 **possibility of the non-existence of sexual contact between the parties.**

29 **(b) The parentage testing must be of a type generally acknowledged as reliable**  
30 **by accreditation bodies designated by the U.S. Secretary of Health and Human**  
31 **Services and performed by a laboratory approved by such accreditation body.**

1           **(c) If a respondent fails to appear and wholly defaults or if the allegation of**  
2 **parentage is admitted the court may waive parentage tests.**

3    Reporter's Note

4           Subsection (b) conforms to the mandate of 42 U.S.C. § 666(a)(5)(B)(i)(I)(II) and  
5 § 666(a)(5)(F)(i)(I)(II).

6  
7 **SECTION 632. APPOINTMENT OF EXPERTS.**

8           **(a) The tribunal shall:**

9                   **(1) appoint one or more experts qualified in parentage testing to perform**  
10 **the tests;**

11                   **(2) determine the number and qualifications of the experts; and**

12                   **(3) prescribe the arrangements for conducting the tests.**

13           **(b) A party may employ other experts qualified in parentage testing. The**  
14 **tribunal may order blood, body fluid, or tissue samples made available to these**  
15 **experts if requested.**

16    Reporter's Note

17           Source: U.P.A. § 11; 42 U.S.C. § 666(a)(5)(B)(ii)(II).

18  
19 **SECTION 633. REQUIREMENTS OF TESTING.**

20           The tribunal shall require in its order testing necessary to ascertain the possibility of  
21 an alleged father's paternity and shall require that the tests exclude at least 99 percent of the  
22 male population from the possibility of being the father of the child, except that the tribunal  
23 shall permit the omission of any further testing if the testing has been conducted  
24 sufficiently to establish that an alleged father is not the father of the child, or if the costs of  
25 testing have reached an amount that the tribunal determines to be the greatest amount that  
26 may reasonably be borne by one or more parties to the proceeding. If the appearance is  
27 before the birth of the child, the tribunal shall order the taking of blood, body fluid, or  
28 tissue samples to be made as soon as medically practical after the birth.

29  
30 **SECTION 634. EFFECT OF PARENTAGE TESTS.**

31           **(a) At the conclusion of the preliminary conference, if the tribunal finds that the tests**

1 show by clear and convincing evidence that an alleged or presumed father is not the father  
2 of the child, the tribunal shall dismiss with prejudice the parentage proceeding as to that  
3 man.

4 (b) If the tribunal finds that the parentage tests do not exclude an alleged father as the  
5 father of the child, the tribunal shall set the proceeding for final hearing.

6 (c) If the tribunal finds that at least 99 percent of the male population is excluded by  
7 the tests and that an alleged father is not excluded from the possibility of being the child's  
8 father, the burden of proof at final hearing is on the party opposing the establishment of the  
9 alleged father's parentage.

10

11 SECTION 635. EFFECT OF REFUSING PARENTAGE TESTING.

12 (a) An order for parentage testing is enforceable by contempt and:

13 (1) if the petitioner is the mother or an alleged father and refuses to submit to  
14 parentage testing, the tribunal may dismiss the proceeding; or

15 (2) if a party refuses to submit to parentage testing ordered by the tribunal,  
16 on proof sufficient to render a default final order the tribunal may resolve the  
17 question of parentage against that party.

18 (b) If a parent or an alleged parent refuses to submit to parentage testing, the  
19 fact of refusal may be introduced as evidence as provided by this article.

20 [Sections 636-640 reserved for expansion.]

21 ~~§ 11. BLOOD TESTS.~~

22 ~~—(a) The court may, and upon request of a party shall, require the child, mother, or~~  
23 ~~alleged father to submit to blood tests. The tests shall be performed by an expert qualified~~  
24 ~~as an examiner of blood types, appointed by the court.~~

25 ~~—(b) The court, upon reasonable request by a party, shall order that independent tests be~~  
26 ~~performed by other experts qualified as examiner of blood types.~~

27 ~~—(c) In all cases, the court shall determine the number and qualifications of the experts.~~

28

29 PART 4. PRELIMINARY CONFERENCE

30

31 SECTION 641. CONDUCT OF PRELIMINARY CONFERENCE.

1           **(a) After completion of parentage testing, the tribunal shall order all parties to**  
2 **appear, either in person or by attorney, at a preliminary conference.**

3           **(b) Either party may call a parentage testing expert to testify in person or by**  
4 **deposition about the expert's tests and findings.**

5           **(c) A witness at a preliminary conference is governed by the rules of evidence as**  
6 **in other civil cases.**

7           **(d) A verified written report of a parentage testing expert is admissible at the**  
8 **preliminary conference as evidence of the truth of the matters it contains.**

9           **(e) All evidence admitted at the preliminary conference is a part of the record of**  
10 **the case.**

11           **(f) Parentage test results offered at a preliminary conference are admissible as**  
12 **evidence if the tests were conducted under an order of the tribunal or by agreement**  
13 **without regard to whether the tests were performed before or after the filing of a**  
14 **proceeding.**

15

1 **SECTION 642. TEMPORARY ORDERS.**

2 **The tribunal may render a temporary order authorized in a proceeding under**  
3 **this article, including an order for temporary support of a child, if the person ordered**  
4 **to pay support:**

5 **(1) is a presumed parent under Section 203;**

6 **(2) is an alleged father petitioning to have his paternity adjudicated or who**  
7 **admits paternity in pleadings filed with the tribunal; or**

8 **(3) is found by the tribunal at the preliminary conference authorized by this**  
9 **article not to be excluded as the biological father of the child, with the tribunal finding**  
10 **that at least 99 percent of the male population is excluded from being the biological**  
11 **father of the child.**

12

13 **SECTION 643. PREFERENTIAL FINAL HEARING SETTING.**

14 **In a proceeding provided by this article, after a hearing the tribunal shall grant**  
15 **a motion for a preferential setting for final hearing on the merits filed by a party to**  
16 **the proceeding or by the attorney or guardian ad litem for the child. The tribunal**  
17 **shall give precedence to that final hearing over other civil cases if discovery has been**  
18 **completed or sufficient time has elapsed since the filing of the proceeding for the**  
19 **completion of all necessary and reasonable discovery if diligently pursued.**

20

21 ~~§ 10. [PRE-TRIAL PROCEEDINGS].~~

22 ~~—— (a) As soon as practicable after an action to declare the existence or nonexistence of~~  
23 ~~the father and child relationship has been brought, an informal hearing shall be held. [The~~  
24 ~~court may order that the hearing be held before a referee.] The public shall be barred from~~  
25 ~~the hearing. A record of the proceeding or any portion thereof shall be kept if any party~~  
26 ~~requests, or the court orders. Rules of evidence need not be observed.~~

27 ~~—— (b) Upon refusal of any witness, including a party, to testify under oath or produce~~  
28 ~~evidence, the court may order him to testify under oath and produce evidence concerning~~  
29 ~~all relevant facts. If the refusal is upon the ground that his testimony or evidence might tend~~  
30 ~~to incriminate him, the court may grant him immunity from all criminal liability on account~~

1 of the testimony or evidence he is required to produce. An order granting immunity bars  
 2 prosecution of the witness for any offense shown in whole or in part by testimony or  
 3 evidence he is required to produce, except for perjury committed in his testimony. The  
 4 refusal of a witness, who has been granted immunity, to obey an order to testify or produce  
 5 evidence is a civil contempt of the court.

6 ———(c) Testimony of a physician concerning the medical circumstances of the pregnancy  
 7 and the condition and characteristics of the child upon birth is not privileged.

8

9 ~~§ 13. PRE-TRIAL RECOMMENDATIONS:~~

10 ———(a) On the basis of the information produced at the pre-trial hearing, the judge [or  
 11 referee] conducting the hearing shall evaluate the probability of determining the existence  
 12 or non-existence of the father and child relationship in a trial and whether a judicial  
 13 declaration of the relationship would be in the best interest of the child. On the basis of the  
 14 evaluation, an appropriate recommendation for settlement shall be made to the parties,  
 15 which may include any of the following:

16 ———(1) that the action be dismissed with or without prejudice;

17 ———(2) that the matter be compromised by an agreement among the alleged father, the  
 18 mother, and the child, in which the father and child relationship is not determined but in  
 19 which a defined economic obligation is undertaken by the alleged father in favor of the  
 20 child and, if appropriate, in favor of the mother, subject to approval by the judge [or  
 21 referee] conducting the hearing. In reviewing the obligation undertaken by the alleged  
 22 father in a compromise agreement, the judge [or referee] conducting the hearing shall  
 23 consider the best interest of the child, in the light of the factors enumerated in Section  
 24 15(e), discounted by the improbability, as it appears to him, of establishing the alleged  
 25 father's paternity or nonpaternity of the child in a trial of the action. In the best interest of  
 26 the child, the court may order that the alleged father's identity be kept confidential. In that  
 27 case, the court may designate a person or agency to receive from the alleged father and  
 28 disburse on behalf of the child all amounts paid by the alleged father in fulfillment of  
 29 obligations imposed on him; and

30 ———(3) that the alleged father voluntarily acknowledge his paternity of the child.



1 ~~——(b) If the parties accept a recommendation made in accordance with Subsection (a),~~  
2 ~~judgment shall be entered accordingly.~~

3 ~~——(c) If a party refuses to accept a recommendation made under Subsection (a) and~~  
4 ~~blood tests have not been taken, the court shall require the parties to submit to blood tests,~~  
5 ~~if practicable. Thereafter the judge [or referee] shall make an appropriate final~~  
6 ~~recommendation. If a party refuses to accept the final recommendation, the action shall be~~  
7 ~~set for trial.~~

8 ~~——(d) The guardian ad litem may accept or refuse to accept a recommendation under this~~  
9 ~~Section.~~

10 ~~——(e) The informal hearing may be terminated and the action set for trial if the judge [or~~  
11 ~~referee] conducting the hearing finds unlikely that all parties would accept a~~  
12 ~~recommendation he might make under Subsection (a) or (c).~~

13

14

## PART 5. FINAL HEARING AND ORDER

15

### SECTION 651. EVIDENCE AT FINAL HEARING.

16 **SECTION 651. EVIDENCE AT FINAL HEARING.**  
17 **(a) A party may call a parentage testing expert to testify at the final hearing in**  
18 **person or by deposition.**

19 **(b) A verified written report of a parentage testing expert is admissible at the**  
20 **final hearing as evidence of the truth of the matters it contains.**

21 **(c) If the parentage tests show the possibility of an alleged father's paternity, the**  
22 **tribunal shall admit this evidence if offered at the final hearing.**

23 **(d) Parentage test results offered at the final hearing shall be admissible as**  
24 **evidence if the tests were conducted under an order of the tribunal or by agreement,**  
25 **without regard to whether the tests were performed before or after the filing of a**  
26 **proceeding.**

27 **(e) The party seeking to establish an alleged father's paternity retains the right**  
28 **to open and close at final hearing without regard to whether the tribunal has shifted**  
29 **the burden of proof to the opposing party.**

30 **(f) If a copy is provided to the adverse party and to the tribunal at the**

1 preliminary conference, submission of a copy of a medical bill for the prenatal and  
2 postnatal health care expenses of the mother and child or for charges directly related  
3 to the parentage testing constitutes a prima facie showing that the charges are  
4 reasonable, necessary, and customary and may be admitted as evidence of the truth of  
5 the matters stated in the bill.

6 (g) [~~U.P.A. § 14. CIVIL ACTION; JURY.~~(a) An action under this Act is a civil action  
7 governed by the rules of civil procedure.] The mother of the child and the alleged father are  
8 competent to testify and may be compelled to testify. [~~Subsections (b) and (c) of Section 10  
9 and Sections 11 and 12 apply.~~]

10

11 ~~§ 12. EVIDENCE RELATING TO PATERNITY.~~

12 ~~— Evidence relating to paternity may include:~~

13 ~~— (1) evidence of sexual intercourse between the mother and alleged father at any  
14 possible time of conception;~~

15 ~~— (2) an expert's opinion concerning the statistical probability of the alleged father's  
16 paternity based upon the duration of the mother's pregnancy;~~

17 ~~— (3) blood test results, weighted in accordance with evidence, if available, of the  
18 statistical probability of the alleged father's paternity;~~

19 ~~— (4) medical or anthropological evidence relating to the alleged father's paternity of  
20 the child based on tests performed by experts. If a man has been identified as a possible  
21 father of the child, the court may, and upon request of a party shall, require the child, the  
22 mother, and the man to submit to appropriate tests; and~~

23 ~~— (5) all other evidence relevant to the issue of paternity of the child.~~

24

25 **SECTION 652. PRESUMPTIONS; BURDEN OF PROOF.**

26 (a) In a proceeding in which there is a presumption of parentage under Section  
27 203, the party denying a presumed father's paternity of the child has the burden of  
28 rebutting the presumption of paternity by clear and convincing evidence.

29 (b) If the parentage tests show the possibility of an alleged father's paternity and  
30 that at least 99 percent of the male population is excluded from the possibility of being

1 **the father, evidence of these facts constitutes a prima facie showing of an alleged**  
2 **father's paternity, and the party opposing the establishment of the alleged father's**  
3 **paternity has the burden of proving that the alleged father is not the father of the**  
4 **child.**

5 **(c) A party who refuses to submit to parentage testing has the burden of proving**  
6 **that an alleged father is not the father of the child.**

7 **(d) The tribunal shall dismiss with prejudice a claim regarding a presumed**  
8 **father whose paternity is excluded by scientifically accepted paternity testing.**

9 **(e) If two or more presumptions are in conflict, the presumption that is founded**  
10 **on the weightier considerations of policy and logic controls. The tribunal shall find**  
11 **that the weightier presumption of paternity is that of a presumed father who is not**  
12 **excluded as the biological father of the child by scientifically accepted paternity**  
13 **testing that shows that at least 99 percent of the male population is excluded.**

14 **(f) The tribunal shall dismiss a proceeding contesting a presumption of paternity**  
15 **filed by a man who is not a presumed father, but who alleges himself to be the**  
16 **biological father of a child, if:**

17 **(1) the proceeding is filed after the second anniversary of the later of:**

18 **(A) the date of birth of the child; or**

19 **(B) the time the presumption of paternity came into existence after the child**  
20 **was born; and**

21 **(2) the presumed father:**

22 **(A) has resided in the same household as the child in a father-child**  
23 **relationship or has established a father-child relationship with the child**  
24 **through his other actions; and**

25 **(B) requests an order designating him as the father of the child.**

26 **(g) A proceeding contesting a presumption that a man is the biological father of a**  
27 **child may be filed at any time during the minority of the child by:**

28 **(1) the biological mother of the child;**

29 **(2) a person related within the second degree of consanguinity to the biological**

1 **mother of the child, if the biological mother of the child is deceased;**

2 **(3) a presumed father; or**

3 **(4) a governmental entity, authorized agency, or licensed child-placing agency.**

4 **(h) If a presumption of paternity is rebutted, the tribunal shall enter an order**  
5 **finding that the man presumed to be the father of the child is not the biological father.**

6 (I) [~~U.P.A. § 13(d)~~] The final hearing [~~trial~~] shall be by the tribunal [~~court~~ without a  
7 jury.]

8  
9 [~~§ 14. [CIVIL ACTION; JURY].~~]

10 ~~—(a) An action under this Act is a civil action governed by the rules of civil procedure. The mother~~  
11 ~~of the child and the alleged father are competent to testify and may be compelled to testify.~~  
12 ~~Subsections (b) and (c) of Section 10 and Sections 11 and 12 apply.~~

13 ~~—(b) Testimony relating to sexual access to the mother by an unidentified man at any~~  
14 ~~time or by an identified man at a time other than the probable time of conception of the~~  
15 ~~child is inadmissible in evidence, unless offered by the mother.~~

16 ~~—(c) In an action against an alleged father, evidence offered by him with respect to a~~  
17 ~~man who is not subject to the jurisdiction of the court concerning his sexual intercourse~~  
18 ~~with the mother at or about the probable time of conception of the child is admissible in~~  
19 ~~evidence only if he has undergone and made available to the court blood tests the results of~~  
20 ~~which do not exclude the possibility of his paternity of the child. A man who is identified~~  
21 ~~and is subject to the jurisdiction of the court shall be made a defendant in the action.~~

22  
23 ~~§ 15. JUDGMENT OR ORDER.~~

24 ~~—(a) The judgment or order of the court determining the existence or nonexistence of~~  
25 ~~the parent and child relationship is determinative for all purposes.~~

26 ~~—(b) If the judgment or order of the court is at variance with the child's birth certificate,~~  
27 ~~the court shall order that [an amended birth registration be made] [a new birth certificate be~~  
28 ~~issued] under Section 23.~~

29 ~~—(c) The judgment or order may contain any other provision directed against the~~  
30 ~~appropriate party to the proceeding, concerning the duty of support, the custody and~~

1 ~~guardianship of the child, visitation privileges with the child, the furnishing of bond or~~  
2 ~~other security for the payment of the judgment, or any other matter in the best interest of the~~  
3 ~~child. The judgment or order may direct the father to pay the reasonable expenses of the~~  
4 ~~mother's pregnancy and confinement.~~

5 ~~—— (d) Support judgments or orders ordinarily shall be for periodic payments which may~~  
6 ~~vary in amount. In the best interest of the child, a lump-sum payment or the purchase of an~~  
7 ~~annuity may be ordered in lieu of periodic payments of support. The court may limit the~~  
8 ~~father's liability for past support of the child to the proportion of the expenses already~~  
9 ~~incurred that the court deems just.~~

10 ~~—— (e) In determining the amount to be paid by a parent for support of the child and the~~  
11 ~~period during which the duty of support is owed, a court enforcing the obligation of support~~  
12 ~~shall consider all relevant facts including~~

13 ~~—— (1) the needs of the child;~~

14 ~~—— (2) the standard of living and circumstances of the parents;~~

15 ~~—— (3) the relative financial means of the parents;~~

16 ~~—— (4) the earning ability of the parents;~~

17 ~~—— (5) the need and capacity of the child for education, including higher education;~~

18 ~~—— (6) the age of the child;~~

19 ~~—— (7) the financial resources and the earning ability of the child;~~

20 ~~—— (8) the responsibility of the parents for the support of others; and~~

21 ~~—— (9) the value of services contributed by the custodial parent.~~

22

1 **SECTION 653** [~~U.P.A. § 16~~]. COSTS.

2 The tribunal [~~court~~] may order reasonable fees of counsel, experts, and the child's  
3 guardian ad litem, and other costs of the action and pre-trial proceedings, including  
4 paternity testing [~~blood tests~~], to be paid by the parties in proportions and at times  
5 determined by the tribunal [~~court~~]. The tribunal [~~court~~] may order the proportion of any  
6 indigent party to be paid by [appropriate public authority].

7

8 **SECTION 654** [~~U.P.A. § 22~~]. PROMISE TO RENDER SUPPORT.

9 (a) Any promise in writing to furnish support for a child, growing out of a supposed  
10 or alleged father-child relationship, does not require consideration and is enforceable  
11 according to its terms, subject to Section 601(d) [~~(d)~~].

12 (b) In the best interest of the child or the mother, the tribunal [~~court~~] may, and upon  
13 the promisor's request shall, order the promise to be kept in confidence and designate a  
14 person or agency to receive and disburse on behalf of the child all amounts paid in  
15 performance of the promise.

16

17 **SECTION 655. FINAL ORDER REGARDING PARENTAGE.**

18 (a) **The tribunal shall render a final order declaring whether an alleged parent is**  
19 **the biological parent of the child.**

20 (b) **After service of process on a respondent who fails to answer and wholly make**  
21 **default, the court may render a judgment of parentage against that party.**

22

23 **SECTION 656. EFFECT OF FINAL ORDER.**

24 (a) **The effect of an order declaring that an alleged parent is the biological parent**  
25 **of the child is to confirm or create the parent-child relationship between the parent**  
26 **and the child for all purposes.**

27 (b) **If parentage is established, the order shall state the name of the child.**

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**PART 6. EQUITABLE ESTOPPEL**

**SECTION 661. TRIBUNAL AUTHORIZED TO REFUSE PARENTAGE TESTING**

**A tribunal may refuse to order parentage testing of a presumed father, who may not be the biological father of a child, if the tribunal determines that conduct of either the mother or father creates an equitable estoppel because such an order might cause an inequitable result in denying the father-child relationship and that such denial is in the best interest of the child considering all of the following factors:**

**(1) the length of time following the time at which the presumed father was placed on notice that he might not be the biological father before either he or the mother acted to contest his paternity;**

**(2) the length of time that the presumed father assumed the role of father of the child;**

**(3) the facts surrounding the presumed father’s discovery of his possible nonpaternity;**

**(4) the nature of the father-child relationship;**

**(5) the age of the child;**

**(6) the harm which may result to the child if paternity is successfully disproved;**

**(7) the extent to which the passage of time reduces the chances of establishing the paternity of another man and a child support obligation in favor of the child; and**

**(8) all other factors which may affect the equities involved in the potential disruption of the parent-child relationship or the chance of undeniable harm to the child.**

1           **(b) In an action involving the application of this article, the child shall be**  
2 **represented by a guardian ad litem.**

3           **(c) The tribunal may grant a motion refusing to order parentage testing on the**  
4 **request of either the mother or the presumed father.**

5           **(b) A refusal to order parentage testing must be based on clear and convincing**  
6 **evidence that the evidentiary factors listed in this section sustain that determination.**

7

8 **SECTION 662. PARENTAGE BASED ON EQUITABLE ESTOPPEL**

9           **If a tribunal finds that that parentage testing shall not be ordered in a case, the**  
10 **tribunal shall order that the presumed father shall be treated in law as the biological**  
11 **father of the child.**

12

Reporter's Note

13

14

**See "Paternity Litigation Involving Presumed Versus Putative Fathers:  
Conflicting Right and Results" by Marilyn Ray Smith.**

15

16

**ARTICLE 7. POST-FINAL ORDER PROCEEDINGS**

17

18 **SECTION 701** [~~U.P.A. § 17~~]. **ENFORCEMENT OF** [~~JUDGMENT OR~~] **FINAL ORDER.**

19

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28

**(a) If existence of the father-child relationship is declared, or paternity or a duty of**  
**support has been acknowledged or adjudicated under this Act or under prior law, the**  
**obligation of the father may be enforced in the same or other proceedings by the mother,**  
**the child, the public authority that has furnished or may furnish the reasonable expenses of**  
**pregnancy, confinement, education, support, or funeral, or by any other person, including a**  
**private agency, to the extent he has furnished or is furnishing these expenses.**

**(b) The tribunal** [~~court~~] **may order support payments to be made to the mother, the**  
**clerk of the tribunal** [~~court~~], **or a person, corporation, or agency designated to administer**  
**them for the benefit of the child under the supervision of the tribunal** [~~court~~].

**(c) Willful failure to obey the final order** [~~judgment or order~~] **of the tribunal** [~~court~~] **is**



1 a civil contempt of the tribunal [~~court~~]. All remedies for the enforcement of final orders  
2 [~~judgments~~] apply.

3

4 ~~§ 18. MODIFICATION OF JUDGMENT OR ORDER.~~

5 ~~— The court has continuing jurisdiction to modify or revoke a judgment or order~~  
6 ~~— (1) for future education and support, and~~  
7 ~~— (2) with respect to matters listed in Subsections (c) and (d) of Section 15 and~~  
8 ~~Section 17(b), except that a court entering a judgment or order for the payment of a lump~~  
9 ~~sum or the purchase of an annuity under Section 15(d) may specify that the judgment or~~  
10 ~~order may not be modified or revoked.~~

11

12 **SECTION 702** [~~U.P.A. § 19(b)~~]. FREE TRANSCRIPT ON APPEAL.

13 [~~(b)~~] If a party is financially unable to pay the cost of a transcript, the tribunal [~~court~~]  
14 shall furnish on request a transcript for purposes of appeal.

15

16 **SECTION 703** [~~U.P.A. § 23~~]. BIRTH RECORDS.

17 (a) If the mother and father are married at time of the child's birth, the names of the  
18 mother and father shall appear on the child's birth certificate.

19 (b) The [state agency responsible for maintaining birth records] shall include the name  
20 of the father on the record of the birth of the child of unmarried parents only if:

21 (1) the father and mother have signed a voluntary acknowledgment of paternity  
22 provided in Article 4; or

23 (2) a tribunal of competent jurisdiction has made a determination of parentage  
24 under Article 4 or Article 6.

25 (c) [~~(a)~~] Upon receipt of a voluntary acknowledgment of paternity, of an order of a  
26 tribunal [~~court~~] of this State, or upon request of a tribunal [~~court~~] of another state, the  
27 [registrar of births] shall prepare [an amended birth registration] [a new certificate of birth]  
28 consistent with the findings of the tribunal [~~court~~] [and shall substitute the new certificate  
29 for the original certificate of birth].

30 (d) [~~(b)~~] The fact that the father-child relationship was declared after the child's birth

1 shall not be ascertainable from the [amended birth registration] [new certificate] but the  
 2 actual place and date of birth shall be shown.

3 (e)[(c)] The evidence upon which the [amended birth registration] [new certificate]  
 4 was made and the original birth certificate shall be kept in a sealed and confidential file and  
 5 be subject to inspection only upon consent of the tribunal [court] that rendered the order  
 6 and all interested persons, or in exceptional cases only upon an order of the tribunal [court]  
 7 for good cause shown.

8 Reporter's Note

9 Subsection (b) is added to conform to the mandate of 42 U.S.C. § 666(a)(5)(D)(i).

10  
 11 **SECTION 704** [~~U.P.A. § 24~~]. WHEN NOTICE OF ADOPTION PROCEEDING  
 12 REQUIRED.

13 If a mother relinquishes or proposes to relinquish for adoption a child who has (1) a  
 14 presumed father under Section [4(a), (2)] a father whose relationship to the child has been  
 15 determined by a tribunal [court], or (3) a father as to whom the child is a legitimate child  
 16 under prior law of this State or under the law of another jurisdiction, the father shall be  
 17 given notice of the adoption proceeding and have the rights provided under [the appropriate  
 18 State statute] [the Revised Uniform Adoption Act], unless the father's relationship to the  
 19 child has been previously terminated or determined by a tribunal [court] not to exist.

20 Reporter's Note

21 This section probably ought not to be covered in the Parentage Act; other statutes already in  
 22 effect in virtually every state surely deal with the subject.

23  
 24 **SECTION 705** [~~U.P.A. § 25~~]. PROCEEDING TO TERMINATE PARENTAL RIGHTS.

25 (a) If a mother relinquishes or proposes to relinquish for adoption a child who does  
 26 not have (1) a presumed father under Section 4(a), (2) a father whose relationship to the  
 27 child has been determined by a tribunal [court], or (3) a father as to whom the child is a  
 28 legitimate child under prior law of this State or under the law of another jurisdiction, or if a  
 29 child otherwise becomes the subject of an adoption proceeding, the agency or person to  
 30 whom the child has been or is to be relinquished, or the mother or the person having  
 31 custody of the child, shall file a petition in the [ ] tribunal [court] to terminate the  
 32 parental rights of the father, unless the father's relationship to the child has been previously

1 terminated or determined by a tribunal [~~court~~] not to exist.

2 (b) In an effort to identify the biological [~~natural~~] father, the tribunal [~~court~~] shall  
3 cause inquiry to be made of the mother and any other appropriate person. The inquiry shall  
4 include the following: whether the mother was married at the time of conception of the  
5 child or at any time thereafter; whether the mother was cohabiting with a man at the time of  
6 conception or birth of the child; whether the mother has received support payments or  
7 promises of support with respect to the child or in connection with her pregnancy; or  
8 whether any man has formally or informally acknowledged or declared his possible  
9 paternity of the child.

10 (c) If, after the inquiry, the biological [~~natural~~] father is identified to the satisfaction of  
11 the tribunal [~~court~~], or if more than one man is identified as a possible father, each shall be  
12 given notice of the proceeding in accordance with Subsection (e). If any of them fails to  
13 appear or, if appearing, fails to claim custodial rights, his parental rights with reference to  
14 the child shall be terminated. If the biological [~~natural~~] father or a man representing himself  
15 to be the biological [~~natural~~] father, claims custodial rights, the tribunal [~~court~~] shall  
16 proceed to determine custodial rights.

17 (d) If, after the inquiry, the tribunal [~~court~~] is unable to identify the biological  
18 [~~natural~~] father or any possible biological [~~natural~~] father and no person has appeared  
19 claiming to be the biological [~~natural~~] father and claiming custodial rights, the tribunal  
20 [~~court~~] shall enter an order terminating the unknown biological [~~natural~~] father's parental  
21 rights with reference to the child. Subject to the disposition of an appeal upon the expiration  
22 of [6 months] after an order terminating parental rights is issued under this subsection, the  
23 order cannot be questioned by any person, in any manner, or upon any ground, including  
24 fraud, misrepresentation, failure to give any required notice, or lack of jurisdiction of the  
25 parties or of the subject matter.

26 (e) Notice of the proceeding shall be given to every person identified as the biological  
27 [~~natural~~] father or a possible biological [~~natural~~] father [in the manner appropriate under  
28 rules of civil procedure for the service of process in a civil action in this state, or] in any  
29 manner the tribunal [~~court~~] directs. Proof of giving the notice shall be filed with the tribunal  
30 [~~court~~] before the petition is heard. [If no person has been identified as the biological

1 [natural] father or a possible father, the tribunal [court], on the basis of all information  
2 available, shall determine whether publication or public posting of notice of the proceeding  
3 is likely to lead to identification and, if so, shall order publication or public posting at times  
4 and in places and manner it deems appropriate.]

5 Reporter's Note  
6 This section probably ought not to be covered in the Parentage Act; other statutes already in  
7 effect in virtually every state surely deal with the subject.  
8

9 SECTION 706. [~~UPFA SECTION 3.~~] NOTICE OF JUDICIAL PROCEEDINGS FOR  
10 ADOPTION OR TERMINATION OF PARENTAL RIGHTS.

11 (a) In an adoption or other judicial proceeding that may result in termination of any  
12 man's parental rights with respect to a child, the person seeking termination shall give  
13 notice to every putative father of the child known to that person.

14 (b) The notice must be given (i) at a time and place and in a manner appropriate  
15 under the [rules of civil procedure for the service of process in a civil action in this State]  
16 or (ii) at a time and place and in a manner as the tribunal [court] directs and which  
17 provides actual notice.

18 (c) A putative father may participate as a party in a proceeding described in  
19 subsection (a).

20 (d) If, at any time in the proceeding, it appears to the tribunal [court] that there is a  
21 putative father of the child who has not been given notice, the tribunal [court] shall require  
22 notice of the proceeding to be given to him in accordance with subsection (b).

23 (e) If, at any time in the proceeding, it appears to the tribunal [court] that an  
24 unknown father may not have been given notice, the tribunal [court] shall determine  
25 whether he can be identified. The determination must be based on evidence that includes  
26 inquiry of appropriate persons in an effort to identify him for the purpose of providing  
27 notice. The inquiry must include:

28 (1) whether the mother was married at the probable time of conception of the child  
29 or at a later time;

30 (2) whether the mother was cohabiting with a man at the probable time of  
31 conception of the child;

1 (3) whether the mother has received support payments or promises of support,  
2 other than from a governmental agency, with respect to the child or because of her  
3 pregnancy;

4 (4) whether the mother has named any man as the biological father in connection  
5 with applying for or receiving public assistance; and

6 (5) whether any man has formally or informally acknowledged or claimed  
7 paternity of the child in a jurisdiction in which the mother resided at the time of or since  
8 conception of the child or in which the child has resided or resides at the time of the  
9 inquiry.

10 (f) If the inquiry required by subsection (e) identifies any man as the unknown father,  
11 the tribunal [~~court~~] shall require notice of the proceeding to be given to him pursuant to  
12 subsection (b). If the inquiry so identifies a man, but his whereabouts are unknown, the  
13 tribunal [~~court~~] shall proceed in accordance with subsections (b) and (g).

14 (g) If, after the inquiry required by subsection (e), it appears to the tribunal [~~court~~]  
15 that there may be an unknown father of the child, the tribunal [~~court~~] shall consider  
16 whether publication or public posting of notice of the proceeding is likely to lead to actual  
17 notice to him. The tribunal [~~court~~] may order publication or public posting of the notice  
18 only if, on the basis of all information available, the tribunal [~~court~~] determines that the  
19 publication or posting is likely to lead to actual notice to him.

20 Reporter's Note

21 This section probably ought not to be covered in the Parentage Act; other statutes already in  
22 effect in virtually every state surely deal with the subject.

23  
24 SECTION 707. [~~UPUFA SECTION 4.~~] NOTICE OF JUDICIAL PROCEEDINGS  
25 REGARDING CUSTODY OR VISITATION.

26 (a) The petitioner in a judicial proceeding to change or establish legal or physical  
27 custody of or visitation rights with respect to a child shall give notice to every putative  
28 father of the child known to the petitioner, except a proceeding for annulment, declaration  
29 of invalidity, divorce, marital dissolution, legal separation, modification of child custody,  
30 or determination of paternity.

31 (b) The notice must be given (i) at a time and place and in a manner appropriate

1 under the [rules of civil procedure for the service of process in a civil action in this State]  
2 or (ii) as the tribunal [~~court~~] determines will likely provide actual notice.

3 (c) If, at any time in the proceeding, it appears to the tribunal [~~court~~] that there is a  
4 putative father of the child who has not been given notice of the proceeding, the tribunal  
5 [~~court~~] shall require notice of the proceeding to be given to him pursuant to subsection (b).

6 (d) If, at any time in the proceeding, it appears to the tribunal [~~court~~] that there may  
7 be an unknown father who has not been given notice of the proceeding, the tribunal  
8 [~~court~~], in the best interest of the child, may attempt to identify him pursuant to Section  
9 3(e) and require notice of the proceeding to be given to him pursuant to Section 3(f) and  
10 (g).

11 (e) A putative father may participate as a party in a proceeding described in  
12 subsection (a).

13 Reporter's Note

14 This section probably ought not to be covered in the Parentage Act; other statutes already in  
15 effect in virtually every state surely deal with the subject.  
16

17 SECTION 708. [~~UPFA SECTION 5.~~] FACTORS IN DETERMINING PARENTAL  
18 RIGHTS OF FATHER. In determining whether to preserve or terminate the parental rights  
19 of a putative father in a proceeding governed by Section 3 or 4, the tribunal [~~court~~] shall  
20 consider all of the following factors that are pertinent:

21 (1) the age of the child;

22 (2) the nature and quality of any relationship between the man and the child;

23 (3) the reasons for any lack of a relationship between the man and the child;

24 (4) whether a parent-child [~~parent and child~~] relationship has been established  
25 between the child and another man;

26 (5) whether the child has been abused or neglected;

27 (6) whether the man has a history of substance abuse or of abuse of the mother or the  
28 child;

29 (7) any proposed plan for the child;

30 (8) whether the man seeks custody and is able to provide the child with emotional or  
31 financial support and a home, whether or not he has had opportunity to establish a parent-

1 child [~~parent and child~~] relationship with the child;

2 (9) whether the man visits the child, has shown any interest in visitation, or, desiring  
3 visitation, has been effectively denied an opportunity to visit the child;

4 (10) whether the man is providing financial support for the child according to his  
5 means;

6 (11) whether the man provided emotional or financial support for the mother during  
7 prenatal, natal, and postnatal care;

8 (12) the circumstances of the child's conception, including whether the child was  
9 conceived as a result of incest or forcible rape;

10 (13) whether the man has formally or informally acknowledged or declared his  
11 possible paternity of the child; and

12 (14) other factors the tribunal [~~court~~] considers relevant to the standards for making  
13 an order, as stated in Section 6(d) and (g).

14

15 SECTION 709. [~~UPUFA SECTION 6. COURT~~] DETERMINATIONS AND ORDERS BY  
16 TRIBUNAL.

17 (a) If a man appears in a proceeding described in Section 3, other than as a petitioner  
18 or prospective adoptive parent, the tribunal [~~court~~] may:

19 (1) [in accordance with [applicable state law],] determine whether the man is the  
20 biological father of the child and, if the tribunal [~~court~~] determines that he is, enter an  
21 order in accordance with subsection (d); or

22 (2) without determining paternity, and consistent with the standards in subsection  
23 (d), enter an order, after considering the factors in Section 5, terminating any parental  
24 rights he may have, or declaring that he has no parental rights, with respect to the child.

25 (b) If the tribunal [~~court~~] makes an order under subsection (a), the tribunal [~~court~~]  
26 may also make an order (i) terminating the parental rights of any other man given notice  
27 who does not appear, or (ii) declaring that no man has any parental rights with respect to  
28 the child.

29 (c) If a man who appears in a proceeding described in Section 3 is determined by the  
30 tribunal [~~court~~] to be the father, the tribunal [~~court~~], after considering evidence of the

1 factors in Section 5, shall determine (i) whether a familial bond between the father and the  
2 child has been established; or (ii) whether the failure to establish a familial bond is  
3 justified, and the father has the desire and potential to establish the bond.

4 (d) If the tribunal [~~court~~] makes an affirmative determination under subsection (c),  
5 the tribunal [~~court~~] may terminate the parental rights of the father [, in accordance with  
6 [applicable state law],] only if failure to do so would be detrimental to the child. If the  
7 tribunal [~~court~~] does not make an affirmative determination, it may terminate the parental  
8 rights of the father if doing so is in the best interest of the child.

9 (e) If no man appears in a proceeding described in Section 3, the tribunal [~~court~~] may  
10 enter an order:

11 (1) terminating with respect to the child the parental rights of any man given  
12 notice; or

13 (2) declaring that no putative father or unknown father has any parental rights  
14 with respect to the child.

15 (f) If the tribunal [~~court~~] does not require notice under Section 3, it shall enter an  
16 order declaring that no putative father or unknown father has any parental rights with  
17 respect to the child

18 (g) If a man appears in a proceeding described in Section 4 and requests custody or  
19 visitation based on a claim of paternity, the tribunal [~~court~~] shall either determine [, in  
20 accordance with [applicable state law],] whether he is the biological father of the child or,  
21 after considering the factors in Section 5, deny him the custody of or visitation with the  
22 child. If the tribunal [~~court~~] determines that he is the biological father, the tribunal [~~court~~]  
23 shall determine, after considering evidence of the factors listed in Section 5, whether or not  
24 to grant him custody or visitation and shall make such other orders as are appropriate. All  
25 orders issued under this subsection must be in the child's best interest.

26 (h) A tribunal [~~court~~] order under subsection (a)(2), (b), (d), or (e) terminating the  
27 parental rights of a man, or declaring that no man has parental rights, with respect to the  
28 child, is not a determination that the man is or is not the biological father of the child.



1 (i) [Six months] after the date of issuance of an order under this section terminating  
2 parental rights or declaring that no man has parental rights, no person may directly or  
3 collaterally challenge the order upon any ground, including fraud, misrepresentation,  
4 failure to give a required notice, or lack of jurisdiction over the parties or of the subject  
5 matter. The running of this period of limitation may not be extended for any reason.

6  
7 ARTICLE 8. MISCELLANEOUS

8  
9 SECTION 801 [~~U.P.A. § 26~~]. UNIFORMITY OF APPLICATION AND  
10 CONSTRUCTION.

11 This Act shall be applied and construed as to effectuate its general purpose to make  
12 uniform the law with respect to the subject of this Act among states enacting it.

13  
14 SECTION 802 [~~U.P.A. § 28~~]. SEVERABILITY.

15 If any provision of this [Act] or its application to any persons or circumstance is held  
16 invalid, the invalidity does not affect other provisions or applications of the [Act] which can  
17 be given effect without the invalid provision or application, and to this end the provisions  
18 of this [Act] are severable.

19  
20 SECTION 803 [~~U.P.A. § 29~~]. [REPEAL].

21 The following acts and parts of acts are repealed:

22 (1) [Paternity Act]

23 (2)

24 (3)

25  
26 SECTION 804 [~~U.P.A. § 30~~]. TIME OF TAKING EFFECT.

27 This act shall take effect on \_\_\_\_\_.